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DUP	Democratic Unionist Party
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Ind Lab	Independent Labour
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Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
LD	Liberal Democrat
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House of Lords

Thursday 3 March 2016

11 am

Prayers—read by the Lord Bishop of St Albans.

Student Loans: Muslim Students

Question

11.05 am

Asked by ***Lord Sharkey***

To ask Her Majesty's Government what help they provide to Muslim students whose religious beliefs prevent them from taking interest-charging student loans.

Baroness Evans of Bowes Park (Con): My Lords, the Government are aware that some students whose religious beliefs may prevent them from taking out a loan that bears interest may feel unable to take advantage of student loans. In April 2014, the Government conducted a consultation on a sharia-compliant alternative finance product for students. Upon review of consultation responses the Government supported the introduction of a takaful alternative finance product available to everyone. Work on this product is ongoing and, subject to Parliament, the Government hope to introduce the new system through legislation.

Lord Sharkey (LD): I asked the Minister the Question because the head teacher of the Preston Muslim Girls High School asked me the question and I could not answer it. I am not sure that the head teacher and his students will find much present comfort in the Minister's reply. Every year that passes without a solution, thousands of Muslim students are disadvantaged. As she said, the Government identified the solution two years ago but still cannot say when it will be delivered. Will she agree to meet me so that we can discuss how to have a sharia-compliant system in place without further delay?

Baroness Evans of Bowes Park: As I said, the Government did a consultation in 2014 and are continuing to work closely with experts in Islamic finance to develop the product but, at the moment, the Secretary of State does not have the power to just introduce it. We need primary legislation, which is why we are hoping and looking for a suitable opportunity to bring it forward.

Baroness Hayter of Kentish Town (Lab): My Lords, given that the student maintenance grants are now to be ended, this will be far more urgent because it means that a whole swathe of students will not have grants available to them. It really is not any good saying that the Government have been doing this for two and half years now; it has to be in place by the time the grants are withdrawn. Can we have that commitment from the Government?

Baroness Evans of Bowes Park: As I said, we will be looking for a suitable vehicle with which to attempt to introduce the system. There is strong interest in it: of the consultation responses, 94% believed that there would be demand for such a system and 81% thought that the proposed scheme being developed was acceptable. We of course want to ensure access for all students to higher education, which is why we would be the first Government to introduce such a scheme, but we need primary legislation to do so.

Lord Pearson of Rannoch (UKIP): My Lords, talking of the growing influence of sharia law in this country, is there any truth to the press reports that the Government have mortgaged Richmond House and other buildings with sharia bonds, which ban alcohol on those premises? If true, how would that affect the habits of Members of the House of Commons if they move into those premises during refurbishment of this Palace?

Baroness Evans of Bowes Park: This proposed scheme has nothing to do with sharia law. It is about ensuring that all young people have access to university. We are very keen to try to ensure that we can provide a product that will help them to do so.

Lord Forsyth of Drumlean (Con): My Lords, can my noble friend explain exactly how this product will work?

Baroness Evans of Bowes Park: I am happy to. The takaful model will operate as a type of mutual fund. Students will apply for finance from the fund the same way that they would apply for an equivalent student loan and will enter a contract promising to repay a contribution. When they are earning above the repayment threshold, as with an equivalent student loan, they will make their contributions, which will be used to fund the education of future students. It is a type of mutual fund, which is why BIS cannot introduce it without primary legislation, as the Secretary of State does not have those powers.

Lord Elton (Con): My Lords, the Secretary of State does have the power to initiate legislation. I ask my noble friend to urge him to take the opportunity as soon as Parliament reassembles after State Opening to introduce a Bill—a small Bill—for the simple purpose of introducing this change, rather than waiting for some great wagon train to assemble for the next 18 months.

Baroness Evans of Bowes Park: As I have said to noble Lords, the Government hope to introduce the system and will be looking at the appropriate legislative way to do so. As my noble friend says, the up-and-coming Session will be detailed in the Queen's Speech in due course.

Lord Pearson of Rannoch: My Lords, can the Minister explain the difference between takaful and paying interest?

Baroness Evans of Bowes Park: As I said, this model operates as a mutual fund so the contributions that a student pays go into that fund to be refunded. The idea of borrowing and paying back interest is absent from this model.

Lord Newby (LD): My Lords—

Lord Tebbit (Con): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, on this occasion I think it is the turn of the Lib Dems.

Lord Newby: My Lords, could I follow up the comments of the noble Lord, Lord Elton, about the passivity of the Government on this issue? The Minister has said on several occasions that they were looking for a suitable vehicle, as if they were waiting for a bus to come round the corner. Can I underline the views that I think the whole House has on this issue? It would be a minor legislative tool but, in terms of the life chances of very many Muslim students, this change could make all the difference to whether they get a proper education or not.

Baroness Evans of Bowes Park: I thank the noble Lord for his comments. The strength of the feeling in the House is quite clear, which I am sure will be noted by the Secretary of State.

Lord Tebbit: My Lords, will this product be available to persons of all religions or none?

Baroness Evans of Bowes Park: Yes, this product will be open to everybody.

Lord West of Spithead (Lab): My Lords, 45 years ago today the first British nuclear submarine reached the North Pole. It did that only courtesy of the engineers and their skills. In the interests of helping out on this, any Muslims who wish to join the Navy as engineers will get their courses paid for.

Baroness Evans of Bowes Park: I thank the noble Lord for his comments and add my congratulations on this important occasion. As I said, we want to ensure that all young people who wish, and have the ability, to go to university have the access to do so. That is why we are looking forward on this and we would be the first Government to introduce such a product.

Lord Cormack (Con): But, my Lords, those who do not want to go into the Navy could benefit from a simple one or two-clause Bill. I cannot for the life of me see why we are delaying on that.

Baroness Evans of Bowes Park: I am sure that I shall see shrugs and groans, but I repeat that the Government understand the strength of feeling. We had an extremely high level of responses to the consultation and continue to work on developing this product. We are looking for a suitable vehicle by which to introduce it through primary legislation.

Baroness Farrington of Ribbleton (Lab): My Lords, would the Minister care to advise prospective students as to whether she envisages this provision being in place this autumn? Noble Lords have made reference to it coming after the Queen's Speech. As we have not been given that date yet officially, it would be helpful for students to know how long they will have to wait.

Baroness Evans of Bowes Park: As I said, we are looking for an appropriate time at which to do this and the forthcoming legislative programme will be detailed in due course in the Queen's Speech.

Water Billing

Question

11.14 am

Asked by ***Lord Redesdale***

To ask Her Majesty's Government what assessment they have made of how many non-domestic water bills are estimated, rather than calculated through automatic meter readings.

Lord Gardiner of Kimble (Con): My Lords, the choice of meter type and frequency of meter readings is a matter for water companies and their customers. There is a trend towards smart meters. This varies by company and by customer, reflecting factors such as water scarcity and customer preference. Not all will benefit from sophisticated data and fitting new meters will affect the bills of all customers. Water companies therefore need to consider all the costs and benefits when taking any decision.

Lord Redesdale (LD): My Lords, I declare an interest as CEO of the Energy Managers Association. Our members are the ones who will be buying our water in the non-domestic marketplace. However, about 80% of all meters are not AMR or smart meters, so they cannot get the data on whether they are actually saving water or finance. As the purpose of deregulation of this marketplace was to introduce competition, will the Government ensure that this is kept under constant review? Also, following on from the Minister's Answer, who is the customer? In the non-domestic sector the customer is the water retailer. There is no direct link between the company and the customer on the ground.

Lord Gardiner of Kimble: My Lords, the meter data, of course, belong to the customer. Therefore, any company wanting access will have to agree with the customer. Indeed, the new retail system that is coming in, which is designed to be of enormous benefit to the consumer, will provide an opportunity for greater competition. We believe that it will be of benefit, in this case, to the non-household customer as a beginning, but clearly we will consider how best we can bring better competition for the whole water market, because we think that competition in this sector is going to have benefits.

Lord Watts (Lab): My Lords, I have resisted installing a meter in my property on the basis that I think it will lead to poorer families paying more while richer families might pay less. Can the Minister assure me that that will not be the result of this policy?

Lord Gardiner of Kimble: My Lords, that is certainly not the intention. As I have said, there is a trend towards smart meters. With the arrival of a smart meter, the tendency is to reduce consumption by about 10%. The water companies are very mindful of those customers in vulnerable circumstances. Schemes already exist to help 760,000 households, and the companies forecast that by 2020 they will help 1.8 million households. There are also social tariffs to assist them, which all companies will have by end of this year.

Baroness McIntosh of Pickering (Con): I declare my interest in the register. Does my noble friend agree that the voluntary use of meters has made a massive contribution to allowing people to manage their budgets? Will the Government go further and introduce legislative measures to tackle bad debt, which is adding £22 to the average bill for water services?

Lord Gardiner of Kimble: My Lords, I do not believe that it is the intention at this stage to introduce legislation. The water companies do not want to have bad debt; clearly it is not in their interest. But because there are such difficulties, particularly with customers in vulnerable circumstances, there are social tariffs. At the moment they help 30,000 households; by 2020, the companies forecast that it will be about 380,000 households. But, clearly we want to ensure that bad debt is reduced.

Lord Rooker (Lab): Are smart meters immune from cyberattacks?

Lord Gardiner of Kimble: My Lords, I am afraid that I am not technical at all and will need to take advice on that. Because of the technicalities of all these matters, the best thing I can do is to write to the noble Lord with some of the very technical details. But it is a very pertinent point.

Lord Whitty (Lab): My Lords, genuine social tariffs would be enabled by universal smart-metering of water, but, unlike energy, we have no mandatory rollout of smart meters for water. Indeed, the smart meters for energy have some problems. Will the Minister consider having genuine smart meters—smarter than the current ones for energy—which incorporate water-metering, so that the next phase of mandatory installation would cover water as well as energy?

Lord Gardiner of Kimble: What the noble Lord says is probably the direction of travel. I know that at the moment the meters for water are, in many cases, not as sophisticated as those in the energy sector, but I am sure that this is going to be very important. I am particularly mindful of the non-household sector, particularly large consumers of water, where smart meters are definitely assisting in factories and commercial production a better understanding of where water is used. Of course, we all want to reduce water consumption, so it is very important.

Baroness Jones of Whitchurch (Lab): My Lords, the noble Lord referred to social tariffs. Is it not the case that 14 of the 18 water companies have social tariffs but are failing to achieve their own targets for registering customers? Many people do not even know that that opportunity exists. At the same time, more than 1 million people are struggling to pay their bills. The noble Lord talked about the roll-out of social tariffs, but is there not a case for putting more pressure on the water companies to speed the process? After all, it is not such a difficult process. He talked about a deadline of 2020, but I am sure that it could be done before them.

Lord Gardiner of Kimble: My Lords, I assure the noble Baroness and your Lordships that the Government will continue to work with Ofwat and the water companies to ensure that they continue to provide a fair deal for all customers. Indeed, average water bills will fall by about 5% before inflation by 2020, while at the same time there will be a very considerable amount of investment.

Lord Holmes of Richmond (Con): My Lords, can my noble friend confirm that if we vote to leave the European Union in June, smart meters will have to be renamed smart yards?

Lord Gardiner of Kimble: Whatever the result in the country, I think that metrification will continue.

Prisons: Violence

Question

11.21 am

Asked by ***Lord Marks of Henley-on-Thames***

To ask Her Majesty's Government what steps they are taking to tackle the incidence of deaths, serious assaults and incidents of self-harm in prison.

The Minister of State, Ministry of Justice (Lord Faulks) (Con): My Lords, the Government recognise the seriousness of this problem and are taking action to respond. We are trialling the use of body-worn video cameras, the Psychoactive Substances Act will introduce new offences to control supply and possession and we have reviewed the process for supporting prisoners at risk of suicide or self-harm. We recognise that our prison system needs reform, and there is much more to do to ensure that prisons are places of decency, hope and rehabilitation.

Lord Marks of Henley-on-Thames (LD): My Lords, 2015 saw a record number of deaths in custody, a 20% increase in assaults and a 25% increase in self-harm incidents. Those increases were over record figures the previous year. The Justice Secretary appears committed, rightly, to prison reform, but has he been promised the resources to address the causes of these dreadful figures—squalid conditions, overcrowding, understaffing and prisoners locked for far too long in their cells?

Lord Faulks: The causes of violence are multifactorial. They include of course the increased use of psychoactive substances, to which the Government are responding positively. It is a ceaseless challenge to try to prevent

[LORD FAULKS]
them coming into prison, but we have a new offence, and we are taking steps to make it very difficult for these substances to be thrown over walls or secreted in parts of the body. It is generally a significant challenge. We are also looking at a two-year violence reduction project, to help us better understand the causes and characteristics of violence and to strengthen our handling of it. There is also the use of body-worn cameras. Ultimately, the best way to reduce violence may be to give, as the Prime Minister and the Secretary of State have suggested, much more power to prison governors to give them the tools necessary to reform the way their prisons are run and to help rehabilitate offenders.

Lord Cashman (Lab): My Lords, we are all deeply concerned about the number of deaths in prison, but I wish in particular to raise the issue of the increasing number of trans people who are taking their own lives in prison. Are there special provisions for dealing with the LGBT community, in particular the trans community? If so, will the Minister publish them so we can ensure that they are fit for purpose?

Lord Faulks: There is a prison service instruction in relation to the care and management of transsexual offenders, which is being reviewed. People with particular experience of these issues are involved in the review, including Peter Dawson of the Prison Reform Trust and Jay Stewart of Gendered Intelligence respectively. We are concerned of course to tackle this very delicate issue, so that those who are on the journey, very often to change gender, are properly looked after and their considerations taken into account, so that prison can be adapted in a way that most suits their requirements.

The Lord Bishop of St Albans: My Lords, in the light of the welcome announcement last autumn that a number of the old, unsuitable prisons were going to be replaced with purpose-built ones, will the Minister assure the House that the specifications for those new-builds will take very careful account of mental health issues, consulting with the charities that are dealing with this particular area and producing excellent educational, medical and spiritual facilities, so that we can minimise the level of mental health problems and maximise rehabilitation?

Lord Faulks: The right reverend Prelate makes an important point. He will have been reassured by what the Prime Minister said in his speech on 8 February—namely, that the design of these new prisons should be particularly directed towards helping mental health treatment. If necessary, that should allow individual governors to have appropriate control, with co-commissioning with NHS England to ensure that the significant numbers of inmates in prisons with mental health problems are adequately treated.

Lord Hamilton of Epsom (Con): My Lords, following the right reverend Prelate's question, can my noble friend tell us what percentage of prisoners have been diagnosed with mental illness problems, and is prison the best place to treat them?

Lord Faulks: The NICE estimate is that 90% of prisoners have at least one psychiatric disorder. Of course, the precise nature of a psychiatric disorder will vary. With many of them, prison may not be the correct place to treat them—although there may be other factors that make it appropriate for them to be there. NHS England has developed national specifications for health and justice services in English prisons and all prisons have clear commissioning models that focus on outcomes specific to custodial settings. All judges who sentence offenders will, or should, have adequate information to allow them to sentence appropriately. It then becomes a matter for the prison estate as to how best they are housed.

Baroness Corston (Lab): My Lords, the Minister may be aware that there are about 82,000 men in our prisons and over 3,000 women. Those women are responsible for about 50% of the self-harm in prison. Furthermore, since my report published nine years ago this week, the number of women who took their own lives in English prisons last year was a record. Two have taken their lives this year already, in the first two months. What factors does he think underline the deterioration in the safety of women in our prisons?

Lord Faulks: On the positive side, the female prison population is now under 4,000—the lowest it has ever been. In the speech I referred to earlier, the Prime Minister made a particular point of the importance of finding alternative ways of dealing with women offenders, preferably avoiding sending them to prison altogether, which has been very much the trend with sentencing. Of course, there will be an irreducible number who have to be sent to prison. Although the noble Baroness is quite right that any suicide in prison is a matter of complete regret, and self-harm is equally concerning, we are in the process of modernising the prison estate to ensure that there are the best regimes and that women are held in environments that better meet their gender-specific needs.

Lord Dholakia (LD): My Lords, the Minister must have read the report in 2015 by HM Chief Inspector of Prisons—a devastating report that talks about violence and poor conditions in our prisons. The most disturbing aspect of the report and the allegation made by the then Chief Inspector, Nick Hardwick was that the Secretary of State tried to influence his report. Will the Minister make sure that that sort of thing does not happen in future? Public confidence will be eroded if independent reports by prison inspectors are interfered with by Ministers.

Lord Faulks: The noble Lord is right to suggest that the report by Mr Hardwick was unfavourable in a number of respects. The Government will learn lessons from what he said. It is important that we should take on board an objective analysis of that. It is perhaps an indication of the Secretary of State's willingness to embrace criticism that he has appointed Mr Hardwick to have continued involvement in the criminal justice system, by his appointment as chair of the Parole Board. I hope that the noble Lord will accept that that is a real sign of somebody getting to grips with a critical friend of the system.

Immigration: Harmondsworth

Question

11.30 am

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government, in the light of the publication on 1 March of the Chief Inspector of Prisons' *Report on an unannounced inspection of Heathrow Immigration Removal Centre: Harmondsworth site*, what action they are taking to rectify the situation.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, the Government take the welfare of detainees extremely seriously. We have independent inspections and publish service improvement plans. We will closely monitor progress towards implementing the recommendations, and have recently announced a strategic response to Stephen Shaw's report to provide greater protection for vulnerable refugees.

Lord Roberts of Llandudno (LD): The unannounced inspection of Harmondsworth must cause us all tremendous disquiet, as it did the inspectors. What steps are the Government taking to rectify the dirty, overcrowded and poorly ventilated residential units, unsanitary toilets and showers, and disregard of mental health issues? Will the criticism that many of the 661 detainees in what is Europe's largest immigration detention centre were held for an unreasonably long time—one for five years, 18 others for over one year—prompt the Government to end the indefinite detention of immigration detainees?

Lord Bates: The report by the inspectorate was very serious and disappointing. Stephen Shaw made 58 recommendations, 50 of which were accepted immediately. James Brokenshire set out in a Written Ministerial Statement on 14 January the Government's plans to deal with that, and already we have posted a service improvement plan—what we are going to do to address the very points mentioned in the report of Her Majesty's Chief Inspector of Prisons. We will continue to monitor that progress.

Lord Trimble (Con): My Lords, have any of those being removed committed offences here or abroad? If so, how many of them?

Lord Bates: Currently in the immigration detention estate there are about 2,700 people. Of those, 40% are foreign national offenders. If one then takes into account those who have committed immigration offences, they are the overwhelming majority of all those who are held in detention. They are held in detention as a last resort in exceptional circumstances, just prior to departure.

Lord Rosser (Lab): My Lords, the Chief Inspector of Prisons states in his introduction that the report,

"highlights substantial concerns in most of our tests of a healthy custodial establishment".

He also states that many of the concerns that were identified in 2013, when Harmondsworth IRC was run by the GEO Group, have not been rectified, and in some respects matters have deteriorated since then, even though since September 2014 the Harmondsworth site has been run for the Home Office by the care and custody division of the Mitie Group. What penalties under the terms of their contracts have been, and will now be, incurred by the two contractors concerned, since presumably the Minister can confirm, in the light of the adverse reports from the chief inspector in 2013 and again in his latest report, that neither contractor has run or is now running the Harmondsworth site in accordance with the terms of their contract?

Lord Bates: That is something that is under active review at this point in the light of Stephen Shaw's report. He identified that there had been some improvement in a number of areas since 2013, particularly in the physical infrastructure of the site, but nowhere near enough. There are very strict criteria set out for performance in the contract, and they are being reviewed by the Home Office. We will of course make public what actions will be taken when a decision has been reached.

Lord Lea of Crondall (Lab): My Lords—

Lord Greaves (LD): No, we have just had a Labour question.

Yesterday I visited some houses in a Home Office scheme in a street in West Drayton, run by an adjoining hotel, Heathrow Lodge, which provides a few days' initial short-term accommodation for asylum-seeker arrivals before they are dispersed. There are very basic bedrooms, with communal bathrooms and no kitchens. Will the Minister look personally into the numerous problems that I found there? I will send him a briefing, but they included people who seemed to have been effectively abandoned there for up to three months instead of three days; the quality of food provided; a lack of necessary Home Office communication and documents; ridiculous rules; a lack of facilities for a one year-old child who had been there for some time, and much more.

Lord Bates: I am very happy to look at those issues, just as we looked at the issues raised by cases in Cardiff and Middlesbrough recently. If the noble Lord supplies me with information, I am very happy to look at it more closely.

Lord Lea of Crondall My Lords, can the Minister throw a little more light on the remarkable statistic referred to by the noble Lord, Lord Roberts of Llandudno, that someone has been in there for five years? How can that be?

Lord Bates: It is certainly the case that 92% have been there for less than four months, and the time is reducing. Of course, those who have been there for longer than four months—in fact, for longer than 28 days—are often people who are working very hard to avoid their removal. They are perfectly entitled to do so, but they are trying to frustrate the system. We have concerns about public safety. That is the reason why they are there and have not been granted bail.

Lord Foulkes of Cumnock (Lab): My Lords—

Lord Scriven (LD): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): Order. Why does not the noble Lord, Lord Foulkes, ask a question?

Lord Foulkes of Cumnock: My Lords, we have gone through four Questions this morning. Has the Minister, like me, been thinking, "How long will it be before we can forgive the Liberal Democrats for not dealing with these problems when they were part of the coalition"?

Lord Bates: I am out of time.

Business of the House

Motion on Standing Orders

11.36 am

Moved by ***Baroness Stowell of Beeston***

That Standing Order 46 (*No two stages of a Bill to be taken on one day*) be dispensed with on Tuesday 8 March to allow the Supply and Appropriation (Anticipation and Adjustments) Bill to be taken through its remaining stages that day.

Motion agreed.

Housing and Planning Bill

Committee (3rd Day)

11.36 am

Relevant document: 20th Report from the Delegated Powers Committee

Clause 2: What is a starter home?

Amendment 37B

Moved by ***Lord Shipley***

37B: Clause 2, page 1, line 11, after "purchase" insert "via a mortgage"

Lord Shipley (LD): My Lords, I shall also speak to Amendment 41B. Amendment 37B would require a mortgage to be taken out when buying a starter home—in other words, cash sales would not be permitted. Amendment 41B would require a first-time buyer to occupy the dwelling as his or her principal residence.

I can almost hear the Minister's reply—

Baroness Hollis of Heigham (Lab): Order. May I ask the noble Lord to give us a second while noble Lords leave the Chamber? We cannot hear anything he is saying and we do not wish to miss a word of it.

Lord Shipley: My Lords, I shall start again in a moment.

I can almost hear the Minister's reply, which may be to tell us that all this will be made clearer in regulations, but as the Minister well knows, we have no regulations. There are no draft regulations and it is essential that, before Report, we have regulations which explain clearly what the Government's intentions are on matters such as buy to let, subletting for short periods and leaving and letting a starter home within five years. In the case of this probing amendment, we need to know whether payment for a starter home can be in cash. I hope that the Government will rule this out today.

The basic principle is that cash buyers do not need a starter home. The simplest way to address this is via a requirement that the purchaser takes out a mortgage. Indeed, a key part of the National Planning Policy Framework definition of affordable housing is an eligibility test, with its provision for those whose needs are not met by the market. However, that is not a cash buyer, whose needs can self-evidently be met by the market. Therefore confirming in the Bill that anyone buying a starter home must do so via a mortgage would restrict market abuse.

Amendment 41B would require a first-time buyer to occupy their starter home as a principal residence. Thus, starter homes must not become second homes, and buy to let should be prohibited. However, there may need to be some consideration prior to regulations being published about how a property could be let out for short periods, where, for example, a purchaser of a starter home has a six-month temporary work transfer to another place. Therefore I am very keen to know what the Government's thinking is on this matter. In the face of the fact that the Bill lacks so very much detail—even the technical briefings lack detail to enable us to respond properly to exactly what is planned—I hope very much that the Minister will be able to clarify these matters.

Lord Kennedy of Southwark (Lab): My Lords, this group of amendments contains some important provisions that would be welcome in the Bill and should not be left hanging in the air to be covered by regulations at some point in the future. Amendment 37B, in the name of the noble Lord, Lord Shipley, would add the words "via a mortgage". It is extremely important that we are clear about this, because if the property was purchased in any other way, such as by a cash buyer, that would signal that the person or persons had no need to take advantage of a product with a generous discount that could be realised in a relatively short space of time.

Equally, Amendment 41B, which is also in the name of the noble Lord, Lord Shipley, makes clear that the person who buys the property should buy it to be their home. Again, I am fully supportive of that.

On government Amendment 42A, I will be interested to hear the noble Baroness, Lady Williams of Trafford, explain the reasoning behind the proposed change to the words in Clause 2(3)(c).

Amendment 43, in my name and that of my noble friend Lord Beecham, would add the criteria of "lives or works locally" to the Bill. That is aimed specifically at helping local people to take priority in getting a home in their local area rather than being forced to go somewhere else, and would help in building stable communities. I will be interested to hear the Government's reasoning for their Amendments 44A and 44B in turn, which seem to turn on its head the requirement that individuals should be under 40. Is this because the Government have realised that in the present climate it will be very difficult for people under 40 to get a deposit together? Does the Minister envisage that this will apply to all areas of England or maybe just London in particular, where there is a problem with the affordability of housing?

Amendment 45, in my name and in the name of my noble friend Lord Beecham, would place a duty on the Secretary of State to consult the relevant local authorities and/or the Mayor of London when seeking to vary the price cap for starter homes. The requirement to consult relevant bodies when considering making this price cap change is good practice and will aid the Secretary of State in understanding the specific local circumstances that he or she should probably take into account when making such a change.

Lord Young of Cookham (Con): My Lords, perhaps I may make a brief intervention following specifically Amendment 43, which the noble Lord just mentioned. I note with some alarm that, as we approach the third day of this stage of the Bill, we have now reached line 11 of page 1 of a 100-page Bill.

Baroness Hollis of Heigham: Will the noble Lord not agree that that is because we have taken the clauses out of order?

Lord Young of Cookham: If indeed we have made slightly swifter progress than that arithmetical calculation would—

Baroness Hollis of Heigham: Will he not therefore agree that his point is not a valid one?

Lord Young of Cookham: Returning to the theme, Amendment 43 seeks to add a qualification for those who are eligible for starter homes. I think that this is going to be a very popular product and that it will be oversubscribed. That raises the question of how one prioritises those who bid for the starter homes. Amendment 43 suggests one such restriction or qualification—namely, that people should live or work locally.

There may be other ways of managing demand. On Tuesday, I suggested that the product should be targeted at existing social tenants in order to free up a re-let, or at those on the waiting list in order to enable those behind them to move forward. There may be other ways of managing demand. Historically, we have had schemes for key workers—for example, teachers or nurses—who may need to live in a particular area.

When my noble friend replies, can she indicate how demand for the product will be managed, given that it will be oversubscribed? Will it be first come, first served, or will there be some eligibility qualifications such as those mentioned in Amendment 43 or those that I mentioned on Tuesday to ensure that the maximum benefit to the community as a whole is achieved from this exciting government initiative?

11.45 am

Lord Campbell-Savours (Lab): My Lords, the thrust of these amendments, as I read them, is to try to deal with potential abuse of the system. I had thought of giving notice of my opposition to the clause as a way of dealing with these matters, but I think that I should deal with a number of issues on the back of these amendments because all my comments basically deal with the potential for abuse.

Perhaps I may go through some of the figures, because it seems that there are substantial profits to be made out of this scheme. Let us take as an example the starter price of £450,000 for a house or flat in London, which will probably be at the lower end of the market. I know that the Government say that there will be cheaper properties than that available in London but I certainly do not believe it from what I have seen recently of the property market in London. The market price of that property will actually be £560,000 but it will be sold for £450,000. Working out the figures on the basis of a 4% increase per annum, over five years there would be a 25% increase. I say that because the latest survey from the Royal Institution of Chartered Surveyors predicts a 25% increase in prices over the next five years. An increase of 4% per annum compounded gives £582,000 in the first year, £605,000 in the second year, £631,000 in the third year, £656,000 in the fourth year and £682,000 in the fifth year. In other words, you buy a house for £450,000 and, at the end of five years, you make a profit of £232,000 on the back of the people, because essentially this is funded by the people.

Let us take a starter price of £250,000 outside London. The actual market price of such a property is £310,000. It is worth £322,000 after the first year, £335,000 after the second year, and it goes up to £377,000 in year 5. So if you buy a £250,000 house, you will sell it with a profit of £127,000 on the basis of the RICS valuation. I think that these valuations are very low. It is quite possible that in London the prices will go up substantially more than that and we will see far greater capital gains. The same obviously applies to the £150,000 purchase that we talked about the other day. The market price of that property would be £187,000 and you would end up with a £78,000 profit on the basis of a 4% increase per year. I was doing these calculations in bed last night at one o'clock in the morning and I think they are fairly accurate.

Substantial profits are available under this scheme, and we all know what happens when a lot of profit is available, particularly in schemes where the Government are involved. People very often will organise their private affairs to maximise the profit that they can make. Therefore, in the regulatory arrangements that are introduced we have to be absolutely sure that we have covered all the potential arrangements that might be introduced, and I will just give one or two of them.

A qualifying person is set out in Section 57AA(2) of the Finance Act 2003 as a person who has not acquired freehold or leasehold residential property in the United Kingdom or elsewhere in the world. In other words, it is their first home. What happens when the beneficiary to a will inherits a £40,000 house in, let us say, the area where the noble Lord, Lord Greaves, is a councillor? That is the price of a house in Colne or other parts of Lancashire. Does it mean that the person who inherits that house—effectively, they have acquired it, which is what it says in the 2003 Act—loses the right to buy a starter home? They would already have acquired a house through their inheritance, and the Act does not say "purchased", it says "acquired". What would happen in that particular case? Would they still retain the right to buy a starter home, having already inherited that £40,000 terraced house in Lancashire?

[Lord Campbell-Savours]

What about the cash purchaser who the noble Lord, Lord Shipley, referred to? The noble Lord argued that cash purchases should not be allowed in these circumstances. He said that we should be sure that these houses are purchased under mortgage arrangements. However, someone could buy a house under a mortgage arrangement but it is the scale of the mortgage that matters. In other words, if we are to preclude cash purchasers, the regulations have to define how much of the purchase price of the house can be cash if there is a requirement to have a mortgage on the house. Will the Minister answer that? Again, that should be set out in the regulations.

What about a sham mortgage followed by a cash payment? Someone could take out a mortgage but then, three months later, pay cash; they always intended to pay cash but knew that the only way round the scheme was to take out a mortgage. Again, that has to be set out in the regulations.

What about the circumstances where a parent or relative, or even a friend, purchases in the name of the legitimate purchaser and then takes a charge on the property to take out a proportion of the profit at the end of the five years? In other words, the purchaser in fact was not the person whose name is on the deed and, by way of some charge, the actual purchaser is able to take the profit out of the deal at the end of the five-year period. Some might say that I am going a bit over the top by suggesting that these things might happen. However, there is a lot of profit in this and a lot of people will see great advantage in getting involved in these deals to take out the profit at the end of the five-year period. So again, we must ensure that the regulations cover the circumstances in which something like that might happen.

What happens if people acquire by purchase another property during the five-year period; in other words, they now have two homes? They have the home which has been subsidised with its vast profit potential and then they buy another home during that period. Whereas at the moment it is the second home which is subject to capital gains tax, in those special circumstances it might be that the first home should be subject to it. If someone can afford to buy a second home, having bought the first home under a subsidised arrangement, surely the starter home should be treated as the second home and be subject to some sort of tax gain to the Exchequer.

I move on to the question of the developer. How do we know that the developer will not inflate the price? The developer is supposed to offer the property at 25% less than market value—

Baroness Hollis of Heigham: It is 20%.

Lord Campbell-Savours: I am sorry, 20%. Having done that, the developer might simply inflate the starter price. Who will determine what the real market price is of that property? Again we are going to need some pretty subtle guidance here because, when I talked this morning to some local authority people in Bristol, it was made clear to me that one of the great flaws in this legislation is over the valuation of starter home properties. Although I do not have the quote with me, I understand that Jones Lang LaSalle, a firm that will be well known to Members of this House with an interest in this area, has expressed grave concern about the question of inflated prices by developers.

Further, how can we prevent developers charging excessive ground rents on the leasehold properties they sell? We have noticed over recent years that, when there is a boom in the market, the length of leases on flats in London invariably seems to shrink down to 99 or 125 years, but when the market is bad very often the same blocks, at new-build stage, are sold on 999-year leases. Developers may sell properties on shorter leases with high ground rents and then even with truncated review periods, whereby instead of the review being made every 21 years it might be every 10 years. The reason they do that is simple. When it comes to the enfranchisement of the lease, developers will secure a higher price when the leaseholder buys the freehold, because of course the sale of the lease is dependent on the annual ground rent for the property. In my view the law should provide that such properties cannot be sold with less than 999-year leases and regulations should define the review period for ground rents. I do not know how it would be done, but it might be sensible to set up an arrangement whereby even ground rent maximums can be defined. Some might say that the only properties that could be sold should be freehold or share of freehold to avoid the problems I am talking about.

We keep hearing references to repayable discounts. In my discussions this morning, no one understands them to be repayable at all. I keep being told that what is happening is that annually the property is simply sold at a discounted rate further down the line up to five years. I am finding it hard to work out how that will happen. We need at this stage an explanation of how the discount system is actually going to work on resales within the first five years, because as yet no one has given me a satisfactory explanation. Moreover, what happens in a declining market? The market dropped in 1973, 1981 and 1992, with a minor drop in 2008. I know, because I have lived long enough to have experienced those falls on all four occasions. The discount on a £150,000 property is £37,000, on a £250,000 property it is £60,000, and on one worth £450,000 it is £110,000. What happens to those discounts in a declining market? Since I do not understand how the system works in terms of preserving the discounts during the first five-year period, I cannot work out what would happen in relation to those discounts. Is there some calculation which proportionately affects the amount of discount which has to be allowed on the subsequent sale of the property?

I think that I have dealt with most of what came to mind overnight when I was thinking about these things. What I am basically saying is that this system will be abused by people who want to make a lot of profit very fast—they will regard it as very fast—over a five-year period. Under this scheme, if people can build it into an investment, they can make a 50% return over five years. That will be very attractive to a lot of people. It invites abuse. Therefore, the regulatory arrangements that govern the scheme have to be sophisticated enough to ensure that that abuse does not take place and that taxpayers' interests are protected.

Noon

Lord Kennedy of Southwark: Does my noble friend agree that one reason for raising these points today is the wholly unsatisfactory way that the Bill has been put in front of us? We have no regulations and we will get none before the Bill is passed into law. It is a ridiculous situation and why we have raised these points.

Baroness Royall of Blaisdon (Lab): My Lords, building on some of the things that my noble friend has said about Amendment 41B, what can be done to ensure that starter homes sold with a discount cannot immediately be sold on to second home owners or to people renting them out as holiday homes? As we know, in many areas of the country, especially rural and coastal areas, while properties are sold and people have homes, these homes are not lived in all the time. Therefore, notwithstanding that the homes have owners, the essence of these communities is hollowed out because people are not there all the time; they become real communities only at certain times of the year, and the schools, the pubs and the shops all close. Can anything be done, if we persist with this 20% discount, to ensure that communities still thrive and that people are not able to sell these properties on as second homes?

The Government, in seeking to enable people to buy these starter homes, intend that if a person is under the age of 40, as I understand it, they still qualify to buy one. I do not think that the government amendments go far enough. Is the Bill, even as amended, compliant with the Equality Act? There is discrimination, I would say, against people over the age of 40.

Lord Beecham (Lab): My Lords, I suspect that the Minister will be grateful that my noble friend Lord Campbell-Savours eventually managed to get some sleep, having burned the midnight oil on what has been an absolutely forensic analysis of these proposals in the Bill and the amendments in the name of the noble Lord, Lord Shipley.

I had intended to ask the noble Lord, Lord Shipley, how much of a mortgage would disqualify and for how long would it have to be held under the terms of his amendments. How would the maintenance of a mortgage be monitored? If a mortgage were paid off after a year or two, or three or whatever, would that change the situation in relation to the discount? How would residence be monitored, for that matter? Is somebody supposed to call every so often to check who is occupying the property? On a lesser topic, would very short lets of the Airbnb kind interfere with the concept that the Government have advanced? I understand the intentions of the noble Lord, Lord Shipley, but there are significant problems in realising the objective, with which the Opposition agree, of ensuring that only genuine first-time buyers are covered.

There is also a question about the meaning of locality. Amendment 44 states:

"The meaning of 'locally' … shall be defined by the relevant local authority or the Greater London Authority".

If the Government are disposed to accept this amendment—which would be sensible because someone has to ensure that this is a locally based scheme—I wonder whether, in addition to the terms of the amendment as it stands, "local authority" could be defined as including combined authorities where they exist. Combined authorities will usually have a strategic role in the housing market and development—certainly some agreements have now been signed—and it would incongruous if, in an area designated as one for which it has some housing responsibility, the combined authority was not included in the process of determining the locality for obtaining a grant of this kind. If the Government are disposed to accept the principle of Amendment 44, perhaps that further refinement could be taken on board.

I agree with the suggestions made by the noble Lord, Lord Young. It would be right to look at the range of issues that he has covered and I hope that the Minister will indicate a sympathetic stance—he has already made the point, so she has had a couple of days to think about it—and apply his suggestions to the scheme as it develops. It is to be hoped that, on Report, the Government will reflect at least that much in their own amendments.

Baroness Hollis of Heigham: My Lords, I have a simple question—this is not a speech—to ask the Minister. As far as I can see, the only effective constraint—apart from the price or value of the property—is the age of the applicant for a starter home, who has to be under 40. We all share a common wish to ensure that home ownership is available to people on modest incomes where it makes sense for their lives, but what about the displacement issue? In quite a number of cities where there are universities, colleges and so on, people do not expect to enter the home ownership market until they are around 30 or so—they are doing PhDs and so on—at which point they enjoy relatively generous salaries and could well afford first-time homes on the open market without taking any advantage of the discount. However, because the discount is there with no income-cap qualification to its retirement, we will see people who have quite generous incomes—and whose income increases will also be quite generous—able to pocket this public subsidy paid for by taxpayers, often with incomes much lower, and then trade up as soon as they get their first promotion. Why is the Minister not considering an income cap as well as an age cap to ensure that people who can buy without discount should?

Baroness Gardner of Parkes (Con): My Lords, all sorts of scenarios have been put forward, many of which I agree with, including the point made by the noble Lord, Lord Campbell-Savours, that there will be people who will find ways around the regulations and buy these houses unscrupulously.

I remember when I was a local councillor it was decided that local councils should not be owners of property and we sold off houses near to here on the basis that they were offered to sitting tenants at an incredibly low price. It is hard to believe that you could buy a house near Smith Square for £50,000, but that is what they were. After we sold all of these properties to the sitting tenant, one was left vacant and sold for £150,000. There was a huge difference between the property values; in fact, I think the sitting value was out of touch with values at the time. It annoyed me to discover that one of the people who

[Baroness Gardner of Parkes]
had bought as a supposed sitting tenant was nothing but a front man for someone who could well have paid anything. So, a lot of the abuses suggested by the noble Lord, Lord Campbell-Savours, will happen—I hope not too many, but someone is always working out a way around things to get a personal advantage.

The noble Lord, Lord Shipley, commented on the issue of whether a person has bought a property as a genuine place to live in and whether, to ensure this, there might be letting restrictions and various conditions applied. This leads me back to the point which has been made again and again, that until we have regulations we honestly do not know how we are going to care about and deal with this. That is the greatest worry of all.

Lord Greaves (LD): My Lords, I want to speak to government Amendment 45B. I was wondering if I should wait until the Minister had spoken to it but I think it is probably better that I speak now and that she hears what I have to say. If the Committee is happy for me to do that, I will.

The amendment proposes quite an extraordinarily far-reaching Henry VIII power. It simply says:

"Regulations under this section may amend this Chapter".

That is as far-reaching as is possible. It suggests that the Government are not quite sure—perhaps it is stronger than that—whether they have got it right in this chapter on starter homes, and therefore that they want a provision to be able to change it in any way and at any time, subject to parliamentary approval. Of course, we keep being told that the House of Lords is not allowed to oppose these things, anyway.

In what ways can this chapter be amended, either as we go through this procedure in Committee now or in the future by regulations, to deal with the fundamental problem, which I keep banging on about, that housing markets are different in different places? There are parts of the country—not just in north-east Lancashire but in lots of other areas too—where the housing market is not buoyant but flat and fragile. In these places, the introduction of starter homes into the system could have serious unintended consequences which harm the market rather than boost it.

I want to give noble Lords the prices of three or four houses for sale at the moment. In so doing, I refer to the asking prices in the property supplement of the wonderful newspapers, the *Nelson Leader* and the *Colne Times*, published on Friday—so they are up to date. I have to say that in our area houses often go for less than the asking price; the idea of forcing prices up is not known to us.

I was taken by one of the featured properties at the beginning of this supplement because it is in the ward I represent, which is normally not featured. It is one of their top properties and a two-fronted terrace house. It is described as:

"Immaculately presented and substantial in size … dwelling has two reception rooms … three bedrooms",

et cetera. It is obviously highly modernised. It continues:

"The garden has an area of hardstanding … and views toward Pendle Hill".

What more does anybody want? An offer—and this is incredibly high for a terraced house in this part of Colne—of £110,000 is being sought by the owners.

12.15 pm

The auctioned houses are presumably being auctioned because they have been repossessed. From the look of them, they may well be repossessed buy-to-let landlords' properties. Three of them are being sold: at £35,000, £40,000 and £50,000. They are all in Colne—and prices in Nelson and Brierfield are lower than in Colne. Good terraced houses in good condition, aimed perhaps at owner-occupiers, are being sold at £70,000 and £80,000. The one I have just mentioned is at the absolute top end: £110,000. I will refer to just one more. This is a new house. When I say that it is a new house, it was built about 10 years ago, so it is not brand new. I can confirm that it is a very nice property. The description is estate agent blurb. Nevertheless, it states:

"There are three good sized bedrooms and a family bathroom. Gas central heating … This beautiful family home offers both stylish and spacious living accommodation".

And it is a nice house—a snip at £139,950.

The cost of putting a similar house on the market now would be about £150,000. There is a greenfield site which now has planning permission situated quite close to this house. That is the figure a house would be put on the market for. That is one reason why housing developers are not all queueing up to build lots of new houses, even on greenfield sites.

What effect will starter homes have? I asked the Minister three questions yesterday but she did not answer any of them. But I will no doubt get replies in due course. One of my questions was whether it would be possible for some purchasers of starter homes also to get the help-to-buy discount, which would then give them a 40% discount. This is just a factual question which I would like sorted out. But even if the figure is only 20%, a new house which is on the market for £150,000 would be sold for £120,000 as a starter home. In other words, it would seriously compete with, and undermine, the existing housing market. Therefore, good-quality terraced houses at the top of the range would be £110,000 or a bit more. Houses which have been built relatively recently would be at the same price, or not much different.

Brownfield development is simply not viable in this area—I will come to that on later amendments—and greenfield development is marginal and can take place only on the very best sites. The number of new completions each year in a borough of 90,000 people is in double figures. In fact, in one recent year it was in single figures. A couple of years ago the figure was under 100 and almost all the houses were properties which the local authority had built through its joint venture development company. The market is picking up a little bit but not very much. It will not surprise anybody to hear that the level of CIL which has been set locally is zero because, as soon as you introduce a CIL, everything becomes unviable, with all the other problems associated with that.

Making new housing much cheaper in a market such as this will probably result in more empty houses in the existing housing stock, particularly terraced housing, as people—not unreasonably—move up. A good-quality, fully modernised terraced house in a good location will cost £100,000, whereas a brand-new

starter home—certainly if it has two bedrooms—will cost not very much more than £100,000. Therefore, serious unintended consequences will come from the best of good intentions.

I tag what I have been saying on this amendment on to the Henry VIII amendment that the Government will be moving. I think that the Government need to think very hard indeed about how this legislation should be amended to take account of different housing markets in different places, whether they are rural areas, areas with lots of holiday accommodation, or—in my case and the areas that I am talking about—areas where house prices are really very low compared with the norm in a great deal of England.

Lord Kennedy of Southwark: My Lords, my noble friend Lady Hollis was absolutely right when she suggested that the only restriction is age. But government Amendments 44A and 44B in this group of course seek powers to disapply even that.

Baroness Hollis of Heigham: It would be really helpful if the Minister could assure the House—we really do need this—that proposed draft regulations will be before this House before we get to Report. If not, we will have major problems in this and other areas. It is not too much to ask. The Bill started in the other place last autumn, so there has been abundant time for the Government to determine what their policy intent is behind these "anything goes" powers for the Secretary of State. We must know, otherwise some of us will seek the House's authority to defer consideration until we have those regulations. We cannot do our job of scrutiny when so much of the information that we need is absent.

Lord Campbell-Savours: May I ask one question? We were told on Monday, I think, that there were so many hundred thousand people listed as wanting starter homes. Is there any information available on where these people are located—which counties and local authorities—and could we have that information quite early, perhaps even today? It might help us in our debates.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, we have started today with another interesting debate on starter homes. I am conscious that this is the third day in Committee and we still have some substantial issues before us.

Baroness Hollis of Heigham: Is the Minister aware that, in the other place, they took 17 Committee days to discuss this Bill?

Baroness Williams of Trafford: I am not disputing that at all. I was going to give a bit of a recap of Tuesday if that is okay by your Lordships. Anyone who read *Hansard* for Tuesday will not be in any doubt that your Lordships' House is passionate about social housing and the need to make sure that the most vulnerable in our society have safe and secure housing. The Government's position is not as far removed from that as some noble Lords may believe. We, too, believe that social housing should continue to house those who need it most.

Some noble Lords suggested that the provisions in Chapter 1 mean that we no longer believe in anything other than home ownership, which is not the case. As I have said before, there is a gap in the market. An additional product is required to fill that gap and that is why we are legislating for starter homes. We are helping people to access homes that they can afford in a number of different ways and this Bill should not be seen in isolation. The Government have committed £4.1 billion in spending reviews to deliver 135,000 shared ownership homes and £1.6 billion to deliver 100,000 affordable homes for rent.

With help to buy, shared ownership, the affordable rental sector and social renting, market-priced housing and private rented sector housing, as well as the retirement housing that is coming forward, there is a whole range of tenures available and starter homes will rightly be a part of that mix. Just because this wider range of affordable housing is not mentioned in this part of the Bill, it does not mean that local authorities will not provide it. Local planning authorities know their market. We would also expect them to seek other forms of affordable housing, such as social rent, where it would be viable. Councils have the option to release more land for housing to ensure that they are delivering as much housing of all tenures as is needed.

Baroness Hollis of Heigham: My Lords, in that case will local authorities be able to claim Section 106 land which has now been earmarked for starter homes and which in the past has funded more than 50% of social housing in this country? The Minister says that they can do it but she is denying them the powers, the authority and the revenue base by which to do it.

Lord Beecham: Before the Minister replies to that, how does this aspiration match the Government's imposition of cuts in rents for local authority social housing, which will restrict their capacity to invest?

Baroness Williams of Trafford: My Lords, to go back to the first question from the noble Baroness, Lady Hollis, the councils will provide through various mechanisms different types of tenure, as they always have done. We fully expect that this will be the case in the future and I have outlined some of the funding mechanisms.

Baroness Hollis of Heigham: I am sorry, my Lords, but that is not good enough. In the past, local authorities and housing associations have relied on Section 106 but that is largely going to disappear unless some of the amendments that we will discuss later are taken into account. It is no use the Minister saying that she has no reason to think that this will not continue when it will not—unless she can tell us how local authorities will make good their loss in rents, their loss in capital grant support and their loss in Section 106 land.

Baroness Williams of Trafford: My Lords, Section 106 can still be used for infrastructure but cannot be used where it would damage the viability of providing those

[Baroness Williams of Trafford]
houses on the site. Local authorities will continue to use Section 106 and a variety of other mechanisms to provide mixed tenures on their sites.

Baroness Hollis of Heigham: My Lords, I have been chair of a modestly sized housing association across Norfolk, and virtually all our new building was under Section 106. Take 106 away and the building will stop—full stop.

Baroness Williams of Trafford: My Lords, if it is viable developments can use Section 106, for example to provide infrastructure on those housing developments. The £1.6 billion that we have provided for affordable rented properties is purely grant-funded.

Baroness Hollis of Heigham: But, my Lords, the infrastructure in rural villages is already largely in place. We are talking about modest pockets of 10 or a dozen houses here and there. Infrastructure is not the point; that land has come through Section 106 from other private development which is already happening. How are local authorities going to add to the social housing stock when they face huge pressures with no land and no resources?

Baroness Williams of Trafford: My Lords, as I have said this will happen through a variety of mechanisms. I appreciate that we are in disagreement at this point but if noble Lords will indulge me, I would like to make some progress.

Lord Beecham: I am grateful to the Minister for giving way but broadly speaking, it is right to say that in terms of Section 106, authorities have been accustomed to accepting some 15% of houses in development under that scheme. Can the Minister give any indication of what she thinks the future likely percentage will be under the regime which the Bill introduces? In percentage terms will it be around the same, less or more, and on what basis does she advance her opinion? I accept that she may not have an answer immediately across the Dispatch Box and if she does not, can she write to us about that?

Baroness Williams of Trafford: I cannot say at the Dispatch Box what the percentage will be, because it will be out for consideration, but I can give my opinion. In my experience, it will not be too dissimilar from the affordable homes expectation that was previously in place. The noble Lord, Lord Beecham, asked me another question in following the noble Baroness, Lady Hollis, on the previous point and I have completely forgotten what he said. Perhaps he could repeat it—it is going to be a long day.

Baroness Hollis of Heigham: My Lords, we need to know whether these are affordable homes for rent. Otherwise, what the Minister is doing is using starter homes to embrace the whole concept of affordable homes. That entirely ignores the need for affordable homes to rent. Following my noble friend's question, can she say specifically whether the percentage of social housing for rent will continue?

12.30 pm

Baroness Williams of Trafford: My Lords, all I can say is that local authorities know their market, and they can use Section 106 for other types of housing on sites, whether for sale or for rent, in addition to starter homes where viability allows, as well as for infrastructure. I cannot answer more clearly than that at this time.

Lord Kennedy of Southwark: The Minister is right to say that local authorities know their market. The core problem with this Bill and its provisions, which has not been taken account of, is that of the powers being taken to the centre of the Government.

Baroness Williams of Trafford: Those powers are a specific type of power for the Secretary of State, but that does not take away from any of the other powers that local authorities might wish to use, viability allowing, when agreeing Section 106 for development in terms of other affordable homes for sale or for rent.

If I may, I wish to make a bit more progress. Our analysis has shown that in regions outside London, we expect that, on average, up to 60% of eligible households currently renting privately would be able to secure a mortgage on a starter home. Within London, we expect that up to 47% of eligible households currently renting privately would be able to secure a mortgage on a starter home. For example, 59% of eligible households currently renting privately across London would be able to secure a mortgage on a starter home in Hammersmith and Fulham.

Lord Campbell-Savours: Does the Minister know what the remortgage payments are on a mortgage of £450,000?

Baroness Williams of Trafford: My Lords, I do, because I have a rather large mortgage myself. I think the noble Lord may be referring to the cap on a starter home, which is £450,000.

Lord Campbell-Savours: Yes, but £450,000 is the price at which most developers are going to build houses in London.

Baroness Williams of Trafford: My Lords, the first-time buyer price of a house in London is currently £356,000. I appreciate that that is not the average house price in London, but that is the average first-time buyer price in London.

Lord Campbell-Savours: Does that include all properties?

Baroness Williams of Trafford: It includes all sorts of properties, and that is for first-time buyers. But the price cap is a cap; it is not an average. We can and we will argue statistics today, but the cap is not the average, and the average first-time buyer price of a home in London is £356,000.

Lord Beecham: I thank the Minister. I referred to this when we discussed similar matters the other day. The suggestion—I was quoting Savills as my authority—is that new-build homes are going to be more expensive

than houses on the market, so the £350,000 figure is likely to be an underestimate—if I recall rightly, by around 10%. We will be looking at nearer £400,000 for a new-build property, which makes it a different story.

Baroness Williams of Trafford: I apologise to the noble Lord and to the noble Lord, Lord Campbell-Savours, because the figure that I gave was the implied first-time buyer price of a new-build in London. I think we will all get a bit confused with prices and statistics today, so I hope the noble Lords will accept my apology.

I turn now to the amendments. I thank the noble Lords, Lord Kennedy and Lord Beecham, for Amendments 43 and 44, which suggest limiting starter homes to local people, and for Amendment 40, which would prevent starter homes being sold to buy-to-let investors.

I thank the noble Lord, Lord Shipley, for his amendments, which seek to restrict starter homes to those purchasing via a mortgage, and to require first-time buyers to occupy starter homes as their principal residence. Finally, the amendments in my name introduce some modest flexibility to the age 40 cap.

Lord Campbell-Savours: I have just looked this up. The cost of a £450,000 mortgage on a new house in London, at 4%, is £28,000 per annum—out of after-tax income. How is it possible for her to say, as I think she did, that 40% of private owners in London can afford a mortgage like that? These figures cannot be right. With £28,000 after tax, we are talking about income of something like £45,000 a year before tax just to pay your mortgage. This is not affordable.

Baroness Williams of Trafford: My Lords, first, if someone is paying 4% on a mortgage, they might not be getting the best deal on the market. Secondly, I just repeat my point that £450,000 is the cap on a starter home and £356,000 is the implied price of a new-build first-time buyer property. I do not think we are necessarily talking about the same thing.

Lord Kennedy of Southwark: But the point is that the figures she referred to are for the whole of London. The price of a property in the Elephant and Castle, around where I grew up, is £450,000 or more. This may apply on the edge of London, but not anywhere near here.

Baroness Williams of Trafford: My Lords, I recognise there are vast variations in house prices in London. We talked about Lewisham the day before yesterday, and we could talk about every borough in London today, but I am simply giving an average implied price. I accept that Westminster and Kensington and Chelsea are more expensive—I could not afford to live there—but there are places in London that are more affordable than others. This is simply an average price.

Amendment 37B would restrict who could buy a starter home to those purchasing with a mortgage only. We are allowing starter homes to be purchased only by qualifying first-time buyers under the age of 40, with limited exceptions. The noble Baroness, Lady Royall, asked whether this fits in with the Equality Act. I confirm that an equality impact assessment has been prepared for the starter homes provisions in the Bill, and this will be kept under constant review in line with the duties under the Equality Act. In addition, a further assessment is being prepared to accompany the Government's consultation proposals for starter home regulations.

We need to prioritise our assistance to the generation of people in their 20s and 30s who have been disproportionately affected by the increasing affordability pressures over the last 30 years. My noble friend Lord Young of Cookham made the very good point that this is a very popular product and significant interest is already being generated on these homes. He was correct that this is done on a first come, first served basis. He also made the point about it being a good way of increasing mobility in the social rented sector and for those currently on waiting lists. I totally agree with that point—it is. We will be ensuring that resale letting restrictions are included in our regulations. The aim is to provide a place to live in. We are consulting on these requirements for the regulations shortly, to seek wider views and to ensure that they operate fairly and effectively.

Baroness Hollis of Heigham: Does that mean that the proposed draft regulations will be available to noble Lords before Report, so that we can see how the Minister ensures to target starter homes on those who most of us would accept need them most, given income and occupations that some may have which our society needs?

Baroness Williams of Trafford: My Lords, I do not think that I can undertake to provide the regulations by Report, given that the consultation will be happening shortly. As I have done with regulations on many occasions, I will elect to give noble Lords as much detail as I can possibly can, but I cannot give an undertaking that they will be ready by Report.

Baroness Hollis of Heigham: I am sorry; it may be a matter of when Report happens. The Minister should recognise that noble Lords all around the Chamber are floundering, because we do not know enough. We are not challenging the Minister's good intent; I am sure that she is telling us everything she knows at the moment and that she does not wish to mislead the Committee, nor to pre-empt decisions that her department may go on to make. Some of us have been there and know the situation that she is in. However, the response to that should be to delay Report until we have those regulations, because otherwise most of this debate will continue on Report with questions such as, "What does this mean?" or "What does that mean?" and the Minister will say, "We have to await the regulations". Then we will have an argument about whether those regulations will be affirmative or negative, and whether we can go back and amend legislation, given that we will then see the intent of the Government's proposals, which the Minister was not able to share with us when we were discussing the Bill itself. She recognises this dilemma, as does the whole House—it is not unique to this Bill. Easter Recess is coming up. Either she must delay Report stage or she must get those regulations to us. For the sake of good scrutiny, we cannot afford to have the same sort of debate as we had on the previous day in Committee on Tuesday—and, so far, today.

Baroness Blackstone (Lab): My Lords, let me pick up the point my noble friend has just made. Given that there is a consultation, I completely understand what the Minister is saying. However, it is obviously sensible to delay Report so that this House can have a proper opportunity to peruse the regulations in detail.

Lord Campbell-Savours: My Lords, let me add that the danger is that the Bill will be treated as a skeleton Bill under the Cunningham report. I always oppose voting on fatals, but we may find ourselves having to vote on fatal Motions because it is the only way we will be able to deal with amendments that we should have been able to deal with in primary legislation.

During my modest contribution, I mentioned a number of abuses. Will the Minister assure us that each of those that I quoted will be considered and dealt with by officials, and that if they believe my comments were accurate, they will be dealt with in the regulatory arrangements?

Baroness Williams of Trafford: I hope to answer the noble Lord's points as fully as I can. I know that if I do not, he will intervene again.

Lord Greaves: My Lords, perhaps it is my fault that I have not noticed yet, but while we are on the question of the 40-year age limit, will the Minister tell me whether the cut-off will apply to a person trying to buy a house at the time they make an offer or the time they complete?

Baroness Williams of Trafford: My Lords, it will be at the time they complete. That is when they become the owner of the house.

Lord Greaves: That is an interesting answer and I am grateful for it. May I suggest that we find a way of discussing this and thinking about it further, because if we think about the practicalities of buying houses, the answer that has just been given has all kinds of implications?

Baroness Williams of Trafford: I appreciate that. I keep coming back to the point that this is to address a specific demographic in the market that has been disenfranchised from home ownership.

To return to the point made by the noble Baroness, Lady Hollis, I understand the frustration of the Committee. I understand particularly that when the House is frustrated by not receiving regulations, that then takes time that we should be taking to discuss the Bill. However, I also see the need for the consultation to be meaningful. I would not want to delay Report but I am happy to meet noble Lords once the consultation has been published, which they might find helpful.

12.45 pm

Baroness Blackstone: When is that date going to be? Of course consultations should be meaningful; they are often not, but I hope that this one is. Still, it would be useful to know the timetable that the Government have in mind.

Baroness Williams of Trafford: I expect that it will be in the next few weeks. I will keep noble Lords posted. As I say, I am happy to meet Lords once the consultation has been published.

Baroness Hollis of Heigham: My Lords, does that mean that the consultation period will be through by the end of March, the end of April or what?

Baroness Williams of Trafford: I hope the noble Baroness will forgive me if I cannot give her an exact date. What I have elected to do, once the consultation has been published, is to meet noble Lords to discuss it.

Baroness Hollis of Heigham: My Lords, if that means we will not get the results of the Government's response to the consultation until after Report, I suggest that through the usual channels they consider delaying Third Reading, or at least the use of Third Reading to take Report-style questions that we would not have been able to ask on Report because of the Government's handling of their own timetable.

Baroness Williams of Trafford: I can only reiterate my commitment to sharing the consultation once it has been published and to ensuring that as soon as regulations can be brought forward, they will be.

Lord Kennedy of Southwark: Can the Minister not go a bit further than that? Can she not just agree here today to go through the usual channels to explore the point that my noble friend has made about the possibility of having further process at Third Reading?

Baroness Williams of Trafford: My Lords, matters may have been resolved by Third Reading, but I will speak to officials to see what can be done to expedite the detail of the regulations as soon as possible. I can do no more than that today.

Lord Beecham: My Lords, I would like to revert from this dreadful series of process issues and assert that the Committee has every sympathy with the Minister; it is no fault of hers that we are in this dreadful situation. To go back to the last substantive thing that she said, which was about making sure that the houses are not let after being bought, what mechanism will there be for monitoring the situation? Unless it is effectively monitored it becomes a meaningless provision, and I am not sure how it might be monitored.

Baroness Williams of Trafford: My Lords, there will be a power to stop letting because this is a very important aspect. For the intention of what is being provided through starter homes to be flouted in that way would undermine the policy altogether.

Lord Beecham: That is obviously right. The question is how it is going to be done. Will someone be going around and checking letting boards or with estate agents to see whether properties bought under right to buy are to be let? Or is it going to be an obligation, although how it would be enforced is another matter, for an owner of a right-to-buy property to notify someone about letting? Again, how could that be enforced? There are real practical difficulties here to

which I find it hard to come up with an answer. I am not expecting the Minister to come up with an answer just like that, but I hope that someone in the department is giving some thought to how they can make a reality of the aspiration, which the Government and the Minister no doubt have, that the principle of not letting these properties is actually enforceable.

Baroness Williams of Trafford: The noble Lord gets to the heart of some of the issues on which we shall be consulting and which we shall try to ensure do not happen—for example, abuse of the facility. The regulations will be subject to the affirmative procedure, so there will be time to debate them, although I am not losing sight of noble Lords' frustration.

I have completely lost my place. The English housing survey, which was published in February, found that 83% of first-time buyers funded their first property with savings; 27% had help from family or friends, while 10% used inheritance. Many first-time buyers used a combination of sources and 96% required a mortgage to buy. I am not convinced that a mortgage requirement will prevent the gaming that noble Lords suggest, although I can see exactly where they are coming from. People can play all sorts of games with mortgages. They can get a mortgage and, six months later, pay it back. I am keen to prevent local gaming, but I do not know that this would actually prevent it. We will keep implementation under review and issue further regulations if necessary.

The noble Lord, Lord Campbell-Savours, talked about resale in the first five years. This is a very important point. For example, what would happen to any money from the 20% discount? If a property were resold in the first five years, it would be sold at a 20% discount during that period, so it would remain a starter-home type of product.

Lord Campbell-Savours: In a free market, how do you calculate the 20% discount within the first five years? Take year three. Who would decide the market price, and the subsidised—discounted—price? Would it be the estate agent; would there be some sort of independent valuer; or would it be the department? Who is going to do it? At that point, we would be interfering and trying to prejudge market values. I do not think that it will be possible.

Baroness Williams of Trafford: The noble Lord is right. Market values can go down and they can go up. I would expect that an independent valuation of the property would be made and the 20% discount applied to the next person buying that starter home. It is true that the market might go down, in which case the price to any subsequent starter home purchaser would also go down.

Lord Campbell-Savours: I cannot see how you can calculate it. I am the purchaser. There is a house—a discounted property. How do I work out what I should pay? I might be competing with a queue of six people all of whom want to buy the house. Who is going to be the winner? In these conditions, there will be competition and one would have thought that the competition will take it above the discounted price. Unless there is some sort of preferential system built in, I cannot see how it can possibly work. We need a lot of information on this before we get to Report.

Baroness Williams of Trafford: If the noble Lord is happy, we can discuss this further. There are all sorts of complexities in it and I am very happy to meet with him. I think that the noble Lord, Lord Campbell-Savours, and I are likely to be meeting a lot over the next few weeks to discuss various things. But that would be the mechanism: money would not go anywhere but the property would come back on to the market as a starter home.

The noble Lord, Lord Campbell-Savours, also talked about a charge on a starter home, which is another good point. We will consider this issue further and will engage with lenders, developers and local authorities on the detailed implementation of starter homes, which will include such issues. The noble Lord also talked about the length of leases allowable on starter homes, which, again, is another good point. The Bill specifies that a starter home may be held as a freehold or a leasehold interest. The regulations will not specify the length of any lease but in practice they will be of a market-standard length so that it would be possible to obtain mortgage finance—that is, it would be very difficult to obtain mortgage finance on, for example, a leasehold property of 10 years—even if the purchaser does not intend to obtain a mortgage.

Lord Campbell-Savours: Why not simply say, "No 99-year or 125-year leases?". Why not just say that they should all be 999-year leases?

Lord Beecham: Or freehold.

Lord Campbell-Savours: A 999-year lease is a virtual freehold, is it not? Why not have those extra-long leases? Why have short leases, which force up the enfranchisement costs when people buy their leases if the ground rents are high as well?

Baroness Williams of Trafford: I get the noble Lord's point entirely. We expect that if these properties were leasehold, the leases would be of market-standard length.

Lord Campbell-Savours: But market-standard length at the moment can be anything from 99 to 999 years. I am just saying, why not go for the longer lease?

Baroness Williams of Trafford: I entirely take the noble Lord's point. As I say, that is our expectation, but we will continually monitor this. It is a new product and we will monitor it as time goes on.

I think I have answered the questions—or some of them—before I have introduced the amendments. Amendment 41B would not allow buy-to-let investors to buy a starter home but would require first-time buyers to occupy a starter home as their principal residence. I assure noble Lords that it is not our intention to allow those people who buy a starter home to become buy-to-let landlords, and nor do we want the properties to be second homes.

[Baroness Williams of Trafford]

The noble Lord, Lord Campbell-Savours, brought up the point about what happens if someone inherits a house. If that happens and they sell it on, clearly they do not own that house, but once they occupy that house they own it and therefore they would not be a starter-home purchaser. I do not know what would happen if someone purchased a starter home and then one year into that purchase inherited a house. I can get back to the noble Lord on that.

Lord Campbell-Savours: What worries me is where someone inherits a house in the area where the noble Lord, Lord Greaves, lives, at £40,000, and then is disadvantaged because under the provisions in the Finance Act 2003, if they have acquired it—not purchased it but acquired it; in other words, inherited it—that would then deny them the right to have a starter home. That should be sorted out.

Baroness Williams of Trafford: It would, but it would give them a very good deposit on a home if they were to then sell that property, and in the north-west, the implied first-time buyer price of a new build is £144,000. I am just giving an example which relates to the one the noble Lord gave, but in that case the properties would be well within the affordability range for a new-build first home.

Lord Campbell-Savours: It is defined in the 2003 Act. If you have acquired a house by way of inheritance, under this legislation that is your first home and therefore you cannot buy a starter home. That is what I was driving at.

Baroness Williams of Trafford: My Lords, if you have acquired a home and then you live in it, you are the owner of that home. You own it.

1 pm

Lord Greaves: I am not qualified to take part in these legal technicalities but this is clearly something that needs sorting out. If the Government are going to stop people buying a starter home and letting it during the five-year period, will they also be prevented from keeping it empty? For example, if I bought a starter home worth £250,000, having received a discount of £50,000, and with two years to go I unavoidably had to move somewhere else and could not live in that house, it would be altogether financially more beneficial to me to simply leave it empty for two years and pay the council tax on it rather than to sell it and lose the £50,000. What will the position be in that situation?

Baroness Williams of Trafford: Theoretically a person could, within the five-year period, have to move somewhere else and therefore the house could be left empty for two years. The question is whether they sell that property within the five years. The person that the noble Lord is talking about would not sell the property; he would simply go elsewhere for work or for whatever purpose.

Lord Greaves: My Lords, there are all sorts of theoretical circumstances that we can put ourselves in but people may well move permanently—they may move to another part of the world or to another part of England where there are some jobs, unlike in parts of the north of England. Under those circumstances, they would not come back to the house and it would clearly be in their interests to leave it empty for two years. Therefore, the number of empty properties in that area would increase for purely bureaucratic reasons. All you have to do is leave the house empty for a couple of years, then sell it and make a profit of perhaps £45,000. That does not seem sensible. If the Government have not thought out the problem, they ought to do so and come back and tell us whether there is a solution to it.

Baroness Williams of Trafford: My Lords, the matter here is resale. I will certainly write to the noble Lord to clarify the issue if that is okay.

Baroness Hollis of Heigham: On that last point, we want to help people to buy a starter home if they have a good chance of affording it. On the one hand, we want to stop abuse but, on the other hand, we do not want to stop appropriate geographical mobility. The core of the problem is that after five years the 20% discount ends. I hope that the Minister will understand the overlap between a lot of these discussions and the subsequent amendments relating to trying to keep that 20% discount in perpetuity, because at that point the possibility of abuse reduces very sharply.

Baroness Williams of Trafford: My Lords, I am sure that we will go on to talk about "in perpetuity" today. The Government are quite clear that not making these homes discounted in perpetuity allows mobility up the housing ladder and frees up property for other people to live in. Also, it does not restrict the person who has bought the starter home in making progress up the property ladder.

Lord Beecham: I want to revert for a moment to the conundrum posed by my noble friend Lord Campbell-Savours, to which the noble Baroness has endeavoured to reply—with some difficulty, which I quite understand. His question is predicated upon a single person inheriting a house. However, if two or three siblings inherited a share in that house, on the face of it that would also invoke the problem he raised. Again, I do not ask for an answer now but this is yet another area that needs to be explored by those advising the Minister. On the face of it, one out of the three, four or however many siblings might have a share in this notional property would be disqualified.

Baroness Williams of Trafford: I think that the noble Lord is right. If the noble Lord, Lord Campbell-Savours, will indulge me, I will write to him on this further. It starts to raise questions, particularly when there are two or three—

Lord Campbell-Savours: All I am saying is that where the Bill states:

"'First-time buyer' has the meaning given by section 57AA(2) of the Finance Act 2003",

that should be amended because it is an insufficient definition.

Baroness Williams of Trafford: Perhaps I may take that point away because, like other noble Lords, I am no legal expert. The noble Lord, Lord Greaves, asked about the Help to Buy scheme being used to purchase a starter home. We are certainly exploring whether it can be used but as yet no decisions have been made.

Lord Greaves: Just to wrap up this point if we can, when might decisions be made? The point is that if there is a 20% discount on a starter home and a potential 20% discount in certain circumstances through the Help to Buy scheme, somebody could get a 40% discount out of public funds on the house they buy. That seems rather a lot, and I would like an answer to that question before we finish with this Bill.

Baroness Williams of Trafford: My Lords, Help to Buy is a government loan guarantee scheme as opposed to a discount, but I shall be happy to discuss that further and, as I said, to bring forward in due course government thinking on Help to Buy being used for a starter home.

Putting the sales and letting restrictions in regulations will give us flexibility to amend the restrictions, should this be required in the future. It will also give the opportunity to consult with key stakeholders to ensure the regulations operate fairly and effectively, which is what we all want. Restrictions in any legislation will not prevent gaming at the local level, much as we would want it to, but I reassure noble Lords that we will be working with builders, lenders and local government to secure the best possible mechanism to ensure that starter homes are for owner-occupiers only. We are working to secure a practical mechanism that can be agreed with all parties to ensure that starter homes are real homes for those who will enjoy living in them.

The noble Baroness, Lady Royall, asked a question about second-home owners. I cannot remember what it was but I have something written down in my notes. Would she mind repeating the question?

Baroness Royall of Blaisdon: It was how to ensure that, once the starter homes are sold on, having been occupied for two or however many years, it is not possible to sell them on to second-home owners or to people who are going to rent them out to other people. It was about second homes and holiday homes.

Baroness Williams of Trafford: My Lords, unfortunately you cannot really stop that, much as we would like to see a perfect housing system in which there is no abuse. Noble Lords have given many examples of when, once the five or however many years are up, in subsequent years some of these houses could be used as second homes. I wish it were not the case but, unfortunately, it is. The point is that they will go back into the market as a supply of houses for people to live in in the future.

Lord Greaves: My Lords, I apologise, but these are new houses and therefore subject to new planning permission. Could it not be attached to the planning permission that they should not be used as second homes?

Baroness Williams of Trafford: My Lords, I think the idea is that we want to make the system as simple as possible, but I completely accept the fact that we do not want to leave it open to abuse. There are examples of that under right to buy, where properties might have been used as second homes. Of course, we hope that the second-home stamp duty should deter some people—noble Lords included—due to the quite substantial price now involved in buying a second home.

Baroness Young of Old Scone (Lab): Could I just challenge something that the Minister said? The nub of this is a point that we are going to come on to debate later: the in-perpetuity issue. A lot of these potential misuses, both at point of purchase and at point of sale subsequently, could be resolved very simply if the Government were to relent and see these starter homes as being starter homes in perpetuity with a permanent discount. I was very unconvinced by the Minister's argument that, otherwise, people in these starter homes would be unable to get on to the next rung of the ladder in the housing market. Do we really want to be persuading people to go up the housing market ladder in an inflated way? That is partly the problem with the housing stock at the moment: prices are inflated, and the steps between a small property and the next rung up the ladder are huge, particularly in areas of high housing cost such as London. What is the harm of them staying in the smaller property, if they have to, until such time as they can either achieve their aim with additional savings to buy into the next higher grade or get to the point at which they have a sufficient income level to be able do it? It seems to me that the system will struggle in the future with the sorts of abuses that the Minister is struggling with, because of the inability to control what happens after the first sale.

Baroness Williams of Trafford: I take the noble Baroness's point, but the Government's wish is that people who want to move—and there are many reasons why people would want to move in the future—will be able to do so without being restricted by the same problems that they faced when buying before the starter home discount came in. Also, that mobility introduces a supply into the market. Noble Lords from all round the House have talked about the lack of supply and the lack of supply at a certain level. So it has a dual purpose, in allowing other people to come on to the market but also introducing supply when those people choose to move on.

I now move to non-government Amendments 43 and 44. Over the last 20 years, we have heard that the proportion of those under the age of 40 who are homeowners in England has declined by over a third, from 61% to 38%. There has been a 26 percentage point increase in the proportion of that age group who rent homes in the private sector, from 18% to 44%. Therefore, as one has declined, so the other has gone up. This is a problem faced by an entire generation. It would be wrong to say that some people cannot benefit from starter homes and buy a home in the location that works for them simply because they are currently living or working elsewhere. They could, for example, currently be priced out of the neighbourhood of their

[Baroness Williams of Trafford]
choice, or they could be relocating for work or other personal reasons. The effect of a local connections test on starter homes would be to restrict access for some people for no good reason. A starter home purchaser must commit to living in the property for five years and there will not be the opportunity to rent out the property, as we have already discussed. This must be a better test of commitment to an area.

It is also important that there is consistency, in order that our reforms and the commitment to deliver 200,000 starter homes are widely understood. This is particularly important for lenders and developers, and their support and engagement are critical to achieve delivery. Putting differential requirements in place as a matter of course, such as a local connection test, would introduce complexity that we do not want in getting housing delivery on the ground. However, my noble friend Lord Young brought up the point that a local connection may be warranted, and I recognise that. It has long been a common feature of rural exceptions sites, where opportunities for new housing supply are very limited. As part of our consultation on national planning policy, we sought views on whether local planning authorities should have the flexibility to introduce a local connection test for starter homes on rural exception sites. This would reflect the particular needs of some rural areas, where local connections are important and access to the housing market for working people can be extremely difficult. It would also be consistent with existing policy on rural exception sites. We are currently considering consultation responses on this point.

Lord Beecham: My Lords, I wonder whether it might not be sensible also to look at possible urban exception sites. Take the case of inner London—there may be other places as well—where there are very high levels of demand and very high prices, and even these homes will not exactly be cheap. Would it not be sensible to allow the local planning authorities in those areas to have the discretion to require a local connection, having regard to the pressures they are already experiencing with their existing population? I certainly support the rural exception point, and presumably it may be possible to have a similar mechanism for urban areas. Perhaps in conjunction with discussions with the LGA or combined authorities, the Government could reach an agreement about which areas should have that. Some element of discretion ought surely to be provided for in urban areas. The Minister represented part of Greater Manchester where, I suspect, there will be areas with precisely the same problem.

Baroness Hollis of Heigham: I support my noble friend in what he says. This morning, I was sent briefing data from the city of Cambridge. The average house price in Cambridge city, based on February 2016 data, is £483,625—in other words, £484,000. The lowest quartile price is £315,000, and there has been a 17% increase in the last 12 months. South of Cambridgeshire—so people would have to travel in, but none the less—the average price is £385,700. In the east of England, it is £303,000. These figures confirm the point that my noble friend was making: we are going to need exemptions for urban sites of high demand just as we will in rural areas. Cambridge city and university cities across the country face this sort of price explosion.

Baroness Williams of Trafford: My Lords, as I said, we are keen not to introduce complexity generally. The reason I homed in on the rural exception sites was for those very reasons: lack of supply generally and people who want to work locally to whom that test could be applied.

I move on to government Amendments 42A, 44A, 44B and 45B. These amendments would allow for some modest flexibility on the under-40 age cap. Amendments 44A and 44B allow the Secretary of State by affirmative regulations to exempt the under-40 age cap for specified categories of people. It would allow the Secretary of State to specify circumstances where a property may still be classified as a starter home if it is purchased by joint purchasers, not all of whom are under 40. Both exemptions would allow limited flexibility in the age threshold, for example, where joint first-time buyers wished to buy a starter home and one was over the age of 40. We consider that a reasonable amendment.

Amendment 45A would require the Secretary of State to consult local authorities, the Mayor of London and any other person the Secretary of State thinks appropriate, such as professional bodies, before amending the price cap for starter homes. A requirement to consult before amending the price caps was one of the amendments tabled by the Opposition in the other place.

I have made it clear that price caps are not an expectation of the going price for starter homes, and I am sure that I will reiterate that point again. The price cap framework has been set nationally to ensure that there is a clear and consistent product that first-time buyers, lenders and developers all understand. However, I expect that there will be regional differences, as we have discussed. We want the policy to work effectively across the country. That is why we have taken powers to amend the price cap through affirmative regulations, which will ensure that the provisions remain up to date. The Secretary of State can adjust the limit to reflect movements in the property market generally. Following further consideration, we have decided to amend the Bill so that it is a requirement for the Secretary of State to consult local authorities, the Mayor of London and any other person that the Secretary of State thinks appropriate, such as professional bodies, if we decide to change the price caps in future.

I hope that that provides reassurances that local authorities will be able to make representations before any change to price caps is made through regulations, and we will consider any responses carefully. Although I thank noble Lords for tabling Amendment 45, the government amendment makes it unnecessary.

Amendment 45B is linked to Amendment 45A and allows regulations under the clause to amend the starter homes chapter of the Bill. For example, if the Secretary of State were to use that power to create a list of different categories of people to whom the age requirement does not apply—for example, a specific

professional group—the list could be inserted into Chapter 1 as a new section. This will add further flexibility, should it be required.

Amendment 42A is technical, amending the Secretary of State's power in Clause 2(3)(c) to make regulations which specify the characteristics that an individual must possess to be considered a qualifying first-time buyer for the purposes of Clause 2. We consider that the term "criteria" more accurately reflects the imposition of things such as a minimum age requirement that an individual must meet to be a qualifying first-time buyer.

Baroness Hollis of Heigham: My Lords, I understand why the Minister has been unable to pick up all the questions that have been thrown at her, but one question I asked was: have the Government considered an income cap as well as an age cap? If they have rejected that idea, why?

Baroness Williams of Trafford: My Lords, we have not considered an income cap; we have considered the age demographic that has been priced out of the housing market. Therefore, we wanted the whole age group to be able to access starter homes.

Baroness Hollis of Heigham: If there is the demand that the noble Baroness thinks that there will be, how will she reconcile that with the fact that many people on a higher income who could afford to go into the open market—those in jobs with a professional qualification, such as accountancy, law, medicine, teaching and so on—will not start earning their salaries until their late 20s, at which point they will be thinking to buy? They could go into the open market but now—sensibly—will choose to go into a starter home because there will be no limitation on them. Two such people may well have an income of £70,000 or £80,000 outside London and could well afford to go into the open market but, if they acquire a starter home, will be displacing someone else who is possibly in greater need. Why have the Government not explored that? There may well be good arguments on the other side, but it is odd to have an age restriction but not an income restriction; frankly, it is not age that stops people going into the open market, it is income.

Baroness Williams of Trafford: My Lords, if you look at the demographic, you see that it is this age group that is restricted. I take the noble Baroness's point about accountants and doctors, but it takes quite a long time to earn a decent salary in either of those professions—I am married to someone in one of them. It is the age group that has been so badly restricted, and that is why the age group was selected.

Baroness Blackstone: My Lords, I am very sorry to interrupt the Minister yet again, but on various occasions during this debate she has talked about abuse. The biggest abuse of all, which will be a consequence of the Bill, is very highly paid young people in their 30s benefiting from a very large discount—in London, it could be £80,000 or £90,000. Surely the Government should be concerned about that. It will bring the legislation for starter homes into disrepute, and rightly so. I reiterate the concern around the House about this issue and ask the Minister to reconsider whether there should not be a government amendment on this issue.

Baroness Grender (LD): My Lords, the Minister has ruled out a mortgage but, in this context, perhaps the Government could right here, right now, today rule out cash buyers. That gives us something more specific to hold on to here. Or can the Minister envisage a cash buyer in this scenario who would not have an unnecessary advantage?

Baroness Williams of Trafford: My Lords, I hope that I have demonstrated—I do not think anyone is disputing it—that if this market was so open to people of this age, they would be buying. The fact is that, over the past 20 years, they have not been buying; purchasing has hugely declined. Yes, we may be talking about a few people in London on a high salary, but the statistics show us that that is not the case. We should not be restricting it geographically or by income, because it is a problem facing an entire generation. That is why we do not want to restrict them from being able to buy, should they wish to.

Baroness Hollis of Heigham: The Minister is happy later in the Bill to have an income restriction for council tenants but not, apparently, on the donation of a very large subsidy to people in the purchase market.

Baroness Williams of Trafford: My Lords, I do not think it is correct to say that we want an income restriction for council tenants. I do not think that that is a statement of fact.

Baroness Hollis of Heigham: Yes it is, my Lords, because under "pay to stay", two tenants—a couple—each earning £15,000 a year, possibly with three or four children, will not even be eligible for housing benefit, but will have to pay market rents to stay.

Baroness Williams of Trafford: The noble Baroness made the point that they would not be able to access these properties; they will.

Lord Greaves: My Lords, I am sorry to keep saying this, but I shall keep saying it until the Government start to engage in the discussion. There are parts of the country where the housing market is stagnant, where there are real housing problems, but they are not the inability of a particular demographic—in this case, people under 40—to access the market. As I demonstrated earlier, where a lot of good-quality properties are already available for the same price as new two and three-bedroom semis would sell for, if they were starter homes and attracted the 20% discount, the introduction of starter homes is likely to have a severely disruptive effect on the whole housing market. There may be answers to this, but for the Minister to suggest that the demographic of under-40s is excluded in the same way in all parts of the country is simply not true. Moreover, the solution being put forward is, as I say, likely to have a severely disruptive effect on the whole housing market and potentially do more harm than good.

[Lord Greaves]

This is not particularly my view; it is one that has been put to me strongly by our local council officials who are involved in all this. They are the ones dealing with empty properties and trying to get new build going right across the field: housing officers, planning officers and senior council officers. They say that this proposal as it stands will do more harm than good, possibly far more harm than good, and actually will not seriously improve the prospects of the under-40s to get their own homes.

1.30 pm

Lord Campbell-Savours: Perhaps I may ask the Minister an Andrew Neil-type question, one that is very simple: why should a cash buyer benefit from a Section 106 subsidy?

Baroness Williams of Trafford: My Lords, I shall take the point made by the noble Lord, Lord Greaves, first. He has talked today, as he did the other day, about empty homes in Pendle—I am assuming he means Pendle or Colne or Brierfield—

Lord Greaves: I am sorry; I do refer to the place I know best, but this is not about a single place in England. We have the same sort of housing market across a range of areas, many of which are in the north of England, but there are some in the Midlands, the south-west and others in amazing places where I did not really know that this problem existed. It is generally those places where the housing market is stagnant, and there are quite a lot of them about.

Baroness Williams of Trafford: My Lords, I shall reiterate the point I made the other day. The noble Lord is absolutely right to say that the housing market is stagnant in some parts of the north-west of England and employment is not like it is in the rest of the country. I think that the interventions that the Government have made in, for example, transport and infrastructure will put some of those areas back on their feet again, playing their economic part in the country.

Coming back to the point made by the noble Lord, Lord Campbell-Savours, about cash buyers, I do not know a single person aged under 40 who is a cash buyer, although of course there will be some. But our overriding principle here is that we do not want to disenfranchise people who work hard from the housing market.

Baroness Grender: My noble friend Lord Shipley has tabled this amendment on mortgages for precisely that kind of reason. No, of course there are not many people aged under 40 who are cash buyers, but if someone subsidises them to become cash buyers in order to acquire a property, that is the loophole we are concerned about here.

Baroness Williams of Trafford: I think I have explained that having a mortgage will not stop gaming. There are always going to be abuses of the system, but we are trying to address an age group which has been disenfranchised from the purchasing market. I hope that what I have said gives to some extent reassurance to the noble Lord and that he will feel content to withdraw his amendment.

Lord Kennedy of Southwark: Can I push the noble Baroness a little further on this? I do not think it is good enough to say that there are always going to be abuses; we need a little more than that. There will be scams and shams, so we have to make sure that we will be able to identify them and sort them out.

Baroness Williams of Trafford: I do not disagree—

Baroness Hollis of Heigham: Perhaps I may add to the point made by my noble friend. Many of the abuses will indeed be made if not by the mortgage principle then by continuing the discount in perpetuity. Can the Minister tell us why she thinks, if the discount in perpetuity were to apply, that would disadvantage first-time buyers in the future: those who bought the first time round, the second time round or the third time round? The only people it would disadvantage are those who seek to pocket a profit.

Baroness Williams of Trafford: My Lords, I was trying to articulate my point about housing mobility. People buying starter homes who want to move on to the next rung of the ladder would be disenfranchised at a further point down their aspirational route.

Lord Beecham: My Lords, if you have served your five-year term, as it were, and you make your £100,000 or so profit, you will have more money to spend on the second house. Surely the effect of that will be to push up house prices.

Baroness Williams of Trafford: My Lords, the effect of introducing 1 million more new homes into the housing market by 2021 will be to increase supply, which should, first, deal with some of the problems of demand and, secondly, start to moderate house prices in a way that has not been the case over the past few decades.

Lord Greaves: My Lords, I realise that I am ploughing a different furrow from other noble Lords in these interventions, but I have to say with all due deference to the Minister that my concerns about our local housing market and that of many other areas are not answered by her saying that the Government are going to introduce better infrastructure and invest at that sort of level. If that happens it will be extremely welcome. There is not much sign of it in east Lancashire at the moment, but even if there were, investing in infrastructure takes time. There is no doubt that it takes 10 to 15 years and has a long-term payback. As I understand it, we are talking about the housing market over the next few years. Building new roads, reinstating railways and doing all the other things that people are talking about under the heading of the northern powerhouse will not have any significant effect on our housing market and that of many other parts of the north of England in the next five years. Meanwhile, we have to deal with the problems that result from a stagnant, fragile, flat housing market next year, the year after and so on.

I am not trying to be awkward about this. If starter homes are a wonderful thing, I am all for them. But what I am saying is that in these parts of the country the introduction of starter homes risks having a disruptive effect on the existing housing market. While starter homes might be built if anyone can be found to build them, which is a question in itself, the result may well be that the rest of the housing market in the area becomes even more depressed than it is at the moment. That will mean more empty properties and a general reluctance on the part of developers to build, whether for social rent, private rent or owner-occupation. If the return from building houses either through selling them or from rents is less than all the costs put together of building them, they are not going to be built. Because of this bonus—this subsidy—we might get some starter homes, but that will put a severe damper on the rest of the housing market.

All I am asking is for the Government to discuss this with people on the ground in areas like those I have mentioned. We should set up a mechanism for doing this and see how it works, and then perhaps bring forward different rules, exceptions or whatever it might be—or just reach an understanding between us—to see how things can be improved. There is no point in having a starter homes policy or anything else in areas where it is actually going to make things worse.

Lord Skelmersdale (Con): My Lords, before my noble friend answers, this has gone beyond a joke. My noble friend has given as many answers as she possibly can and, as a result, has been battered by yet further questions exemplifying the miscellaneous points which have been made. My noble friend has offered meetings with any and all noble Lords who want to pursue their points quietly so that they can pursue them again, if necessary, on Report. Surely, this is enough.

Baroness Hollis of Heigham: No, my Lords; the problem with the noble Lord's comment—I do not know whether he was here when we were discussing this earlier—is that we are dealing with what is essentially a skeleton Bill. We do not know how this scheme is going to work in any sort of detail. We have spent some time today and some time on Tuesday trying to tease out the detail. We do not blame the Minister; we entirely sympathise with her in the situation she is in, but she is trying to answer questions to which she cannot know the answer because, deeply foolishly, the Government have started a consultation exercise on all these questions so late that the results of the Government's thinking, as affected by that consultation exercise, cannot be fed into today's discussions in Committee.

The fault is with the Government's timetabling. It is not the Minister's fault—she is doing her best and we have every sympathy with her; none the less, the Government have put her in this position, trying to answer questions she cannot answer, because they have not banked their consultation exercise in appropriate time, but they expect this House to go ahead with scrutiny of major policy developments without the detail that should inform it.

Viscount Younger of Leckie (Con): Following on from my noble friend Lord Young's remarks, the Minister has been on her feet for nearly an hour and a half and I think that the Committee might allow the noble Lord, Lord Shipley, to respond.

Lord Shipley: My Lords, I had not anticipated, when I moved my probing Amendment 37B, that we would be discussing this group some two hours later. However, I think the debate has been very valuable because it has revealed the gaping void in the Government's thinking. I hope that the Minister will understand that a huge number of questions have been posed. Like, I suspect, many other noble Lords, I have been astonished that the answers are not being provided. After all, this Bill was passed in the other place. It has arrived here; we have had Second Reading, at which the need to publish at least draft regulations was made clear; we are now on day three of seven in Committee and progress is very slow. I think Ministers ought to explain to your Lordships' House why we are in a position where consultation is taking place so very late that the answers to that consultation are not in our possession as we debate the later stages of the Bill.

I was very disappointed by the response of the Minister as to when regulations are going to be published. I said previously that we would happily receive draft regulations, as opposed to the finished version, but, of course, we now understand why Amendment 45B has appeared on the Marshalled List. I remind noble Lords that it simply says:

"Regulations under this section may amend this Chapter."

In other words, the Bill is going to be amended by secondary legislation. This is simply an unacceptable position for your Lordships' House to be put into. Many questions have been raised and I do not think that the Minister has actually answered many at all. I am grateful for offers of meetings and letters, which, I guess, will be copied, but there has been a very large number of questions to which there have not been answers. It is now incumbent upon the Minister and the department to provide a question-and-answer sheet with a set of clear answers to every question posed by noble Lords on this group.

For example, we have a problem with numbers. The Minister cited that 65% of people outside London who are currently renting privately and 40% of people in London who are currently renting privately will be able to take on a starter home. As we know from other agencies, such as Shelter, those figures are disputed. On Tuesday, I think, the Minister agreed that we would have a detailed response to that so we can actually understand the facts with which we are trying to deal.

I was really concerned by the Minister's remark, and I think I quote her rightly, that there is always going to be abuse of the system. That really is an unacceptable thing for noble Lords to confront. There should not be abuse of the system. There are ways in the planning system—and in the next group, which deals with "in perpetuity"—for this problem to be solved. So I hope that the Minister, in our proceedings after the lunch break, will work with the feeling across all sides of the Committee that we have to do something to make this a much better Bill; for, as it stands, it surely cannot proceed as it has been written. So, while

[LORD SHIPLEY]

I beg leave to withdraw Amendment 37B, I hope that the Minister has understood the mood of the Committee in demanding clear answers to questions which have also been very clear.

Amendment 37B withdrawn.

House resumed. Committee to begin again not before 2.46 pm.

Circular Economy

Question for Short Debate

1.46 pm

Asked by ***Baroness Jones of Whitchurch***

To ask Her Majesty's Government what steps they are taking to promote the principles of the circular economy, based on the re-use, repair, refurbishment and recycling of existing materials and products, to protect the environment, give new growth opportunities and avoid waste.

Baroness Jones of Whitchurch (Lab): My Lords, I am very grateful to noble Lords who have put their names down in such numbers to join in this debate today. It reinforces an increasing view that this is a concept whose time has come. I am also very grateful to organisations such as the Ellen MacArthur Foundation, WRAP and the Green Alliance, who have taken the seed of an idea and fertilised it into a fully-grown, evidence-based new business model.

It starts from a simple principle. Current consumption is linear. Companies use raw materials to make products which are sold to consumers who then discard them when they are no longer valued or useful. The circular economy replaces that model with a virtuous circle, replacing the concept of waste with the concept of disassembly and reuse, so that materials are used again and again. It is a simple principle, but one which could transform industrial and service processes for the future.

Why is this transformation so necessary? At a global level, the challenge of providing food, clothing and shelter for a growing population is becoming ever more pressing. The global population is set to increase from 7 billion to 9 billion by 2050, many of whom will be joining the new middle classes, with new levels of consumption. In the next 20 years we will need 40% more energy and water, and three times more material resources. In 2010 some 65 billion tonnes of raw materials entered the economic system globally. This is expected to rise to about 82 billion tonnes by 2020.

Meanwhile, scarce supply and increased demand are driving up prices. As the Green Alliance has said:

"Over the past decade world food prices have doubled, metal prices have trebled and energy prices have quadrupled".

Yet at the same time as that is happening the UN estimates that, for example, electronic waste, globally, is increasing by 2 million tonnes a year, with less than 16% of it diverted from landfill. This results, globally, in landfill mountains of potentially recyclable materials worth some £34 billion. This includes huge quantities of precious metals and rare earths which are really needed for future production.

Clearly, this is not sustainable because we are running out of resources and because the extraction and use of those scarce resources is having a major detrimental effect on climate change. This is a global problem to which businesses, environmentalists and politicians are finally waking up. It is a global problem which the circular economy can help to resolve.

It also has unique and specific applications in the UK. We currently recycle less than 50% of our waste and are in danger of missing our EU recycling targets for 2020. This is exacerbated by complex and inefficient collection systems, with more than 300 different systems across the UK, which even the Minister, Rory Stewart, has described as absurd.

At the same time, we have failed to develop robust markets for recyclable materials, so they do not achieve their true market value. For example, a couple of years ago, I was excited to visit a new factory in Redcar which was taking recycled plastic bottles and creating new plastic materials from them. However, that factory subsequently folded because it could not guarantee a regular-quality waste stream of plastic bottles and it could not compete on price with virgin materials. That clearly does not make sense. Recycled glass and paper businesses suffer the same challenges of maintaining quality and markets.

Yet, at the same time as that is happening, manufacturers are being rocked by the fluctuating price volatility of raw materials, making profitability and growth projections difficult. This is why there is a growing realisation of the opportunities that the circular economy can deliver. It flows from necessity but also heralds innovation, creativity and the potential for competitive advantage.

What does that mean in practice? The businesses in the forefront of this revolution realise that they have to design products differently. There is much talk about designing out waste completely. New products will be designed for a longer life, with easily available spare parts and repair. For example, I recently heard a Samsung executive setting out its plans to strengthen its product repair offer to consumers, training a new generation of service engineers and delivering a local and responsive service to them. New products might be leased rather than sold, with the advantage that the raw materials go straight back to the original manufacturer for stripping out and reuse rather than via any third parties. New products might consist of innovative new materials that are less environmentally damaging. For example, Jaguar Land Rover recently reported that it is experimenting with sustainable flax and cashew nuts as a replacement for plastics in some of their fittings. New products might be designed with reuse in mind. For example, IKEA now claims that 98% of its home furnishings can be recycled and it has established a take back service for used mattresses. New business models are often product sharing rather than purchasing. I say this as a contented member of the City Car Club, a car-sharing scheme in Brighton which is now expanding nationwide.

I give these examples not to suggest that the problem has been solved or that a sea change has taken place but as an indication of some of the radical new thinking which is now occurring. However, these

developments and opportunities need to be nurtured and championed, and I look forward to hearing from the Minister as to how the UK Government intend to do this.

It is not only business opportunities we need to recognise but the enormous consumer benefits which can accrue from more sustainable business practices. For example, a recent report estimated that this has the potential to create somewhere between 200,000 and half a million new jobs depending on the rate of expansion. In addition, business would need to develop longer relationships with their customers and provide a higher quality of service. The practice of building in premature obsolescence would end, bringing down costs. Trends in consumer behaviour through leasing or sharing products rather than purchasing them would provide more customer choice. Of course, the ultimate consumer prize is that we would all live on a healthier and more sustainable planet.

However, consumers also need help to think about consumption in different ways, to value goods because of their function rather than because of any fashion or brand support and to reject a throwaway economy. Governments can play a role in this and I look forward to hearing from the noble Lord how he thinks his department might help.

What else can the UK Government do to facilitate these changes? First, at UK level, we recently mentioned in a previous debate the excellent work that WRAP has done on food waste, but it is also creating ground-breaking voluntary agreements with manufacturers and retailers in electronics and textiles through the electricals sustainable action plan and the Sustainable Clothing Action Plan. I commend the Government for continuing to fund these initiatives, although, as the Minister will know, their funding has been considerably reduced, which means that the sectors in which they can work are limited.

Secondly, as the Minister will be aware, the EU has produced its revised circular economy package which, when adopted, can provide crucial leadership and leverage for ongoing work. I am sure we could entertain ourselves at the expense of the EU leave campaigners by pointing out how reliant on the EU we are to drive forward the UK waste and resource efficiency agenda, but I am taking it as read that, certainly among noble Lords joining in this debate, we can all agree on that matter.

The EU circular economy package is a great step forward. It provides vision, an action plan and proposals on eco-design which will build in repairs, durability and recyclability. It also calls for economic incentives for greener products and signposts additional funding from the Horizon 2020 and structural funds. It specifically builds in EU targets for recycling 65% of municipal waste and 75% of packaging waste, and sets a maximum of 10% of goods going to landfill by 2030.

Perhaps I may ask the Minister for an update on the UK Government's response to the EU draft. How will the Government's emphasis on less regulation and greater subsidiarity affect our implementation of that package? Do we welcome the specific targets in the package? Are we confident that the UK Government would meet them?

I am pleased that the noble Lord, Lord Gardiner, is replying to this debate because I know that he shares many of our ideals. However, to be successful, the principles have to be embraced across government, particularly in BIS and the Treasury. I hope that he can reassure us that the Government are embracing these issues across government and are serious about adopting them. I look forward to his response.

1.57 pm

Baroness Jenkin of Kennington (Con): My Lords, I am grateful to the noble Baroness, Lady Jones, for introducing the debate and for setting out so clearly the background, the challenges and the opportunities. The noble Baroness was my predecessor on the board of WRAP and I look forward to the day when I know as much about this subject as she does. She described accessibly the way in which we look at the circular economy. However, for many people the term is confusing and most of them will prefer to look at it as a make-do-and-mend principle, particularly in their own homes.

In the short time allotted to us today I am not going to talk about the European Commission's circular economy package; about the waste industry, which is examining its business in the light of the new models; or about big business, which is studying opportunities and challenges.

I hope that, as in the previous debate on food waste, we might hear from the noble Lord, Lord Young, with some tips about how he and Lady Young promote the circular economy in their own home. Ways of doing things which may come naturally to us need to be shared with a new generation, which finds it easier to chuck than to reuse. When I was a girl growing up, before tights were invented, we were taught to darn our own stockings—that is the circular economy. I now use laddered tights—clean ones—to filter through the pith and pips when making marmalade and recycle the residue into my compost bin. Again, it is my own personal, household circular economy. I had a beautiful pink hat which I bought in a charity shop. I wore and wore it until eventually I thought, "I cannot wear that pink hat anymore because they will all think that I've got only the one hat"; so, at a reception at a constituency event, when a lady came to me and said, "I so admire your pink hat", there was no one happier than me to give it to her knowing that it would be loved and reused. That is the personal circular economy.

The circular economy is about valuing our products differently and creating a more robust economy in the process. By assessing how we design, make, sell, reuse and recycle products we can work out how to get the maximum value from them, both when they are in use and at the end of their life. So, what does this mean in practical terms? As a company, how do you move to more circular models? Where are the new business opportunities? Like the noble Baroness, I strongly recommend a good look at the WRAP website for tips and advice about helping to access the business benefits of a circular economy. As a resource for understanding the closed-loop economy it cannot be bettered.

A cursory google shows how many innovative social enterprises and businesses are being launched. The Restart Project, for example, is a social enterprise which encourages people to repair their broken electronics

[Baroness Jenkin of Kennington]
to extend their lifespan and prevent electronic waste. It hosts restart parties in London where you can bring your gadgets and find out how to fix them, together with their repair coaches. So far, these events have prevented over 43 tonnes of carbon dioxide in London alone. I wish there were time for more examples.

This is an agenda with great appeal to young entrepreneurs, especially in the social enterprise space. Knowledge of what is available, both to consumers and to those who wish to innovate in this space, needs to be shared more widely. I urge my noble friend the Minister and others to do what they can to vigorously embrace, communicate and promote this agenda.

2.01 pm

Lord Whitty (Lab): My Lords, when economists first started talking about the circular economy some people ridiculed it as a bit of utopianism, as if we were going back to pre-commercial agriculture, when plants seeded themselves and everything was reused. After all, that was a biological circular economy. Once agriculture came to be traded, however, there were always opportunities to dump side costs and waste onto other parts of the economy and onto the environment. The linear economy which has developed since those days has all of those opportunities.

A couple of years ago I was involved in one of your Lordships' sub-committee's studies of food waste. We discovered that, 20 years ago, studies indicated that food waste arose in three roughly equal parts: on the production, distribution and consumer sides. We then discovered a considerable improvement in the efficiency at the distribution end. Much of that was for real: there were genuine processing and logistical improvements by supermarkets. However, much of it was simply shifting the cost of waste—and waste itself in some cases—down to the consumer or up to the farmer and small producer. The supermarkets were able to do that as a result of their dominant power. That is what the linear economy ends up doing.

There are standards for dealing with food waste but we have not yet got a situation where the food industry itself has changed the way it operates. The food chain needs to be circular, not linear. That applies to many other sectors as well. There are huge numbers of potential applications of the concept of the circular economy, not just in small and innovative businesses but in many large and complicated ones as well.

In metal-based sectors, we have already seen some large companies designing components so that they can be repaired, reused, refurbished and remanufactured and not, as has been the case for most of the last century, with built-in obsolescence. In the textile and clothing sectors there is a rather older pattern, where discarded clothes are not only reused through the second-hand market—or the "already loved" market, as it is now called—but also as fibre in upholstery, and for near-permanent use in insulation. The latter saves substantially on extraction in the mineral sector.

It can also apply in the energy sector, where decentralised CHP-based networks use genuine biomass waste—waste from local forestry, food and agricultural produce, not waste imported across two oceans—by circulating surplus heat through commercial and domestic district networks. They save twice over through the use of sustainable feedstock and by reducing the need for the extraction and carbon-creating use of fossil fuels.

The waste-management system itself needs to become more circular and rational. The 300 different systems that my noble friend referred to are very evident—my local tip is on the border of two district health systems with different separation and collection systems.

The circular economy is not some hippy utopian dream of a lost Arcadia but a better way of organising our economy with less waste, less costs, less depredation from extraction and fewer greenhouse gas emissions. In adopting it we can save the planet as well.

2.05 pm

Baroness Miller of Chilthorne Domer (LD): My Lords, I congratulate the noble Baroness, Lady Jones of Whitchurch, on her excellent introduction, which gave a very good flavour of the opportunities offered by the circular economy. It promises a future with great environmental gains but not having waste will also enrich the entire economy. I can think of no better example of this than anaerobic digestion.

At its best, anaerobic digestion takes local farm waste and turns it into soil conditioner and fertiliser, as well as biogas which can be used as energy to run a farm's tractors or heating to heat local houses. The problem is that the Government are not measuring the benefits correctly. On anaerobic digestion, for example, they are looking only at energy without appreciating that it is also a very low-carbon process; nor are they considering what can be done for soil by using not artificial fertiliser but waste to recondition it. They need to measure everything within that circle in a ranking system, rather than having silos for measuring energy, the level of carbon emission and waste reduction. It all needs to be measured as a whole.

If that happened, the Government's attitude to, for example, the renewable heat index would change. This is because the measurements have encouraged the use of bigger plants at the cost of smaller, more local ones. That is inefficient because it requires more transport and for maize to be grown specifically for use in the plants instead of utilising waste. As the noble Baroness, Lady Jones, mentioned, food waste is collected in an inefficient way or not at all at the moment. If the Government's attitude changed, that problem would disappear.

The start made by the anaerobic digestion community is really good. They have moved from about 40 plants six years ago to 170 now. But that is despite a lot of government obstacles. The Government should be encouraging this industry. It has the ability to provide for up to 30% of domestic electricity or gas consumption and deserves to have their full weight behind it.

2.08 pm

Baroness Young of Hornsey (CB): My Lords, I, too, am grateful to the noble Baroness, Lady Jones of Whitchurch, for securing this debate on such a critically important subject and also for her support for the All-Party Parliamentary Group on Ethics and

Sustainability in Fashion. I would also like to thank colleagues from Julie's Bicycle, Hubbub and the Centre for Sustainable Fashion, especially Anna Fitzpatrick and Professor Dilys Williams, for their support and excellent briefings.

After COP 21, we cannot fail to be aware of how much intellectual and practical energy and commitment we need to bring to bear on the huge environmental challenges we face. I want to make three brief points. First, the clothing and textile industries and we, their consumers, have a big problem. Secondly, there are a range of strategies developing to mitigate the environmental impact of the sector, including circular economy solutions. We should note that, on the upside, fashion can make a really positive, creative intervention in debates about action on the environment.

Thirdly, and perhaps most importantly, circular or closed-loop initiatives are just one part of the picture. We need a fundamental rethink of current business models. Two compelling fashion facts from WRAP: approximately £140 million worth of clothing goes into landfill every year in the UK alone; and we send 700,000 tonnes of clothes to be reused or recycled every year. This is not just an issue for high street fast-fashion outlets. More expensive clothes are regularly discarded after little wear and workplace uniforms are another area of great concern.

Four fundamental design models in the circular economy apply to fashion and many other goods. One is designing for longevity, where clothing is designed and made to last and valued for that quality. The second is designing for leasing, where digital platforms enable consumers to lease or rent clothes. The third is designing for reuse in manufacturing, where clothes are returned to the maker for a range of purposes. The fourth is the type of design that recaptures materials, transforming them into newly recycled, raw material. The emphasis is in designing in circularity from the start rather than trying to bolt it on top of existing design paradigms. Initiatives such as the Sustainable Clothing Action Plan and the Sustainable Apparel Coalition have proved useful mechanisms for bringing together some of the significant players in fashion to address these key issues.

On the role of government, whenever we have held APPG meetings on the subject, we hear two main pleas of relevance here. The first is for clarification of existing regulatory frameworks, regarding, for example, landfill taxes and their use, penalties for pollution and so on. The other is a request for government-backed incentives, particularly for fashion SMEs that will invest in and encourage the research and development of more sustainable practices in the clothing sector. We should not be too gloomy, I guess, as there is evidence that progress is being made, some of which has already been mentioned—for example, repair, recycling, leasing and so on.

I finish by reiterating an earlier point on how these issues represent for me just one major aspect of a much broader set of issues that encompass poverty, inequality, social injustice as well as environmental degradation. We cannot expect to be able to buy our way out of the problems we face.

2.12 pm

The Lord Bishop of St Albans: My Lords, my thanks also go to the noble Baroness, Lady Jones of Whitchurch, for this important debate on the circular economy.

I want to spend just a few moments highlighting the economic and environmental impact of planned obsolescence—this has already been referred to —particularly in technological goods, which we know is used by companies to drive growth and ensure a steady supply of return customers. It is a business model that relies on technological products needing to be upgraded and/or replaced at regular intervals, whether because they go out of fashion, have a limited lifespan, or are difficult or expensive to repair.

The model of consumption of regular upgrading and replacing is so deeply ingrained within our national consciousness that nowadays we hardly even question it. We toss out the old and bring in the new at an alarming rate, and, of course, at great cost to the individual customer and, indeed to the environment. Not only that but it is incredibly wasteful. It is estimated that there are probably 125 million old mobile phones languishing in the top drawers of British households, many of which contain metals that are becoming increasingly scarce in the natural world. From every angle, whether economic or environmental, this approach to consumption is simply not sustainable in the long term, not least when we look at population projections and the way in which other communities and nations are expected to modernise and therefore need modern technology.

What we ultimately need is a fundamental shift in manufacturing and design, so that products are once again designed for longevity, and where upgrades and repairs can be done without needing to buy replacement goods. This, of course, will come about only with pressure from consumers. Therefore, it is encouraging to see a number of green shoots emerging in this regard. I have previously highlighted in this Chamber the work of the Dutch social enterprise, Fairphone. However, there are surely ways in which government can incentivise manufacturers to move in this direction. I know there are movements in this regard at both domestic and European level. I was particularly interested to read of French laws that require manufacturers in France to inform consumers how long products will last and guarantee them for two years. Can the Minister inform the house whether this is something that Her Majesty's Government have looked at and whether we might learn from that, and build upon it, as we seek to address this crucial area?

2.15 pm

Lord Suri (Con): I thank the noble Baroness for securing this debate. This is an issue of great salience today, when the growth opportunities of tomorrow lie in the circular economy, and in a society that produces less waste and pollution than the current one. It is clear that bold thinking will be required from many spheres of civil society, not just public spheres. The Government have made some good strides towards making sure that renewable technology can achieve the necessary levels of efficiency for it properly to replace fossil fuels in the future.

[LORD SURI]

One such example is the recently privatised Green Investment Bank. I believe that the progression of this concept provides a useful road map to the future of the circular economy. The bank started off as an idea in the Commons Climate Change Committee, and became an eponymous banking identity in the last Parliament. While being more of a fund than a bank, it has shown itself capable of making significant investments, such as an £11 million biomass plant in Port Talbot, among others. Crucially, it is profitable, as of the last financial year. This is important because encouraging the circular economy must be done in a way that does not put extremely high burdens on taxpayers, and it must be liable to market forces in order to fulfil that. The Business Secretary has put forward plans to part-privatise the bank in the future, and I look forward to this, as it will be able to access more capital and international investment, and continue its good work on a much larger scale.

We can see from this example that it is very possible for a commercially viable project—rather than the Government—to lead the future. Of course, the third sector and government will play a role, but I expect that businesses will drive the change. As in this case, government should play a nurturing and supportive role. This can be done in a variety of ways, possibly with a wider range of subsidies or grants to incentivise research and development in renewables.

As a businessman myself, I know that the private sector will want to have the biggest possible role in the growth markets of tomorrow, and so I encourage the Government to look at more ways of supporting businesses in their endeavours to create more sustainable technologies.

2.18 pm

Lord Giddens (Lab): My Lords, I had a pink hat once but I struggle to relate it to the circular economy.

The idea of the circular economy was first mooted by the economist Kenneth Boulding in the 1960s. Nature, Boulding pointed out, is an endless recycling machine, in which nothing is ever wasted. Why not develop an economic model on this basis? So far the notion has made little impact on industrial civilisation as it spreads voraciously across the face of the earth. That civilisation is based largely on a sort of mindless consumerism and profound environmental pollution. A step change of global proportions is needed. The circular economy could play a fundamental part in such a step change if it could be rapidly generalised. The idea has recently been endorsed by no lesser authorities than Meryl Streep and Susan Sarandon and—almost as important—the EU and the Chinese Government, as well as by the mainstream of economic orthodoxy in the shape of the World Economic Forum.

The only major economy to have made significant advances so far is Japan, where it has been driven mainly by immediate self-interest rather than by environmental considerations, since the country is so short of indigenous mineral resources. Japan recycles fully twice as many of the materials used in its industrial production as Britain does. Many of these, significantly, are used in making the same product that they were derived from, hence meeting the technical definition of the circular economy. The fact that positive environmental outcomes can be achieved through self-interest, however, is precisely one of the reasons why the circular economy could have wide appeal. It has direct implications for business at a time when widespread economic stagnation is prompting a rethink of existing business models. I have spent much of the past two years studying the digital revolution, which could help create huge advances in circular economic production that need not be confined to the richer countries. The digital revolution, unlike any previous fundamental advances, has gone straight to the poorer countries of the world. Their processes of industrialisation could in principle be far more sustainable than those of the industrial revolution.

I have two questions for the Minister: first, does the idea of the circular economy have any traction in economic thinking in this country and is anyone in the Treasury interested, because that is where it counts? Secondly, what is the Government's response to the work of the Ellen MacArthur Foundation, which has been far and away the global pioneer on this issue?

2.21 pm

Lord Rees of Ludlow (CB): My Lords, I add my thanks to the noble Baroness, Lady Jones, for introducing this debate and I also acclaim the inspiration of Ellen MacArthur in pushing this subject up the agenda. The goal is of course to conserve resources, to reduce the scale of mining and similar activities, to save energy and, as a by-product, to reduce CO_2 emissions.

Dealing with food and organic waste is in principle straightforward. Most can be recycled or burnt for fuel but, better still of course, we should create less of it. Far less tractable, however, is the recycling of plastics. Here, cutting consumption must be the priority. Promoting the reuse of plastic bags is in itself merely a token gesture. Overall plastic debris is a growing problem; if this cannot be addressed as global growth continues, we will end up with as many plastic bottles in the ocean as there are fish. There need to be incentives to ensure not only the greener operation of buildings and consumer products, but greener design as well. Cambridge's department of engineering has published some interesting ideas on this. To take one example, it points out that, when a building is demolished, some of its elements—steel girders and plastic piping—will hardly have degraded at all and could be routinely reused. Moreover, girders could be more cleverly designed so as to offer the same strength with less weight, thereby saving on steel production.

Advances in technology allow continuing improvements in appliances and vehicles, but these objects should be designed in a more modular way so that they can be readily upgraded by replacing parts, rather than thrown away. To echo the right reverend Prelate the Bishop of St Albans, we need to value long-lasting things and to put pressure on producers and retailers to highlight durability. We need to repair and upgrade rather than replace. Regulations, especially in the EU, are helping but they will not gain full traction unless the public mindset changes. Attitudes to, for instance, smoking and drink-driving have transformed in recent decades. We need a similar change in attitude so that the

manifestly wasteful consumption of materials and energy—Chelsea tractors, brightly illuminated houses, slavish following of fast-changing fashions, and the like—become regarded as naff rather than stylish.

Finally, let us remember that the issues in this debate have long-term global resonance. By 2050, the world's population will have risen to 9 billion. We surely hope that by then there will be a narrower gap between the lifestyle that we in privileged societies enjoy and that available to the rest of the world. This cannot happen if developing countries track our route to industrialisation. They have to leapfrog to a more efficient and less wasteful mode of life. The world's people will only achieve a sustainable future via a lifestyle that is, for all of us, far less profligate of energy and resources than ours is today. This goal is not anti-technology; its achievement will demand more technology, but differently directed technology and a great deal of innovation. We and the rest of Europe can surely lead in this enterprise, to the benefit not only of ourselves but of the rest of the world.

2.25 pm

Lord Young of Norwood Green (Lab): My Lords, I, too, thank my noble friend for introducing the debate. I will try to rise to the challenge. The noble Baroness, Lady Jenkin, mentioned tights, which we cut up and use as plant ties. Cotton, if it is good quality, gets absorbed into Lady Young's quilts, one-sided printed paper is always cut up and recycled, and the carcass of the chicken goes into the stock pot for making soup. So there are a few things that we in the Young household do.

Most of the good points about the importance and value of the circular economy have already been made. I would like to put only a couple of other points to the Minister. First, has any thought been given to ensuring that we have a circular economy and industrial strategy operating at a LEP or local authority level, or to introducing the subject into schools and colleges? Lots of ideas come from young people.

I listened carefully to the right reverend Prelate the Bishop of St Albans about technology. I have a bit of a problem; I am replacing good-quality lightbulbs. Why? Because I can buy LED bulbs that have come down in price and that dramatically reduce power consumption. I hate wondering what I am going to do with them—I will not do anything with them because I cannot think of an alternative use. It is a balancing act. I think that the same could be said of a significant number of household appliances; when you think of the power consumption of old-fashioned televisions, washing machines, refrigerators and so on, there is something of a problem there. Though that is not to argue against longevity; the idea of being able to repair items is fundamentally important.

On the recommendations that came from the Environmental Audit Select Committee in the Commons, can the Minister inform us whether the Government intend to adopt those recommendations, which seem to be valid, including the idea of providing incentives to companies to become more efficient and to ensure that the products that they produce have greater longevity? These are obvious things that we have been talking about for years. There is so much variation on mobile phone chargers—or chargers for any bit of equipment—but we still do not seem to have cracked that problem and persuaded manufacturers of the benefit of standardisation, so that every time another phone is introduced, there is not another variation of phone charger. So there are lots of opportunities for us to create a genuinely circular economy. It is a no-brainer in terms of job creation and environmental benefits and I look forward to the Minister's response.

2.29 pm

Lord Teverson (LD): My Lords, I, too, thank the noble Baroness, Lady Jones, for this debate. She mentioned Jaguar Land Rover and I think that we were both at an event where JLR talked about its new innovations. But what it did not do was to shout about the fact that 70%—this is a well-known statistic—of Land Rovers ever produced are still operating on the roads, not just here but across what was the British Commonwealth and the rest of the world as well. But as the noble Lord, Lord Young, said so well, no doubt many of them from the early days are now extremely energy-inefficient by current standards.

There are two big challenges: population growth, and rising income and consumption expectations within the world. They can be solved in only two fundamental ways. One is the decarbonisation of energy and greater energy efficiency. The other is the circular economy and ensuring that our consumption does not outpace the ability of our planet to replenish those resources. That is why the circular economy is absolutely essential. Within a more international framework, it surprised me how few people have heard of the circular economy, so one of the great imperatives is to get that concept far better understood. It may have been invented in the 1960s but the understanding of it is still very small.

I was absolutely delighted that the European Commission, having junked or disposed of the original circular economy package has come back with another—I hope improved—version of it. Surely if there is something important that Europe can do, and do well, in a single market of half a billion people it is to take this area forward in terms of culture, in the way that industry works and in the competitiveness of the European economy. So with the Government being enthusiastic about Europe and the European Union for the first time in a long while, I challenge the Government and the Minister to take this area forward.

I will make four very quick points to the Minister. First, I believe that in the past Defra has not been that engaged in this area, so will it become far more engaged? Secondly, the noble Baroness, Lady Jones, mentioned eco design. Surely this is an area where British industry could really thrive. Will the Government help it to lead in that area? Thirdly, in negotiating the transatlantic trade treaty—the TTIP—do we need to bring the circular economy into such negotiations, if only to defend our package against other sides? I will very much welcome that agreement if it is made, but do we need to take it into consideration there? Finally, I echo the mention by the noble Lord, Lord Rees, of the marine environment, where pollution by plastics is a major challenge that needs to be resolved.

2.32 pm

Lord Gardiner of Kimble (Con): My Lords, I am most grateful to the noble Baroness, Lady Jones of Whitchurch, for securing this debate and introducing it so comprehensively. It is a great privilege to respond to this debate because we all share a common cause; we want Britain to have the best natural environment anywhere and encouraging a more sustainable, circular and efficient approach to resource use must surely help deliver this ambition. The Government consider it essential that we move towards a more circular economy and we are working together with business, industry, civil society and the public to achieve this aim.

The Government have a leadership role in facilitating that transition through better regulation, fiscal incentives such as the landfill tax and supporting innovative approaches—for example, circular business models where customers purchase a service rather than the product itself. The noble Lord, Lord Young of Norwood Green, mentioned schools and colleges. I think that we will increasingly see a lot more young entrepreneurs coming through as designers, with schools and colleges encouraging what will be such a core part of the future UK economy.

In 2013, the Government introduced the waste prevention programme for England, setting out roles and actions to move away from a "make, use and dispose" approach towards a more circular economy where materials are kept in circulation for longer. The noble Lord, Lord Teverson, mentioned the Land Rover and the noble Lord, Lord Rees of Ludlow, rightly emphasised its durability. We can surely say that, over generations, that vehicle has been extremely durable.

Reuse, repair, refurbishment and recycling are all vital elements. Regarding waste prevention and reuse, in the charity sector alone in 2012, organisations generated an estimated £430 million from reuse—so its value to society and the circular economy is considerable. To leverage the value from this, government can provide the leadership, incentives and knowledge to move towards a more circular approach. But everyone has a role to play in making the best use of our materials and resources by preventing waste, recycling efficiently, and dealing with waste properly.

Businesses surely will be the key driver to this. I have mentioned young entrepreneurs but my noble friend Lord Suri mentioned business more generally, which will be engaged in driving this. The Government must provide support but I note the strictures of the noble Baroness, Lady Jones of Whitchurch, and the noble Lord, Lord Giddens, about cross-government engagement. I can assure your Lordships that officials from across government, including from the Treasury and BIS, meet regularly to consider and co-ordinate government action in this area. Defra has obviously had a very considerable amount to deal with but this can be done only if we work across government.

To this end, Defra has started a number of voluntary agreements in conjunction with WRAP to incorporate circular-economy thinking, such as the Courtauld 2025 agreement that WRAP is on the brink of agreeing with industry. The noble Lord, Lord Whitty, comes to this with considerable experience, as was shown in our earlier deliberations about food waste. I am really pleased that we have seen the successor to the Courtauld commitment, which was the beginning of something that is now seen as a no-brainer. It was obvious, so why were we not doing it before? So there have been considerable advances there—but, as in all these cases, we need to do more.

The noble Baroness, Lady Jones of Whitchurch, mentioned the Electrical and Electronic Equipment Sustainability Action Plan and the Sustainable Clothing Action Plan, which bring together manufacturers, retailers and charities from across the electronics and clothing sectors to achieve resource efficiency savings. The noble Baroness, Lady Young of Hornsey, made powerful points about how the fashion world can make such contributions to the circular economy, and she was absolutely right to be positive and suggest the real progress that is being made. There is always more to do but we need to encourage business. We need to ensure that people in the fashion world understand that what they do is tremendously important, not only for their sector but for us all.

We are working, for instance, with the PaintCare initiative to address regulatory barriers to the manufacture of paint. This is going to be an important example. Through such initiatives, we can all aim to reduce the use of virgin materials and instead treat waste as a valuable resource in a more circular approach. My noble friend Lady Jenkin of Kennington leads by her own example, and we all very much look forward to the contribution that she will make to the very important work of WRAP.

We can see the successes of the circular economy already. The resource and waste management sector has grown faster than the wider economy over the past two decades. In the UK, the core waste sector and wider repair, re-use and leasing activity contributed £41 billion gross value added and supported 672,000 jobs in 2013. I noted what the noble Baroness, Lady Miller of Chilthorne Domer, said about anaerobic digestion. I was at a presentation in the other place on AD, as she may have been, and very interesting it was, too. I have had a wonderful visit to the AD plant at the Adnams brewery in Suffolk, which reuses all the residue from the brewery. That is a great example. The Government have provided support for anaerobic digestion and published a strategy for growth in the sector in 2012. More recently, WRAP has published reports on the use of digestate from the process, helping farmers applying this to their land. So, again, there are all sorts of encouraging advances.

The noble Baroness, Lady Jones of Whitchurch, also highlighted the importance of developing new business models. This is something that your Lordships have more generally considered as we move forward. Indeed, the Government are funding a project exploring the sustainability benefits of pushchair rental. Pushchairs can be reconfigured or upgraded as the baby grows, and the used models can be refurbished for further use by a new customer. The Argos national gadget trade-in service, developed with WRAP's support, incentivised the return of unwanted mobile phones and tablets for reuse in exchange for vouchers. The returned items are refurbished and resold. All these initiatives not only provide businesses with new opportunities and innovation

but transform the relationship with consumers. Consumers can therefore benefit from more choice, convenience and better-performing products.

Action is being taken not just domestically. Internationally, we have been working to promote resource efficiency in fora such as the G7, where the UK is recognised for encouraging a circular-economy approach. I was interested particularly in what the noble Lord, Lord Giddens, said in his references to Japan, and I would be interested to hear more.

The noble Lord, Lord Teverson, and the noble Baroness, Lady Jones of Whitchurch, referred to the EU draft circular. We are indeed assessing the commission's proposals and will be finalising the UK position in discussion with other departments, devolved Administrations and other stakeholders. We want to make sure that we end up with measures that are right for the UK, ensuring that the whole circle is considered and not just the individual parts. I was particularly interested in what the right reverend Prelate said about French regulation. We will certainly be looking at that example, and if I have anything further to report I will get back to him as speedily as I can.

We still generate roughly 200 million tonnes of waste annually across the UK. We must reduce this and do more to ensure that waste that cannot be prevented is reused. The noble Baroness, Lady Jones of Whitchurch, highlighted the challenges in increasing levels of recycling. Currently, we recycle 44.9% of waste from households, and we are committed to meeting the EU target of 50% by 2020. But, of course, we need to go further. The Government continue to work with local authorities, WRAP and businesses to promote best practice. This includes the Recycle Now campaign and industry initiatives such as Pledge4Plastics, promoting plastic recycling by householders. I was very much struck by what the noble Lord, Lord Rees of Ludlow, said about plastics, and I am particularly mindful of what the noble Lord, Lord Teverson, said about marine pollution, which is appalling.

We believe that local authorities are best placed to develop recycling arrangements in their areas. With our support, WRAP works with them to recycle more and to make recycling easier for householders. Clearly, there are opportunities to improve recycling and to reduce confusion for householders through greater consistency and partnership working between authorities. Indeed, my ministerial colleague Rory Stewart has highlighted the benefits that we can obtain from reducing the variety of collection systems so that we have a smaller number of models based on best practice. Surely, the key to success is in making things work for local authorities and also making them easier for the public.

Developing and securing sustainable end markets for recycled materials is key to ensuring that the UK meets its statutory recycling targets. I believe that the UK has come a long way over the past few decades in how we view and handle waste. We must continue to embed a more circular approach in all parts of our economy. As I said at the beginning, I am most grateful to the noble Baroness, Lady Jones of Whitchurch, who has brought to this debate so much of her experience, particularly serving on WRAP, which is key. So many innovative ideas and initiatives have come through WRAP's work that I would like to take this opportunity to acknowledge and congratulate not only the noble Baroness but all those who worked with her and continue to work now with my noble friend Lady Jenkin of Kennington, because this is going to be tremendously important. It has also given me an opportunity to listen to the many good examples and the experience that your Lordships have brought to the debate in so many ways. I hope also that your Lordships will understand that there are so many exciting economic and environmental solutions on which the Government are leading and on which we need and want to do more.

The circular economy undoubtedly has enormous advantages, opportunities and economic benefits. Indeed, earlier at Question Time—last week, I believe—so many of your Lordships acknowledged the work of the Ellen MacArthur Foundation. I very much welcome the important work of that foundation, which works on rethinking, redesigning and building a positive future for the economy. I am very grateful for the foundation's valuable input into Defra's sustainable resource management forum, providing valuable insight into the implementation of the circular economy in our country.

The noble Lord, Lord Teverson, asked about TTIP. Given the enthusiasm we have for the circular economy, we must use any opportunity we have on design. Clearly, what we are doing and need to do on design is essential. There is so much possibility. I was fascinated by what Jaguar Land Rover is doing with cashew nuts: that is the first I had heard of it. So many things will start to come through, and we need to be the catalyst to encourage that to come through.

I can assure your Lordships that the ministerial team at Defra is passionate about this. Much progress has been made and, by working together, we must achieve more in the years to come, because this is for the benefit not only of the people of this country but of our environment and the world environment.

Housing and Planning Bill

Committee (3rd Day) (Continued)

2.47 pm

Amendment 38

Moved by ***Lord Beecham***

38: Clause 2, page 1, line 12, leave out from "a" to end and insert "price no higher than is affordable to a household receiving the median local household income, with affordability to be determined by the relevant local authority,"

Lord Beecham (Lab): My Lords, I shall also speak to Amendments 39, 39A and 40 in this group.

"There is no specific shortage of social housing, or private rented accommodation, or homes for first-time buyers, but an overall shortage of inexpensive housing across all tenures. Government solutions … are all a step in the wrong direction … Boosting homeownership should not be a policy aim in its own right. The government's aim should be to improve affordability in general".

These are not my words. They are contained in a briefing which I have just downloaded from my computer from that unregenerate Marxist body, the Institute of Economic Affairs—which tells us something about the peculiarity of the Government's position.

[LORD BEECHAM]

Amendment 38 addresses the critical issue of affordability. In an earlier debate, I declared that affordability is an elastic concept, and we debated at some length the implications of that condition on Tuesday. Rather than beginning with a figure reflecting current house price averages—unaffordable to a large proportion of the population and varying widely not just between London and the rest of the country but within London and, as we have heard already in some areas, within other parts of the country—the approach comes to the issue from the other end. The criterion for affordability should be the income levels of the potential beneficiaries of the scheme. I am afraid I will cite figures again from my own authority: in Newcastle, the average two-bed property is marketed for £135,000 and the average three-bed for £160,000—those are existing stock. The discounted prices under the starter homes scheme would therefore be £108,000 and £128,000. As we have heard in relation to other figures which have been quoted, new-build properties would presumably cost more than current average prices. In any event, either would be out of reach for the majority of applicants on the city's housing register and for a sizeable proportion of other people seeking to purchase a property. In the existing areas of what we call lower-quartile properties—flats or terraced houses—the average asking price is around £78,000, or £92,500 for slightly bigger homes.

The scheme we are debating today has little to offer in places such as Newcastle. By contrast, in areas of higher value in the city and elsewhere, its potential would be limited to those with higher incomes, who will in addition benefit of course from the ability to cash in eventually not only on the 20% discount but, as my noble friend Lord Campbell-Savours pointed out in some detail this morning, on any rise in house prices. At the top end, there is clearly the potential for very large windfall gains to arise from the scheme, amounting to well in excess, in some areas, of £100,000—ironically, enough to allow the lucky first-time buyer in London to invest in a buy-to-let property in Newcastle of the kind I have described.

It cannot be fair to facilitate, after only five years, such significant untaxed gains for buyers whose incomes are likely to be substantially higher than those of people buying cheaper properties.

Lord Campbell-Savours (Lab): Once again I express the need for us to see, at a very early stage today, this document that sets out the Government's estimate of regional demand, based on the number of people who have applied. We need to see those figures and where they are coming from. If they are available in the Chamber now, why can they not be circulated during this debate?

Lord Beecham: I cannot answer that question, of course. I am not sure the Minister will be able to either, but she will have a little more time—probably quite a lot of time—to perhaps get some information from the Box.

My Amendment 38 indicates that the starter home should be sold at a price not higher than that which would be affordable to a household on the local median income rather than creating an artificial discount irrespective of the means of the buyers. That seems a more sensible approach. Amendment 39 looks at the position in a slightly different way, and deals with the length of time in which the 20% discount applies. The Bill provides for a five-year period, after which the property can be sold and any gain accrues to the original purchaser. Amendment 39 would retain the 20% discounted price in perpetuity, so that the property would always be sold at 20% less than what by that time would be the market price. The benefit of the 20% discount would therefore go to successive purchasers of the property, which would remain at a discounted price, rather than it effectively disappearing into the pockets of the first lucky first-time buyer.

Amendment 39A would extend the categories of properties which might be purchased, by including properties bought under a rent-to-buy agreement as well as those purchased directly. This seeks to cater to buyers who might find it difficult to obtain or service a mortgage by allowing them to participate in the rent-to-buy scheme; it could be extended to shared-equity purchases. The Minister might look into these possibilities before we return to these issues on Report. The thrust of the amendment is that prime consideration needs to be given, in terms of affordability, to the means of the buyer and not simply to the price of the house. That is cardinal to achieving greater access to genuinely affordable houses on the private housing market. Accordingly, I beg to move.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): I have to inform your Lordships that if this amendment is agreed to, I cannot call Amendment 39 owing to pre-emption.

Lord Best (CB): My Lords, it is time for the Cross Benches to join in. Amendment 41A is in the names of the noble Lords, Lord Kerslake, Lord Cameron of Dillington and Lord Beecham, as well as my name. It also relates to this key component of the Bill—the Government's flagship policy of starter homes—and is all about reducing demand for this new product so that starter homes are not such a cuckoo in the nest. Just to reiterate, these are homes for first-time buyers under 40 sold at a 20% discount, with the costs borne by housebuilders, who in return are now excused the normal requirements to provide a percentage of affordable rented or shared-ownership homes and to pay a community infrastructure levy.

I preface my remarks with an overarching comment on where we have got to in relation to the starter homes initiative. If only starter homes were all additional to the affordable rented homes that would otherwise be provided, I am sure there would be far less concern. However, they would then of course need to be funded separately, instead of replacing accommodation for those on lower incomes. What would that cost? If the average discount was something around £40,000, the total cost over five years for 200,000 of these homes would be £8 billion. The Government have already pledged something over £2 billion to assist with the programme, leaving under £6 billion—rather more than £1 billion a year—to be found if only the scheme was intended to add starter homes while serving the same number of people. However, this is not where we are.

On Tuesday we talked a lot in Committee about the losers from this policy: the people who would have obtained those rented or shared-ownership homes that will not now be built. Today we are talking more about the winners from the starter homes policy and whether this scheme is rather more generous than it needs to be. Who are these winners, and does the nation get value for money from rewarding them in this way? A big group of beneficiaries will be those of my generation. This is not because I am under 40, but because the starter homes initiative will benefit parents of buyers, since the bank of mum and dad will not need to be drawn upon so heavily. Over a quarter of first-time buyers have been dependent on this source of funds, so a lot of parents can now draw a sigh of relief that government will pay instead.

Secondly, of course, the main gainers from the policy will be those lucky buyers who can receive up to £112,000 towards their purchase in London and up to £62,500 elsewhere. These discounts take the form of grants after five years; the purchaser can then keep all the money alongside keeping 100% of the increase in the property's value, of course. That is great for these buyers.

Owner-occupation does indeed provide a level of security, a source of pride, an encouragement to maintain and improve the home, and a degree of freedom that renting does not. But because these discounts represent a hefty subsidy to the buyer at the expense of a relatively worse-off household, who will not now get the affordable rented home which starter homes have replaced, we need to ask whether this trade-off represents good value for money for the nation.

3 pm

Now comes a rather startling additional factor, to which some reference has been made today: the Housing Minister has stated his hope that buyers will be able to combine the new 20% starter homes discount with the current 20% Help to Buy interest-free loan. In London that Help to Buy equity loan is now to be set at 40%, meaning that a London buyer with both a starter homes discount and a Help to Buy interest-free loan would get 60% off their purchase price. So the buyer of a property costing, say, £500,000, would actually pay only £200,000, getting the other £300,000 from the government schemes.

I note that I am addressing some of the questions that came to the noble Lord, Lord Campbell-Savours, at 3 am. This level of support to one young person—60% of the cost of a London apartment—is surely over the top, sympathetic as I am to their desire to escape very high rents in London. It provokes a sentiment expressed by an American colleague: "If the cream is too rich, the cat dies". Enabling anyone under 40 who can raise a mortgage of £200,000 to buy a property costing £500,000 sounds like a recipe for rapid inflation of property prices and some weird distortions in the market. The Help to Buy scheme's 20% equity loan has already been criticised for increasing demand more than supply, but it has not been remotely as generous as the 40% interest-free equity loan plus the new starter homes 20% discount. I wonder whether the Bank of England has a view on this. It is that cash discount which really takes the package to absurd lengths. Unlike the Help to Buy equity loan, which after five years attracts 1% interest, rising annually thereafter, and must be repaid at its new value whenever the home is sold, the 20% starter homes discount simply converts into an outright grant. This means that it is the culprit for making the cream too rich.

In terms of value for money for the taxpayer, these hefty grants benefit just the one initial purchaser, if they stay for five years or more—and they are unlikely to move out any earlier, since they would then forfeit this huge windfall gain. The next buyer then pays 100% of market value and obtains no benefit from the initial subsidy. By contrast, if the same level of grant had been used for an affordable rented or shared-ownership home, rather than for the starter home that replaces it, the benefit of the initial grant would have gone on indefinitely, helping all future occupiers. We should bear in mind that there is a lot of dead weight here: currently, tens of thousands of households become first-time buyers without generous grants. In future no one, whatever their income or the wealth of their parents, will be advised to buy a new home without collecting a starter home grant. So the gains to society from this redistribution are short-lived and benefit only one buyer, who may, or may not, need the money.

Concern about the cost and displacement effects of the starter homes initiative comes not only from those who worry about the displacement of affordable rented accommodation. The mortgage lenders are worried by the dangers of distortion to the market. The Council of Mortgage Lenders says that the starter homes offer to potential buyers,

"is likely to stimulate excess demand including from those who may already be able to use existing schemes, and will increase the potential for driving up house prices".

The Building Societies Association says:

"Our concern is that the 20% discount is just there for five years. We think it should be built in".

In another words, it should be there in perpetuity to assist other buyers later on.

As others have noted, lenders also have the problem that no one knows how to value a product that comprises both a property and a large cash reward in five years' time. Jones Lang LaSalle, a valuation expert, envisages real difficulties, as noted by the noble Lord, Lord Campbell-Savours. I have the quote from it that he was seeking:

"80% of Market Value sounds simple; but what is the Market Value of a home where conditions are attached to its purchase"?

The bonus of 20% after five years certainly ups the real value, but by how much? The housebuilders, too—who might be expected to support any measure that raises the demand for, and increases the prices of, the homes they build—are equally alarmed. They want stability and consistency; they see the dangers of people clamouring to buy because of the huge rewards from the big bonus of a non-repayable discount. This rich cream may push up prices initially but is likely to have a depressing effect on both adjacent new homes and on the second-hand market all around, where no such bonus is available. There may be a further depressing effect when the big numbers of starter homes are five years old and come back on the market with no discount. The major housebuilders developing the really large

[LORD BEST]
sites will still be selling new homes in five years' time. If they have to compete with a glut of resales by starter home buyers, this undermines their forward planning. I know that some of the big players feel they would have to move away from building anything for the first-time market except starter homes, and that might mean a decline in their overall output of new homes.

Already an impact may be beginning to emerge, as people postpone any buying decisions until the starter homes deal is available to them. Meanwhile the fact that the first timer collects all the subsidy for themselves after five years is particularly problematic for landowners wanting to make land available to help local people, as we shall hear on later amendments. A key criticism therefore, and I think it is a universal one, of the starter homes model is that if the one-off windfall is too advantageous—if the cream is too rich—the positive features of this initiative will be completely undermined.

I come to the solutions, or at least the partial solutions, to the problems which the starter homes initiative raises. There could be tough eligibility criteria, limiting access to people not able otherwise to purchase at all; and/or to people such as teachers, NHS staff or other key workers who are needed in the locality. These are ways of securing public benefit from the initiative while dampening the excess demand.

Amendment 41A seeks to get better value from the starter homes proposal by retrieving a proportion of the subsidy on a sliding scale over 20 years when the buyer sells up. I certainly commend the alternative suggestion that there should be a covenant on resales in perpetuity, to lock in the 20% discount to keep helping future buyers. That would convert the discount into an interest-free loan, to add to the support available under the Help to Buy scheme. If that approach fails to find favour, however, my amendment, supported by the noble Lords, Lord Kerslake, Lord Cameron and Lord Beecham, provides an option which I hope appeals to the Government. Under the proposition in this amendment the purchaser would repay the 20% discount less one-20th—that is, less than 1% of the original figure—for each year of occupancy. Therefore someone who left after 10 years would retain half the discount and pay back the other half. Purchasers are still helped to buy by the discount, still keep some of it and still get the capital gains on the whole of that proportion of the value; but they cannot walk off with all the subsidy after a five-year term.

Lord Campbell-Savours: That is an area that confuses me. When we talk about repayment, who is actually being repaid? I cannot work it out.

Lord Best: The Bill and my amendment leave open whether repayment would be to the local authority where the home has been built—which I would support—or to the Homes and Communities Agency, to be used for housing elsewhere.

By making the offer a little less generous—by making the cream a little less rich—the excessive stimulus and distortion of this market is reduced, I hope, and the cost to the nation in losing out on affordable rented homes is made a little easier to bear.

Lord Kerslake (CB): My Lords, I support Amendment 41A, spoken to so ably by the noble Lord, Lord Best. I declare my interest as chair of Peabody, president of the Local Government Association and chair of the London Housing Commission.

The focus in our debate on Tuesday was on the impact of proposals on social rented housing. As the noble Lord, Lord Best, has said, there is a price to be paid in the current model for that sort of housing. We also spent considerable time debating the one-size-fits-all approach to planning that is envisaged to support starter homes. Today we have focused on starter homes as a product in itself; indeed, we might say that we have spent most of this morning on what might be described as product design, and the Committee might agree that this has been a rather unsatisfactory process. The reason why this is the case is quite clear: with starter homes we are going from a prototype to full production by missing out the stages in between, so it is hardly surprising that we are struggling to make sense of something that, in truth, has not been fully designed.

If we ourselves are confused, struggling with this, frustrated or indeed concerned, it may be some consolation to the Committee that such confusion, concern and frustration are shared equally by the house builders and lenders. Before we come to the amendment, it is important to explain the context for why this issue is so difficult for them and for us. There have been products to help first-time buyers to access home ownership for 30 years now. It is not a new concept; it has been around under both Governments as something that they aspired to achieve. The aims have been twofold. The first has been to help people with the deposit. People often have the income to enable them to pay the mortgage but not essentially the wherewithal to pay the deposit on the property. That was one key element of helping people into home ownership. The second reason why we went down the road of promoting home ownership products was to sustain demand, particularly following the financial crash in 2007. So there were two reasons why, as I say, Labour Governments as much as Conservative ones have gone down this route.

Up to 2013, the cost of these products came essentially from departmental budgets—in this case CLG and, before that, the ODPM. Because budgets were tight, accessibility to these products was constrained and in fact linked to income, as was talked about earlier. That was our basic model prior to 2013. In 2013, though, it was established by the Treasury, and there was some very clever thinking on this, that in fact these forms of support, in the shape of equity loans, could be regarded essentially as financial instruments and held against a third-party asset. As a financial instrument, they scored as debt but not as deficit. The Chancellor therefore thought that he could expand them in a pretty unconstrained way, so income requirements came off and the size and value of the property that you could buy went up substantially.

That was a crucial shift to making these schemes much more widely available. In fact, in 2013 a large sum was assigned—it was expanded to £10 billion later on—to take this through to 2020. In addition to that, there was £12 billion to support an additional product, Mortgage Guarantee, which underpinned mortgages. So there were two products that effectively

helped people to get over the deposit problem, Help to Buy and Mortgage Guarantee. Since 2013 there have been something like 126,000 purchases using one or other of those products, and £3.8 billion of government money has been put alongside that. I cannot say how many of those people who bought are under 40 because I do not think those data are held, but I am willing to bet that a large number were in that age category.

3.15 pm

I say all this because it raises the question: what market gap are we trying to fill here? We have an existing product that helps people to access the market. If there is an issue of home ownership, it is essentially because of the wider issue of supply and house prices rather than the absence of what has been a pretty effective product that has worked very well for those who have purchased. This is a crucial point in our debate and in how we think about the amendment.

That set of products, Help to Buy and Mortgage Guarantee, was introduced very quickly and very well, partly through the skills of the department and the Homes and Communities Agency but also because they were building on existing products that involved equity loans. Starter homes is an entirely different product because it does not give people a loan linked to the value of the property; essentially, as the noble Lord, Lord Best, has said, it gives them a significant cash benefit. When you give people cash benefits of such generosity in this form, you are likely to see distortions of the market and issues of fraud. That is a logical consequence. The reason why we could be confident about equity loans not creating the same problem was that they were a loan that the individual would ultimately pay off, rather than getting a cash gain. This should drive and inform all our thinking on this product.

I have talked here about the issue of what this product is and why there are concerns about it, but we should also work harder on the issue of who benefits from this product. I am very fortunate to have had some advance information from a forthcoming publication from Shelter on this, which I think will become the definitive publication on the question of who can access this product. I shall give the House the numbers for London. In terms of market sale properties, the estimated annual household income that you would need in order to purchase a market property in London now is £83,000. That makes a market sale property inaccessible to 90% of private renters; on Shelter's calculation, 90% of private renters in London could not access market purchase properties. For London Help to Buy the figure becomes an income of £68,000, but it is still inaccessible to 80% of private renters. Starter homes, at the medium price for houses in London, not at the cap that has been talked about, requires an estimated annual household income of £62,000 and in fact is inaccessible to 70% to 80% of private renters. Shared ownership scores better but is still an issue because of difficulties in accessing mortgages, and you have to pay the rent on the bit that you do not own. You would still have to have an annual household income of £38,000, and in London it would still be inaccessible to 68% of the population.

I give noble Lords all these figures to put it beyond doubt that, at least in London, those who will benefit from this gift are a very small proportion of private renters. As we have heard, outside London the position is much more complex but, in summary, in the areas where there is high demand, such as the south-east, the east and the south-west, it would be reliably available only for those who were high earners—that is, in the 70th percentile. It would be out of reach in those high-demand areas for people on average incomes; and, in fact, for virtually the whole of the country, those who are on low incomes will not be able to access the starter homes product. It is crucial to have this sense of how big the gift is and who will be able to benefit from it.

We should be clear that, unlike Help to Buy, which could be funded through financial instruments, this effectively requires direct cash from government—either in the form of a direct grant to housebuilders or of benefits forgone in relation to affordable housing. Effectively, as taxpayers, we are directly paying for the full cost of this subsidy.

This amendment does not wholly address all the issues that I have raised. It is arguable that a better route for the Government to have gone down would have been to improve and tweak Help to Buy, as they are now doing in London, rather than to introduce a wholly new product that requires direct government funding to make it work. However, we are where we are; it is in the manifesto and we have to accept it.

The amendment does address quite a few of the problems. First, as my noble friend Lord Best said, it can address dead weight. You are not giving people something; they only have to wait five years to get the full benefit from it. It will prolong the period in which they would have to wait to get that benefit. Potentially, going for in perpetuity would mean they would not gain it at all.

Secondly, it creates a genuinely differentiated product. This is a big issue for the housebuilders because they say, "On one site over here we have built no starter homes; on another site over there we have built starter homes. Which are people likely to go for"? It is absolutely clear. So you can create a genuinely differentiated product. It is a lot fairer. You do not simply give a huge amount of money to people already on higher incomes. As my noble friend Lord Best said, you can hold the affordability for a much longer period—potentially in perpetuity.

It creates what I would call a tradeable product. If somebody chooses to leave after 10 years—according to the amendment we have tabled—then they would effectively give up or pay over half of the 20%, based on the market value at that point. That money could go into the local authority and could provide it with an incentive—which the Government are seeking—to support starter homes. It creates a direct financial link and it repays at least some of the money that the Government have put in to making this scheme work.

Given we are where we are with starter homes, in my view this is a massively better way of delivering them. It is fairer, a more distinct offer and could genuinely address a need that might be out there. I want to ask the Minister why we have not done a

[LORD KERSLAKE]
proper options appraisal on the option of 20 years tapered over the period, or indeed in perpetuity. It would help the Committee if noble Lords could see a proper cost-benefit appraisal of these alternatives.

Lord Young of Cookham (Con): My Lords, before I speak briefly on Amendment 39A, I want to touch on the point that both the noble Lord, Lord Kerslake, and the noble Lord, Lord Best, raised about the issue of dead weight. This is something that has dogged housing policy for a very long time. There is dead weight in the right to buy in that many local authority tenants might have purchased without the discount. There is dead weight in transferable, portable discounts. In both these cases, Administrations of all colours have taken the view that the overall benefits of the policy of promoting home ownership and diversity of tenure have justified a bit of dead weight. In the earlier debate a number of suggestions were put forward to minimise the risk of dead weight in that, in so far as this product is oversubscribed, there is a way of prioritising. In his speech, the noble Lord, Lord Best, mentioned a number of ways of doing this. The noble Baroness, Lady Hollis, mentioned one. There was one in an amendment and I mentioned others. If there is an excess of demand, one can tackle the issue of dead weight by prioritising it to those for whom the dead weight issue is not there because they would not be able to afford it without it. Or they are moving out of social housing and therefore freeing up a tenancy. I take the point about dead weight but there may be ways through. It is something that has been there for a long time.

I turn to Amendment 39A, in the name of my noble friend Lord Lansley, who is in Brussels today. During the debate on Chapter 1 on Tuesday, a number of noble Lords suggested that we should have had this debate on definition first before we had the debate on Clause 1. I note with some satisfaction that we have now moved from line 11 on page 1 to line 12—so progress is being made. My noble friend Lord Lansley was seeking to stretch the definition of starter homes to include Rent to Buy. In her winding-up speech, my noble friend the Minister referred to the definition of the starter home. She said that Clause 2 talks about the criterion for a starter home and then went on to define it. When pressed for a slightly tighter definition, she said:

"That is fine. I just thought I would set that out now. I know we will be talking about it later"—[*Official Report*, 1/3/16; col. 766]—

in response to what my noble friend Lord Lansley said about Clause 2.

At the moment we have a product—Rent to Buy—which is a hybrid, in that it sits between affordable renting and affordable home ownership. It is a product aimed at those who are renting but who cannot afford a deposit. In return for paying a lower rent, they are allowed to purchase their home after a set number of years. Under the current definition of a starter home, the insertion of the word "purchase" means that they would be excluded in that they have not—

Baroness Hollis of Heigham (Lab): The noble Lord, Lord Young, said that in return for paying a slightly lower rent, they would effectively acquire an equity stake. Does he not mean a slightly higher rent as part of the Rent to Buy process?

Lord Young of Cookham: I am reading from the briefing from Rentplus:

"The affordable rent to buy tenure addresses this, enabling tenants to save more through paying lower rents and allowing them to purchase their home after a set number of years".

In other words, the money is put on one side to enable them to buy the product at a later date. That is from Rentplus, and I am very happy to let the noble Baroness have the briefing. It was debated in another place and, in response to a question, the Minister replied:

"Higher income tenants in a Rent to Buy scheme will not face increased rent under proposals for pay to stay. This is because the rent they pay is an intermediate rent"—

this may answer the noble Baroness's question—

"which is excluded from social rent policy".

The purpose of the amendment is to see whether this product—and there may be other products, such as shared ownership—will qualify as starter homes under the definition. Or, if it does not qualify under the current definition, whether the definition could be looked at so that products that promote home ownership will be included in the starter homes definition. We had a bit of this debate on Clause 1. I hope it will not be so narrowly drawn that a number of worthwhile products, such a Rent to Buy, will be able to score as starter homes. Again, just looking at the brief from Rentplus:

"Affordable rent to buy is a new 'hybrid' housing tenure, sitting between affordable rent and intermediate housing. The tenure enables working households to save for a deposit whilst renting at an affordable rate (80% of market rent …) allowing tenants to purchase their home after a set number of years".

I hope that explains to the noble Baroness what the product is. I am surprised that, given her interest in housing, she may not have come across this particular product.

I very much hope that, in her response, my noble friend can give some comfort to those aspiring home owners who cannot access a deposit which is necessary for starter homes but who are seeking to enter home ownership through a different route.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I will speak to Amendment 46. I support all the amendments in this group and the comments that were made by the noble Lords, Lord Kerslake and Lord Best. I support the Government's aim to provide more homes for those who cannot currently afford them, but fear that the time-limited discount of 20% will be seen as unfair by those not able to access it, and will be unlikely to increase the housing supply in the future.

I do not support the discount remaining in place for the limited period of five years. This is a very sizeable discount, as other noble Lords have explained, and it should be enjoyed by others looking to gain access to the housing market in the future. This is a discount which should be available in perpetuity so that the same home can be within the reach of others, despite the inevitable rise that inflation will cause to the price of the property over its lifetime. Have the Government thought about what will happen if a purchaser fails?

Who will get the discount if that initial purchaser defaults? Perhaps there is a bit of a perverse incentive for a lender to repossess after year 4.

Why should the first purchaser receive the discount, live in the dwelling for five years and then sell it, keep the discount and the uplift in the value of the house due to inflation and not pass that discount on to the next person? This discount is to be funded from local taxpayers, via the sale of high-value council homes. I feel certain that those taxpayers would wish their hard-earned money to be used wisely and to be recycled wherever possible.

3.30 pm

The Bill proposes that starter homes can be resold or let at open-market value five years after the initial sale. The restrictions on resales and letting at open-market value should be in perpetuity, as is often the case in many council-run, low-cost home ownership schemes, or extended to a longer period—for example, 20 years—to discourage speculation and enable more households to benefit, generating maximum returns from public investment. Further delivery of starter homes through the planning system will create significant burdens on council planning teams, so they should be fully funded by reforms granting local planning authorities the flexibility to set planning fees locally.

Like others in your Lordships' House, I have received many briefings from a variety of organisations, all saying more or less the same thing. The 20% discount should not be a one-off. It should attach to the property in perpetuity and it should not be a one-off windfall for the first purchaser. I have heard the Minister's rationale for the discount being a one-off but I regret that I am not convinced, and neither are those who have contacted me on this issue.

None of those lobbying believes that this policy will help to solve the housing crisis the country is currently undergoing. My preference is for a discount in perpetuity. Failing that, I support the sliding scale proposed by the noble Lords, Lord Best, Lord Kerslake, Lord Cameron and Lord Beecham, in their amendment. I urge the Minister to encourage the Government to reconsider this aspect of the Bill.

Lord Horam (Con): My Lords, I will comment very briefly on the remarks made by the noble Lord, Lord Kerslake, who made a significant point about the existing instruments we have to help people in this situation—the Help to Buy method and so forth. He made the point that this is a financial instrument and therefore the debt/deficit equation, which is so important to the Government, is resolved by using these sorts of methods. As he pointed out, no fewer than 126,000 people, with total costs of £3.8 billion, have been helped by these methods.

The simple point is that it has not been enough. As the noble Lord also pointed out, you have to have an income of no less than £83,000 to be able to afford a house in London, and 90% of people cannot do that. So the plain fact is that we need to do more—which is what the Government are trying to address with starter homes. We dealt two days ago with the question of whether we are helping the right people when we addressed the question of whether you can help people who are in a different category but who are even more disadvantaged than people who might benefit from starter homes. We dealt with that issue—or at least we tried to. Now we are dealing with whether this is the right kind of instrument in the circumstances to deal with the fact that we have a crisis, particularly in London, and the present instruments do not help enough. That is the fundamental point.

Lord Kerslake: I am grateful for the opportunity to come back on this point. The noble Lord is entirely right to say that we need to do more—there is no question about that. I strongly hold the view that we need to put a lot more into the building of new housing. If there is an issue about the existing products, as there was in London with Help to Buy, we should look to revise and amend the products themselves rather than introduce a new product which essentially competes in the same market and, instead of giving people a loan to help them with their deposit, gives them a very substantial gift. I am most concerned about that issue. I said that we had to make choices about priorities and doing more. As my noble friend Lord Best said, we have this cash, so I would put it into affordable rented accommodation. Nothing you will do in relation to these products will make housing accessible for people on middle or low incomes. We have to build an awful lot of houses for an awfully long time before they will benefit.

Lord Horam: I entirely agree with that. My way would be to recognise that the sort of lift in the cap on borrowing for local authorities, for example, is perfectly acceptable in the context of the Government's overall economic strategy. If you look at what is now being said worldwide by the International Monetary Fund and the OECD, at the moment they are calling for more capital investment of this kind, and there is no better capital investment than housing. It is interesting that insurance companies, for example, are now going into the build-to-rent market in a fairly big way in London, because the sort of regular, sensible rents you get from that sort of market precisely match the sort of income streams they need to service insurance bonds. That is a very interesting development, which I am sure the Government will welcome and which shows how the market, if left to itself, can itself resolve some of these questions.

To digress for a moment, the reason that insurance companies are going into this area is not only that it is a very interesting way of solving their problems but that the price is high enough for them to be able to produce buildings at a cost which enables them to rent them out to young people at a price they cannot afford. So the very high price is producing a supply consequence which is very favourable. None the less, the noble Lord is right that what is proposed here is a new product, and there is always a danger with a new product that it will lead to distortions of the market. If you try to interfere in a market situation with a product that has not been thoroughly thought-through, you risk unintended consequences—and that is what we are worrying about in this situation.

If that is the case, Amendments 38 and 39, put forward by the noble Lords, Lord Kennedy and Lord Beecham, are frankly impractical. They are not the

[LORD HORAM]
way to deal with this problem. They are putting into the system the local authority having to decide what the level of affordability is in a particular area, when the market already decides what affordability is in a particular area. Frankly, therefore, I do not trust local authorities to second-guess the market as to what the right level of affordability is.

Secondly, on the idea of having a discount in perpetuity, as the noble Lord, Lord Campbell-Savours, rightly pointed out, how on earth do you value it in the future? Indeed, how on earth do you value it now? There is no way you can value something which has been separated from the rest of the market, which is determined by market forces, and which has a value discount attached to it. You cannot do that—there is no way an accountant could work that out over a period of time and make any kind of sense of it. Inevitably, if you try to put in something in perpetuity, it will disappear into the general market in due course, probably in some way you do not expect.

So the right answer is the amendment put down by the noble Lords, Lord Best, Lord Kerslake and Lord Beecham—two minuses and one plus, from his point of view—whereby you pull back some of the discount over a period of time from the people who benefited from this government largesse. You are achieving what you want to do, which is to get them into a new house and to start a home and so forth, but you are pulling back some of the advantages you gave to them to achieve that.

However, I point out that even that has its impracticalities, because you will be asking them to pay back rather a large amount of money at some stage unknown—they do not know when and you do not know when—in the future. That could be a very considerable amount of money. I do not know how you would do this over a period of time and whether you would do this in one lump sum or whatever it may be, and you and they do not know what their circumstances will be. So there are impracticalities even with this. None the less, we have to have some measure by which you can pull back some of the advantages you are giving to people under this new model, and the Government have to think very carefully about how they handle this.

Lord Shipley (LD): My Lords, I am a signatory to Amendment 46. I want to refer to the report from Generation Rent, which was published earlier this week and found that public subsidies proposed by the Government will help comparatively few people. That is because very few people in the private rented sector will be able to benefit from the scheme, and the 200,000 people who stand to benefit could receive a huge dividend if they sell up after the five-year discount period expires, with the potential for six-figure profits individually. We have heard a great deal about this but these are very large sums of money.

The consequence is that the scheme will increase inequalities between those who own property and those who do not, and there will be a lack of any sense of fairness between those who can afford a subsidised starter home and those who cannot, driving social inequalities wider and deeper. I wonder whether that is really what the Government want to achieve.

I should like to ask the Minister whether the Government are committed to the statement in the Conservative election manifesto that starter homes will be exclusively for first-time buyers. The point is that when the homes are sold on after five years or later, there is no guarantee from the Government that they will be bought by first-time buyers. So these are starter homes for first-time buyers but theoretically only for five years; after that, the benefit that had accrued from defining them as homes for first-time buyers will be lost.

I am still puzzled by the Minister's statement before the lunch break to the effect that it may well be possible that starter homes will be sold as second homes. I keep thinking about those parts of the country that are short of housing and where starter homes may be important in providing additional opportunities for people. The prospect that they may be sold and lost to the next generation who could take up starter homes I find particularly disturbing.

We need clarity from the Minister. If housing affordability fails to improve, future first-time buyers will find it very difficult to get on to the housing ladder, so having a discount which carried on in perpetuity would help the Government to keep their promise.

Lord Campbell-Savours: I am sorry to intervene but I cannot understand how this would work. I am not trying to be critical in any way; I only want to know how it would work. Can the noble Lord give us an example of a property purchased at a discount under this scheme? What would happen at its first sale? How would the price be determined? What would be the position of the estate agent selling the property? Would a valuer be involved? I am trying to understand the mechanism here. If it worked then it would be reasonable to consider it but, like the noble Lord, Lord Horam, I cannot see any mechanism that would make it work. Can he please explain?

Lord Shipley: I agree with the noble Lord. I am as concerned as he is about these matters. Of course, I had assumed that there would be a role for the valuation system. There may be a role for local authorities, or there may be a role for both. That system exists in relation to council tax valuation, for example, but it seems to me that to prevent market abuse—the noble Lord, absolutely rightly, discussed that before the lunch break—we have to be clear about this, otherwise there could be a problem with how properties are valued. For that reason, in my view there has to be an independent valuer.

This would operate in exactly the same way if there were a taper, going down 1% a year over 20 years, or if the 20% discount applied in perpetuity, but there are ways in which that can be done by using local government and the valuation system. I do not wish to say much more. In this group—

Lord Beecham: In terms of the perpetual restriction, does the noble Lord think that it would be possible to discount the sale price by the 20% on every sale for perhaps 20 years or in perpetuity so that no money changed hands? The sale price would be paid, and as far as the buyer was concerned the property would be priced in competition with other kinds of property. I

would have thought that that would be a mechanism to secure the preservation of the 20% discount.

3.45 pm

Lord Shipley: My Lords, that is a very helpful intervention and it could well be one way in which we could proceed. However, we are in Committee on the Bill and I would have thought that the Government would be able to explain this to your Lordships' House, as opposed to individual Members of the House having to come up with proposals for the Government to consider when the Bill has now been in front of Parliament for many months.

There are two approaches in terms of Amendment 46: our approach is the "in perpetuity" one and another one involves tapers. Some further thought has to be given to that. The noble Lord, Lord Kerslake, rightly identified that the Government have not presented any options for consideration. There has been no cost-benefit appraisal and I am very surprised about that. If there has not been, there should have been.

The issue of avoiding dead weight also seems to be very important. I concede entirely that occasionally dead weight will apply, because the overall gain is greater than the loss on dead weight. However, if there is too much dead weight, it means that some are being subsidised at the cost of others.

I agree entirely with those noble Lords who have said that the priority should be affordable rented housing, as so very many people cannot participate in buying starter homes because they either do not have the deposit or do not have the ability to repay the mortgage. I hope the Minister will respond to what the noble Lord, Lord Kerslake, called a gift, and the noble Lord, Lord Horam, referred to using the words "government largesse". We have to be very clear who is getting the financial advantage here. At the moment, I believe that we are driving a deeper wedge in terms of social exclusion.

Lord Cameron of Dillington (CB): My Lords, I put my name to Amendment 41. I was going to list the range of various abuses that I felt the starter homes regime would be open to, but that has been done with much greater expertise and experience by my colleagues, my noble friends Lord Best and Lord Kerslake, and, indeed, with greater eloquence.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford): My Lords, I thank the noble Lord for giving way. I just do not want to happen today what happened on Tuesday. Amendment 41 is in the following group, but I am very happen to listen to him and to respond.

Lord Cameron of Dillington: I do apologise; I meant Amendment 41A.

The point that everyone has made, including the noble Lord, Lord Campbell-Savours, who I did not mention just now, is that the moment you falsify a market, there will always be someone looking to make a turn. If the Government are experimenting with a new product, I am certain that financiers and traders will be very quick to find new ways of taking advantage.

To my way of thinking, starter homes do little, in the countryside at any rate, to solve the urgent housing problems of those many families in real need. The other big shortfall of starter homes, when compared with, say, shared equity, is their transiency. Unless we continue to build, let us say, 50,000 starter homes every year in their currently proposed incarnation, not only until 2020 as promised by the Government but ad infinitum, then their very small benefit to society will in each case be lost after only five years.

The lack of affordable housing in this, our very crowded island, is not a short-term problem. I cannot see it diminishing, so we need something more permanently fixed in the affordable sector than starter homes as currently planned. By way of a compromise, to assist starter homes to give a little longer-lasting benefit and to avoid, as has already been said, some of the possible abuses, I believe that Amendment 41A is worth serious consideration by the Government.

Baroness Hollis of Heigham: My Lords, might I ask the Minister a question following the powerful speeches from the Cross Benches today? Can she explain why the financial instruments we currently have would not address the problems that she has identified? I think we all agree that we need to increase the supply of housing and that we want more people to have the choice of which tenure they occupy given basic affordability rules. We would also wish to avoid huge discounts being a one-off gain for a select few who then pocket them, with the gain being permanently lost to subsequent generations coming behind them. As the Minister has outlined it, those three objectives are incompatible with each other.

My question is to some extent triggered by the comments made by the noble Lord, Lord Kerslake: why is the equity loan system not an appropriate way forward to be expanded? Why should government not assist people with an interest-free equity loan for the 20%, the equivalent of the discount? At the time of sale, that 20% would be repaid, and could then be made available to be attached to a new home or any existing home so that there is a continuing pool of money coming back from the 20% equity loan to finance the next generation? It may well be attached to a starter home, or it may be that, in some places, there are no starter homes but, none the less, there are modest Victorian terrace houses which would attract the same potential buyer. Certainly that would be the case in Oxford and Cambridge and so on.

Can the Minister explain what is wrong with the existing instruments? Why would that not help encourage demand in a way that strengthens the supply side, extends purchase to people who are currently struggling, and recycles that money into—as the noble Lord, Lord Cameron, said—continuous generations of would-be purchasers? What is wrong with that? Why should we not do that? Why is that not the simplest way forward to build on what we have? I have been studying this darned impact analysis: not a single figure about cost, number of people or the ultimate effectiveness of the discounts is anywhere to be found. Can the Minister explain why we need this way of meeting objectives that most of us share?

Lord Campbell-Savours: I shall very briefly intervene on this occasion just to say that I only wish that Amendment 89L in my name, a very controversial amendment that comes much later in our proceedings, could have been taken at this stage. It would have provided a very different approach to dealing with this matter. But of course we will not come to my amendment for another three weeks, I understand; it is at the very end, by which time everyone will have made their mind up.

I think that if we are to go down this route, Amendment 41A in the names of the noble Lords, Lord Best, Lord Kerslake, Lord Cameron and Lord Beecham, is the perfect solution. In my view, it deals with the problem of excess profit-taking; it provides for the discount system and, if you are acting honourably, you are not penalised in any way. That is the compromise that Ministers should seriously consider. I know that promises were made in the manifesto, but that amendment does not compromise the commitments that were given. It still provides for the 20% discount system which the British people were promised was on offer. I hope that the amendment is very seriously considered.

The Earl of Lytton (CB): My Lords, I have sat on my hands for a considerable while since we started in Committee this morning. I speak to an intriguing amendment, Amendment 41A. Before doing that, I will try to peel back some of the skins of the increasingly complex onion that we appear to be dealing with.

The first thing to realise is that the housing market is potentially a very volatile animal, and has an enormous number of different subset markets—as we have heard, different parts of the country operate in very different situations. I know that your Lordships' Select Committee on National Policy for the Built Environment heard evidence that, in certain parts of the country—not the north-east or the north-west— the market simply has not returned to anywhere near pre-peak levels of value. However, I leave that to one side.

Earlier, the Minister cited a gap in the market. I question which market we are referring to. Apart from believing that the gap is vanishingly small—we have heard some reasons why other products would effectively fill it anyway; and apart from the means being adopted to plug it in the Bill being vanishingly transient; and, furthermore that the limited category of people whom this type of starter home would actually benefit is, to my way of thinking, irrelevantly small in the overall scale of things, I have to wonder where we are trying to get to.

We need to be clear about whether society will provide lasting sectoral benefit to that proportion of the population that any social society is bound to try to assist. In that, I include people who may have been property owners at some stage, have fallen on hard times and, for whatever reason, have to depend on the state. When you are dealing with free markets, that sort of thing happens. There will always be a proportion of people—I do not pass judgment on how significant or insignificant—who cannot afford to buy and almost certainly cannot afford to pay a market rent. Are we going to assist those people, or to provide an increasing focus on a windfall gain for the few, without reference to the needs or actual means of the few who will benefit? I question what we are doing here.

In introducing Amendment 41A, the noble Lord, Lord Best, identified that the discount and loan assistance taken together is a huge transfer of asset. It is much bigger than the headline 20% figure that we are led to believe applies under starter homes. As the noble Lord, Lord Young, observed on Tuesday, developers are keen on this. Yes, indeed— they would be. Who would not be as an alternative to the affordable housing regime under Section 106, with the uncertain outcomes and unpredictability that that involves? I am not in the least surprised about that. Purchasers of starter homes would also be keen. Who would not be, offered a windfall gain for the asking? I wonder whether we should be devoting quite so much time and effort to this ephemeral social benefit.

When dealing with the question of housing and the impecunious, I am reminded of a gentleman who once said to me, in connection with council house sales, "If I had that sort of cash, I would put it to a better use than buying this place". I hope that we do not build the sort of place that he was referring to, but I wonder whether, in circumstances of strapped resources in the public domain, we should be funding the ephemeral and assisting those who have access to a deposit that enables them to gain this discount in the first place. There is certainly no gain to the social budget on the sale of a starter home. The mortgage gets paid off, presumably, and the balance of it goes off down the road with someone to their next home. Or, if they have succeeded in being parted from their money, it goes to someone else—some financier who may have come in on the back of this scheme. It was mentioned earlier today that there is absolutely no end to the ingenuity of financiers of all sorts, regular and irregular, who would jump on this bandwagon and might usefully talk people round into doing business with them on the basis that they would share in some of the largesse being provided by society at large.

I believe that doing more here includes retaining a significant element of social benefit of some sort, and it is a matter for debate how much that should be, for society at large—unless of course you believe that the market will do everything, which of course it will not and cannot. History shows us that it does not.

4 pm

I turn to the point made by the noble Lord, Lord Horam, who questioned the means of assessing the value of some of these discounted and other types of what might be called interim ownership of one sort or another. My profession is full of guidance on this. There are many mechanisms for dealing with various social assets of one sort or another. Whether it be an opportunity cost or a replacement value, there are mechanisms for getting at it. They may not be perfect and they may not be precisely what you would look at in terms of market value, but they are not insignificant ways of dealing with assets, whether they be on a balance sheet or the assets of private individuals. That is something we need to consider.

The noble Lord, Lord Shipley, referred to the fact that a number of people cannot participate in the purchase of a property. I made the point earlier that there will always be that sector, so I very much agree with that sentiment. But fundamentally, the need to

build more houses altogether and to have a suite of tenures is what we must concentrate on. But there are dangers in that too. If it is inferred, as I rather suspected the Minister did earlier, that while building a lot more houses under the Government's policies would serve over time to ameliorate the huge year-on-year increases in house prices in some areas, which they might or might not, building houses is not the only factor. It is also about jobs, communications, infrastructure and removing the blocks both locational and structural. Much of that has to be provided by public sources such as local authorities and government departments. That is one of the reasons why we should not allow all of the social benefit to just disappear into some sort of market transaction. There is a proper function in devoting this through public means where, in particular, market influences fail.

There are, as I have observed elsewhere, including with one of my children, few votes in the amelioration of house price increase. I ask your Lordships to think about this. Who would vote for a static or slow-growing house price market? Certainly not the Treasury or mortgage lenders, business lenders and insurance companies; absolutely not existing homeowners—oh no—and not property marketers and pension funds either. Developers and housebuilders would say no. They along with landowners like consistently rising values. Be careful what you wish for in balancing out supply and demand to get a form of equilibrium. If we ever did reach that situation, I question what kind of economic world we would be looking at and what would happen when one of the most significant economic drivers in our country actually started to falter. There is a very fine line between a market that is moving forward rapidly and apparently successfully and one that suddenly grinds to a halt. We have seen that in other sectors as well as in the housing sector in the past.

There is a lot of overconcentration on starter homes, which gives the appearance, if it does not reflect the reality, that we are abandoning other things. The Minister has tried to make out that there is no such abandonment; why, then, the particular obligation on local authorities to foster starter homes? Is that not skewing the balance? If we proceed as the Government suggest I can see a starter home market forming its own little market sector bubble in which the purchaser may well find that the benefits—the cream to which the noble Lord, Lord Best, referred—may have actually evaporated when it comes to reality.

The market is so complex and full of price differentials—in terms of finish, the style of house, whether there are white goods or none, or carpets or none, and so on—that the only bit of the Amendment 41A where I think that the noble Lord, Lord Horam, has a point is that as we get down to the smaller percentage equity that remains, as it is written off, we get to the point, at about 10% or a bit less, where we cannot distinguish it from any other factor in the marketplace. In other words, it becomes impossible to value that sort of consideration among a basket of maybe 50 different price-sensitive elements that make up a house price.

I am superficially attracted to Amendment 41A. I am very attracted to the idea of retaining a significant element of social benefit in the public sector, because I think the public sector needs it. There is a very good economic reason. It is not a sort of exit strategy; I have no remit to say, "Public sector good, private sector bad"—I do not take sides on that—but I can see, as vice-president of the LGA, as a former president of the National Association of Local Councils, and as a practising chartered surveyor, that this is something where the role of the state and the role of local government, as part of the community, is a very strong element in favour of strengthening and bolstering that and having a better focus. It is not going to do it if there is a progressive siphoning away of what is, in fact, the chief milch cow behind this, which is the housing market.

At the moment, the housing market finances many things. It is, as I have said, a main driver of our economy, and we will not get affordability unless we have good and consistent market-level sales at significant profit. So I think that there are real issues that the Minister needs to consider carefully, with her colleagues, how we square this particular circle, because we have gone into a lot of detail here and I think we are losing sight of the bigger picture.

Lord True (Con): My Lords, I apologise: council duties earlier this week led me to miss the extremely interesting discussions about the relationship between starter homes and affordability. I hope that I will be able to make a contribution to that at Report, because clearly there are issues there. I also missed the early stages this morning, but I have listened with tremendous interest all day, as always, to your Lordships on these questions. Clearly, there are issues that need further discussion. What I heard from the earlier extremely extensive intervention from my noble friend on the Front Bench was that she was open to reflect on all the things that noble Lords have been saying.

The noble Lord, Lord Kerslake, with all his authority on the Cross Benches, made the fundamental point, which we have to bear in mind, that this is a manifesto commitment. That was almost the first thing that the noble Lord, Lord Kerslake, came in with. So this House has a duty, in my submission, starting from that point, to look at practicalities and ways forward here, some of which have been put before us in these interesting amendments.

Baroness Hollis of Heigham: My Lords, I accept the point about the manifesto commitment—we came in in 1997 in the same way. But what we then did was, where possible, to go for a White Paper to flesh out the details of how it would be done and used the responses to that White Paper to shape the regulations behind the drafting of the Bills. Would the noble Lord agree that that is the most appropriate way forward in this case?

Lord True: My Lords, I respect the noble Baroness. We have heard from her many times today and if she would allow me to pursue my remarks I will try to pick up on that point among others. I have been patient. As a general principle—I have said this many times in your Lordships' House—policy-making should be progressive. We should have Green Papers, White Papers and so on. But that practice was eliminated in the years when Mr Tony Blair was Prime Minister of this

[LORD TRUE]
country; it disappeared. So I will not take strictures on that point. Perhaps we could form an alliance and move back, but we are dealing with the situation that we have now.

We do have an artificial market at the moment. I would not choose this particular instrument if I was selecting the first XI to bat for England in solving the housing problem. But we have an artificial market at the moment, parts of which are caused by matters we do not address—for example, the growth in population. The biggest distorter is the London market, because there has been an exceptional rise in London's population. Currently there is no planned instrument to address or control the problem, and that will lead to continuing high pressures on housing.

Another distortion in the market, generally supported across the parties, is the artificial depression of interest rates. If you depress the cost of acquiring or holding a good, the capital value of that good will increase. At the moment we have an artificial situation in which low interest rates relate to capital costs. The problem then for young people who are trying to save for a deposit or acquire a house at a time when capital values are high is that they have had to live during a period in which, for a time, there have been, effectively, negative interest rates for savers. Now there are minimal interest rates for savers. It is extremely difficult in the exceptional and artificial market that we have now for young people to save. I do not want to follow the interesting and reasonable points that have been made about people with high capital assets, but it is not easy to save for a deposit when prices are moving away.

So it is perfectly logical and understandable that the Government wish to look at an instrument of this kind that would help people seeking to be first-time buyers. It may not be perfect. In exceptional local authority areas where capital values are high I would like to see further discussions about exceptions and so on, but it is not unreasonable that an instrument of this kind should be considered. The fact that it may be a skin graft when perhaps the market needs heart surgery is not necessarily material because skin grafts are important and useful and do help certain people.

Your Lordships have reservations of different kinds and I am interested in the arguments that have been put forward. I do not agree with those who say that we do not need this instrument. There is nothing in it which threatens the existence of other instruments that have been commended, some of which also cause distortions in the market. So we should go on in a constructive way, look at this proposal—which was put before the British people and voted for—and, for all its imperfections, see if we can make it better. Maybe some of the suggestions made today will contribute to that, maybe they will not—but that is what your Lordships' House is here to do.

4.15 pm

Lord McKenzie of Luton (Lab): My Lords, while listening to this debate I have been trying to get my mind around the mechanics of how some of this might work. Perhaps the Minister might comment. It seems to me that on day 1 the discount is met by the developer, not by the Government or the purchaser. Other things being equal, you would expect that discount to be represented as a charge against the property. If nothing else changed, should that property be sold it would be sold at market value and the vendor would have an obligation to account for the discount—presumably, in this case, to the Government. If Amendment 41A were accepted, the detriment of that charge would gradually reduce over a number of years, and if there were a disposal there would be a smaller amount to be repaid.

The issue arises as to who the amount gets repaid to—who the charge is discharged in favour of. The Government presumably get some sort of windfall along the way. If they do not, how does it work? Should there be a residual recovery of the charge, who would get the benefit of it? If the charge is written off on the basis of Amendment 41A over a period, in a sense there is nothing to recover. It seems that that is a mechanism to address the issue the noble Lord, Lord Horam, and my noble friend Lord Campbell-Savours were pursuing about how the market will work. It would be relatively straightforward if that were the mechanism.

But where are the Government in this in terms of scoring against public expenditure? They do not take a hit on day 1, but do they anywhere along the line? Presumably not if the discount is on some basis fully written off. But if it is not and it is recovered by the Government, that has got to be reflected somewhere. Perhaps the Minister can help us with that.

Baroness Gardner of Parkes (Con): My Lords, I really like Amendment 41A but I believe the money should go to the local authority in which the property is based, to be used for further housing benefit or whatever else is needed. Local authorities are very hard pressed for funds and all the local communities benefit from anything that goes to them.

It is not at all unreasonable to ask for a certain amount to be repaid. It would be just,

"1% for each year of occupation"—

or is it 1/20th? That is where I am slightly lost. If you occupy a property for 20 years and pay 1% for each year does that mean—my maths are not good enough to work this out—that you have reduced the whole lot at the end of 20 years? If you have not stayed the whole 20 years do you pass it on to the next person, so say after five years that person has a 15% discount, which they can then keep for 15 years? And will they lose that when they pass on the property? I believe that is what is intended. It seems to be the fairest amendment which has been put forward on this.

Lord McKenzie of Luton: I accept entirely that the recovery could be by the local authority rather than the Government.

Baroness Williams of Trafford: My Lords, I thank the noble Lords, Lord Kennedy and Lord Beecham, for Amendments 38 and 39, and the noble Baroness, Lady Bakewell, and the noble Lord, Lord Shipley, for Amendment 46. I will address them together.

I am very clear that starter homes are a new product. They are a manifesto commitment designed to serve a pressing new need. Clause 2 sets out the key parameters: a starter home is available to first-time buyers,

under 40—the very gap that the noble Earl, Lord Lytton, referred to—at a minimum discount of 20% of market value and are subject to a price cap.

The proposed amendments would replace the minimum 20% discount on the open-market value with affordability criteria based on average local household income. Any discount would remain in perpetuity. This amendment would remove the 20% discount on local market values. I cannot support that as 20% is a minimum discount and, if they wish, councils would be free to negotiate with developers for a higher discount if that was best for the area. There is evidence that they do that at the moment for affordable housing.

Much was said at Second Reading and on Tuesday about the affordability of starter homes. Research on affordability by Shelter and Savills for the Local Government Association was based on median house prices in each region. I question whether first-time buyers access the market at average house prices, as I pointed out the other day. Starter homes will be valued to align with local house prices for first-time buyers aged under 40. We are working with the sector and professional bodies to ensure that a transparent process is agreed for valuation.

The noble Lord, Lord Kerslake, talked about the Shelter report, which is not out yet—he must be a very important person, as I have not seen it yet. I will be interested to see it when it is published but I must point out that we all agree that London is expensive. I do not think that anybody denies that. In response, I would point out that we estimate that starter homes will be accessible to those with a gross household income of £45,500 in the south-east, as I added up badly yesterday, and of £39,500 in the east of the country.

Lord Campbell-Savours: The noble Lord, Lord Kerslake, challenged the Government's figures on this question of affordability. I think that he quoted a figure of 68% in one case, which is different from the figures that the Government are giving. The Minister said that she was going to have a look at the report. Will she come back at the next stage, when she has seen that report, and give us an explanation of why there is a difference in the stats?

Baroness Williams of Trafford: I can, my Lords. We can all argue about statistics and, given that I have not seen the report, it is very difficult to make a comparison of the different figures. However, I will do so.

Lord Kennedy of Southwark (Lab): In her earlier remarks, the Minister said that authorities could negotiate a higher discount on the property with developers. If they can do that, why can they not negotiate a lower discount as well?

Baroness Williams of Trafford: Because the whole point of the starter home is that it will be available at a discounted level to those under the age of 40. I will give the noble Lord the workings out of why that was arrived at. I am guessing that it was derived for a similar reason to that for the affordable homes discount, which has now been going for many years.

Lord Kennedy of Southwark: That is very helpful, thank you. We used to hear from the Benches opposite about how local authorities knew best but it has all gone very quiet now. I am thinking of the Localism Act, which was never mentioned again from the Benches opposite.

Baroness Williams of Trafford: I do not think that anything changes there. Nobody would promote any louder than I the view that local areas know best but local areas also know that government has certain expectations of them, and it has ever been thus.

The noble Lord, Lord Campbell-Savours, asked me for a breakdown of demand. I elected earlier on to provide that in due course and I will write to him. I do not have it at my fingertips at this point.

Lord Campbell-Savours: Will it be there next week?

Baroness Williams of Trafford: I will try for next week and see what is in the art of the possible.

We have examined the affordability of homes to those who are currently in the private rented sector. If they were to buy a new-build property in the lower quartile of the first-time buyer market outside London, up to 60% of households which are currently renting privately would be able to secure a mortgage on a starter home, compared with 45% who could buy a similar property—

Lord Campbell-Savours: That is the figure being challenged.

Baroness Williams of Trafford: That is the figure being challenged and we will return to it later but in the absence of seeing the report and its figures, I cannot comment on that report at this time.

Lord Beecham: Can I remind the Minister of my request to see a comparison of newly built first-time purchases and any other housing that might be bought by a first-time buyer? I suspect that there is a difference.

Baroness Hollis of Heigham: I take it that the letters will be circulated to all Members taking part in the debate?

Baroness Williams of Trafford: Absolutely, and they will be placed in the Library. I have the implied first-time price of new build—not the demand figures—by region, which might temporarily satisfy noble Lords. In the north-east, it is £138,000; in the north-west, it is £144,000; in Yorkshire and Humberside, it is £144,000; in the east Midlands, it is £152,000; in the West Midlands, it is £148,000; in the east of England, it is £220,000; in London it is £356,000—no surprises there; in the south-east, it is £352,000; in the south-west, it is £179,000; and in the whole of England it is £216,000. I hope that is all right as a starter for ten, but I will endeavour to get those demand figures for next week.

Within London, up to 47% of households that are currently renting privately would be able to secure a mortgage on a new-build starter home—in the lower quartile of the first-time buyer market—compared to 37% who could buy a similar property now, priced at

[Baroness Williams of Trafford]
full market value. This demonstrates that starter homes, at a 20% discount, will provide a genuine opportunity for home ownership for many more households and help them to get a lasting foothold on the property ladder. The noble Lord, Lord Best, talked about the equity loan scheme as being a discount; the very nature of its name implies that it is a loan—it has been extended to 40% in London. But the whole of the debate so far has talked about the inaccessibility of the housing market, particularly for first-time buyers, and London is a really hot case in point. Either we want Londoners to access the London market or we do not—I think that all noble Lords do want Londoners, particularly the young ones, to access the London housing market.

The noble Lord, Lord Best, also said that Help to Buy distorts prices and drives down supply. A government research report that came out last week stated that, actually, Help to Buy does not distort prices but drives up supply. Government research found that 43% of additional new homes built were as a result of Help to Buy. It has, understandably, been an extremely popular product.

Lord Best: I am not saying that the current 20% Help to Buy support has not been helpful in the marketplace. What I am saying is that the increase from 20% to 40% Help to Buy assistance in London, coupled with a 20% discount—that is where the discount comes in, a cash discount—adds together to 60% of the value of the property. The Minister is right to say that I commented that others have criticised the 20% Help to Buy support—I think we have yet to see it, but we can guess that 60% help to people buying in the form of 40% Help to Buy plus 20% discount really is an extraordinary level of assistance to people, much as we sympathise with their need to move out of rented homes if they can.

Baroness Williams of Trafford: I thought that the noble Lord had said discounts, so I apologise if I misheard him. I think I need to reiterate that point: the 40% Help to Buy loan equity plus the 20% discount do not add up to a 60% subsidy. Effectively, 40% of that 60% is in fact a loan and has to be paid back.

Baroness Hollis of Heigham: In that case, why does the Minister think she needs a 20% discount on top of a 40% equity loan—which is, frankly, an interest-free bridge, if you like—which then gets repaid and recycled on to the next, so that, as the noble Earl, Lord Lytton, said, it is not just a one-off windfall for the lucky first-time accessors to that particular property?

4.30 pm

Baroness Williams of Trafford: My Lords, I think I have been over the arguments many times. As I say, this is a new product introduced by the Government, a manifesto commitment to help that demographic which has been so disenfranchised by the buyers' market, and it will help those people to get on the housing ladder. I know that we disagree, but everyone in this Chamber has talked about the particular difficulties of London, and that is why the equity loan guarantee scheme is being extended to 40% in London.

The restrictions imposed by permanent discount can make it more difficult to sell and to move on—I have gone through that earlier today. If a property can only ever be sold at a discount, can the owner easily move upwards to a larger home or to a new area? We want to ensure that the opportunity of home ownership comes with future choices and mobility, and not with more constraints. This is central to our vision for first-time buyers: a genuine discount that provides a genuine opportunity for the long-term future. As I have said, this is particularly important for young people, and we intend that starter homes will continue to be provided until 2020 and well beyond—obviously, we cannot commit a future Government to the priorities of the current Government, but that is our intention. A new supply of starter homes will become available for future first-time buyers, who will benefit from the same opportunities as the earlier buyers.

I will now turn to Amendment 41A, which introduces an alternative to the Government's five-year restriction on sales, and the in-perpetuity model put forward under Amendment 46. This proposes that a 20-year taper is attached to starter homes where a buyer secures an uplift in value of 1% for every year of ownership. However, under this amendment, a couple in their mid-30s buying a starter home as their first house would need to stay there until their mid-50s to realise the full uplift in the value of their property. This seems like a significant restriction on their future mobility and does not support our ambitions for starter homes. Such long-term restrictions would make it more difficult to sell and move on. If the property is sold at a discount, can the owner easily move upwards to a larger home or to a new area? If people find it more difficult to move on, I question whether long-term restrictions will benefit future occupiers.

Lord Campbell-Savours: Would not such people still get the benefit of house price inflation, irrespective of the discount?

Baroness Williams of Trafford: My Lords, they would. But the principle behind the Government's initiative is that within a few years people can start to move up the property ladder, but we want to help them to move on rather more quickly than the noble Lord suggests.

Baroness Blackstone (Lab): My Lords, I am puzzled by what the Minister is saying. There are hundreds of thousands of young people who have had to buy a small flat early in their lives, at the point when they need to have housing. Very often they have got married and they may have a baby. They then have a second child. They make some savings and move to something larger. They do not have big discounts. So why is the Minister saying that this very small group of people should have such a very large sum of money thrown at them? It really is very difficult to understand.

The Minister has said throughout this debate that she is concerned that other forms of housing and tenure should all be provided with support as well, yet everything she says in response to this debate suggests that starter homes have become of such enormous significance to the Government's policy that very large sums of money are being promoted to be provided for

a relatively small group of people who will, very often, not be the really poor or even middle-income young people but relatively well-off young people. I cannot understand why the Minister thinks that, when it comes to wanting to move to a larger house, this group is not capable of doing what everybody that has been in this group before without a starter home benefit has been able to do. It just does not add up. It is also incredibly inequitable. In fact, the whole scheme is incredibly inequitable. I would have thought that the Government would want to look at the distributional consequences of a scheme of this sort: not just the costs and benefits, as was suggested earlier by the noble Lord, Lord Shipley, but who benefits and who does not benefit. The Committee deserves to know something about this, and we have not been told.

At face value, it looks to me as if a large number of people, including young people who want to buy homes, are going to get nothing out of this while a very small number are going to get a great deal and will continue to get a great deal. The Government and the Minister refuse to see that a perpetuity provision such as that proposed in this group of amendments would help to counter some of the criticisms that Members of the Committee have given in the debate this afternoon.

Baroness Williams of Trafford: My Lords, the noble Baroness asks who will benefit. Young people will benefit, and history shows us that it is young people for whom home ownership has been out of reach.

Lord Kerslake: There is a critical point here, which has perhaps been missed. When a couple or an individual seek to buy, they will make choices about what they can afford and, accordingly, where they can buy. In some situations, they will choose somewhere, as was said earlier, of lower value, because that is what they can access by way of mortgage; in other places they will go for somewhere of higher value but with a discount offered. They will make a choice about their purchase at that point. What they are essentially doing, when you put a second charge on a property, is making a trade-off between the discount—and the length of the discount—and the price they have to pay. That is what they are doing.

If you make it five years, anybody will go for that, whether or not they need it, as that will be the only way they can access the property. If you make it 20 years, it is much more likely to be the people who genuinely cannot access full market value who go for the property. This is a crucial point. If you really want to avoid deadweight squeezing out the people who might be able to purchase only with the discount, you have to have a longer taper than five years.

Baroness Williams of Trafford: My Lords, I think we are going to have to disagree on this. The noble Lord, Lord Campbell-Savours, made the point that owners would get the uplift from house price inflation. However, that could be the other way round, as after five years, a house could be worth less. The housing market is cyclical—prices go down as well as up—so there will not necessarily be an increase in the house price after five years.

Lord Campbell-Savours: So people in this particular group who might be subject to deflation are again picked out to be treated specially: they will have their deflation subsidised by others.

Baroness Williams of Trafford: My Lords, this is all relative. When house prices come down, the next house up on the ladder will also be cheaper. Under the proposal of the noble Lord, Lord Best, after five years the couple in question would benefit from a quarter of the discount. I accept that after 20 years they would benefit from the whole discount. I know there is not agreement in the Committee about this, but we want people who work hard and want to move up the housing ladder to be able to do so.

Lord Kennedy of Southwark: We all want people who work hard to move up the housing ladder, but the problem here is that this is such a small group of people.

Baroness Hollis of Heigham: Can the Minister explain something? I think most of us would sympathise with trying to find the best way to help people into owner-occupation, particularly given the pressure of house prices. We could argue whether it should be equity loans, starter home discounts of 20% or anything else, but why this sudden fixation with mobility for people who are no longer first-time buyers but second-time buyers and maybe, subsequently, third-time buyers to be free of any discount so that they can enter the market without having had to save, as my noble friend said, in the way that everybody else has? Why do the Government consider it to be part of their responsibility to help people become second-time buyers?

Baroness Williams of Trafford: My Lords, housing is an issue for government and there is a huge demand on housing in this country. This scheme is not to the exclusion of other products—I must stress that it is not as though we have switched off the tap to all other products. Sitting on these Benches, one might think that there were no other products on the market, but there are. This is one way of helping that demographic for whom home ownership has been so out of reach.

Lord Kennedy of Southwark: I asked a Question this week about people on the living wage for whom homes are out of reach—people who are trapped in the private rented sector. This is not helping those people.

Baroness Williams of Trafford: I did not disagree with the noble Lord. I pointed out the various things that were available, such as shared ownership and affordable rented properties.

Lord Campbell-Savours: There is Section 106.

Baroness Williams of Trafford: There is Section 106, if it is viable for the scheme. There is £20 billion going into the housing market, of which £8 billion is for starter homes. It is one of a number of parts of the jigsaw, but the Government are very keen to promote it. We do not shy away from that: we want people to get on and move up in a reasonable time.

Baroness Hollis of Heigham: But why?

Baroness Williams of Trafford: For all the reasons I have outlined, because of the gap in the market. However, if people find it more difficult to move on, I would question whether long-term restrictions would benefit future occupiers. Allowing first-time buyers to benefit from a genuine discount will increase the vibrancy of the housing market, while the next generation of first-time buyers will benefit from new starter homes coming through the planning system in years to come.

Those homes will provide first-time buyers with the opportunity to move up as their family grows—as the noble Baroness said—or their circumstances change. We are consulting on the five-year restriction for affirmative regulations shortly, and will consider all responses carefully.

Our proposals would prevent starter homes being sold on the open market at full market value for a period of five years after they were first purchased by a first-time buyer. We believe this is important to ensure that starter homes are sold to those who are genuinely committed to living in an area and not to those who would simply wish to sell to secure financial uplift. We want to be clear that a starter home could be sold during the first five years of occupation—that point relates to the question of the noble Lord, Lord McKenzie—but it could be sold on only at 80% of market value to a qualifying first-time buyer. Therefore no money moves anywhere during this period. After that time, the property may be sold at full market value. This proposal will be set out in affirmative regulations following consultation.

Lord Shipley: My Lords, could the Minister please explain who would be responsible for assessing market value?

Baroness Williams of Trafford: My Lords, as I said this morning, we would expect an independent valuation to take place. That would be the fairest way to do things. A number of noble Lords have mentioned that this afternoon.

Our consultation will provide the best opportunity to test our proposals with the sector, including developers and lenders. We need to wait for the outcome to ensure that post-sale restrictions can work well in practice. Introducing tapered discounts over such a long period is complicated and including them in the Bill would limit the flexibility to make adjustments to the way they work in practice if necessary.

On Amendment 40, I assure noble Lords that it is not our intention to allow those people who buy a starter home to become buy-to-let landlords. We will ensure that letting restrictions are included in our regulations. The aim is to provide a place to live in, not a place for absentee landlords to profit from.

Unfortunately, restrictions to any legislation will not prevent gaming at the local level, but I assure noble Lords that we are working with builders, lenders and local government on the best possible mechanism. We will consult on the details for the regulations in a technical consultation to be published shortly.

4.45 pm

Lord Campbell-Savours: I ask the Minister to imagine a sale where a house is being sold on the second occasion. After the valuer has said, "This is the value of the property and that is the discount, so you have to sell it at this price", a person buying finds that he is one of eight people who all want that property. Is there not a danger that one of them will come along and say, "I'll give you an extra £3,000 but don't tell anyone about it"? Are those not the conditions that are going to exist in reality? Estate agents will be party to it, too. They will say, "Yes, that's the price, but I understand that Joe Bloggs is prepared to pay you a few extra bob round the back to make sure that he gets the deal as against the other seven in the queue".

Lord Beecham: For "fixtures and fittings".

Baroness Williams of Trafford: The noble Lord makes an extremely valid point and I will ask about what the mechanism would be there. People will be queueing up for these homes anyway because they are going to be appealing for first-time buyers, but I will ask about the precise mechanism by which that would work—whether, effectively, there is competition in the market. That is a valid question.

Lord Kennedy of Southwark: My noble friend indeed makes a valid point. If people went on to do that, it would be fraudulent activity, so I presume that there would be appropriate penalties. People need to know that, if they behaved like that, they would get caught and pay a heavy price.

Baroness Williams of Trafford: I do not disagree. We would not want to introduce a system that was fraught with potential fraud.

Baroness Hollis of Heigham: But the easy way around that is that you pay £20,000 or £25,000 for the white goods and the carpets. There is no problem in doing that; it is easy.

Baroness Williams of Trafford: My Lords, I turn to Amendment 39A, which would enable Rent to Buy products to be considered as starter homes. We know that there is an appetite among housing providers and developers to deliver more home ownership in new and innovative ways. We know that we need a wider range of products to assist young first-time buyers to access home ownership when a generation is increasingly being priced out. The Government are supporting people who cannot afford a discounted purchase outright through the separate schemes that I have mentioned, such as Rent to Buy, Help to Buy and shared ownership.

Our commitments through this spending review will provide households that cannot yet afford a home on the market but aspire to home ownership in the medium term the opportunity to save for a deposit. It is a good product and, like other valuable products that support access to home ownership, affordable Rent to Buy can be considered by councils as part of their wider affordable housing requirements for their area. The clause will not prevent those developments from coming forward.

This is a new product. Our manifesto was clear that we would build 200,000 starter homes and this is central to our housing ambitions. The electorate will expect us to deliver on our commitment. The starter homes policy is a product for outright purchase that gives people the benefit of home ownership and, importantly, helps them to achieve a step up the ladder. I have tried to answer all noble Lords' questions.

Lord Kerslake: Before the Minister sits down, I understand that Shelter will publish its data very shortly. I was keen to have the latest data for this debate. It would be helpful if the Government could also publish not just their data but the underlying assumptions behind them so that we could have a true like-for-like comparison.

Baroness Williams of Trafford: I can say to the noble Lord that we will certainly request that—he has been teasing us all afternoon. I am looking forward to seeing that report and I am sure that we will debate it in full, comparing those data and the Government's data. I ask noble Lords not to press their amendments.

Lord Beecham: My Lords, I express the thanks of the House to the noble Baroness. She has had a long, difficult and, if I may say so, lonely day in terms of support. Over the lunch break, I suggested to her that she should have a word with the Whips' Office to ensure that somebody else could take some of the load of replying to the debate. Perhaps the noble Lord was sent in for that purpose, but I do not know how well he would have been prepared for it. For the rest of our discussions on the Bill, I hope that the noble Baroness receives more visible and audible support. It is unfair for her to have to deal with all these complicated matters on her own. I compliment her for her patience and good nature, if not for the policies that she is supporting.

In speaking to his amendment, the noble Lord, Lord Best, came out with a rather delightful phrase:

"If the cream is too rich, the cat dies".

It is not quite appropriate in this case because, effectively, the cat is the public purse. The public purse suffers because money is being pumped into this scheme—and it is not just the public purse, but other potential uses for that funding in the housing sector. So it is a rather strange cat that we are looking at.

The noble Lord also referred to the concern of the building industry in that regard. The noble Baroness did not refer to that but seemed to imply that this was a great thing for the industry. However, that is not, apparently, the view of the industry. It would be interesting to see, as we go through the Bill, whether more information comes from that sector.

The noble Lord, Lord Kerslake, referred to Help to Buy and the Minister made some reference to it, too. It is not clear whether and to what extent the relationship between the two concepts has been thought through and whether the impact of the one on the other has been assessed as to eventual outcomes. As usual, there is little in the impact assessment to help us. This clearly needs to be addressed. Help to Buy might decline in the light of this arrangement. Of course, Help to Buy is not confined to this particular age group, but it is not at all clear what the impact of the change would be. The noble Baroness gave some figures for the amount that the scheme costs. It may or may not be cost-effective. On balance, it looks to be a sensible proposition.

Amendment 39A, tabled by the noble Lord, Lord Lansley, who is not in his place, has a good deal to commend it. I hope that the noble Baroness will look at it slightly more sympathetically than she appeared to be doing, although I am not sure if I have read her intentions correctly. The amendment seems a sensible proposition.

The noble Lord, Lord True, referred to distortions in the market. Of course there are distortions in the market, particularly in the capital, with a vast amount of investment flowing into very expensive properties and buildings, many of them apparently for the benefit of overseas citizens who want to park their money somewhere safe. That must have a distorting effect on the whole housing market in the capital. Nothing in the Bill, or anywhere else, appears to address that issue, but the issue surely needs to be addressed—not necessarily in the Bill—as it is a factor in the huge price rises in the capital. It also uses the resources of the industry, which could be building more affordable homes elsewhere but, for obvious reasons, is investing heavily in these hugely expensive and unwanted developments. As the noble Lord rightly says, or implies, this distorts the market.

The amendments to which my noble friend and I have subscribed our names have two potential ways of dealing with the discount. We have signed up to both of them because they are both potential runners and we need to discuss them in further detail, perhaps before we get to Report. One is that the discount should be regarded as being there in perpetuity, which would hold the price down in perpetuity, while the other would taper the discount. They would not necessarily lead to money being paid by a seller as opposed to the price having to be retained at the discounted level—while of course allowing for the house inflation to which my noble friend Lord Campbell-Savours has referred more than once.

This is a hugely complicated area. We all need time to reflect and I hope that that period of reflection will be materially aided by as many answers as the noble Baroness and her team can provide and by advice from those in the industry and those concerned with the problem nationally, bearing in mind that there will be different approaches in different parts of the country, which we very much need to take into account. Having said that, I beg leave to withdraw the amendment in my name.

Amendment 38 withdrawn.

Amendments 39 to 40 not moved.

Amendment 41

Moved by ***Lord Kennedy of Southwark***

41: Clause 2, page 1, line 13, after "cap," insert—

"( ) is built on under-used or unviable brownfield sites not currently identified for housing on public and private land, as determined by the local authority,"

Lord Kennedy of Southwark: My Lords, when I first spoke today I should have drawn the House's attention to my declared interest as a local councillor in the London Borough of Lewisham. I apologise for not doing that sooner. I also echo the comments of my noble friend Lord Beecham and add my genuine thanks to the Minister. This is obviously very difficult and we very much appreciate the way in which she is handling the debate, so we thank her very much for that.

Amendment 41 in my name and in the name of my noble friend Lord Beecham seeks to put in the Bill a requirement for starter homes to be built on underused or unviable brownfield sites that are not currently identified for housing, on land determined by the local authority. The amendment simply seeks to put in the Bill what we believe was the original concept of starter homes. The Government have widened the scope of these starter-home proposals to include every reasonable size of housing site, to be defined in regulations—which, of course, we have not seen as yet. I contend that this goes too far and our amendment leads to a more realistic option, leaving local authorities with greater flexibility for this policy to be delivered alongside what they think is needed to meet the local housing needs.

Again, this seems to be the sort of thing we were being told from the government Dispatch Box not so long ago: "Let local people and local authorities decide". But here again we have more regulations—which, again, we have not had sight of—and the views of local people and local authorities are not taken account of, local flexibility in determining local housing needs is not given priority, while the views of the Secretary of State and Whitehall are. It all seems at odds with the Government's stated policy of localism that was trumpeted from the government Dispatch Box not that long ago. It would be useful if the Minister could address the conflict I see between the policy we are debating today and the Government's policy on localism when she responds at the end of this debate.

Amendment 42, in the names of the noble Baroness, Lady Doocey, and the noble Lord, Lord Kerslake, will be spoken to shortly, but I can say that I am supportive of its intention to keep starter homes separate from dwellings which are part of a housing regeneration scheme. I will make further comments on that during the course of the debate. I beg to move.

5 pm

Baroness Doocey (LD): My Lords, I shall speak to Amendment 42 in my name, which would exempt councils that wish to regenerate estates from the duty to provide starter homes. If councils are forced to put starter homes ahead of replacing council homes when they regenerate estates, resources will be sucked away from replacing council units and existing tenants will be priced out. This would put at risk the Prime Minister's own stated ambition, which is to see 100 of the most run-down estates transformed, with tenants protected.

The reality is that balancing the protection of tenants and unlocking land is extremely difficult. Sometimes a local authority can convince tenants that everything from crime to damp is endemic in the estate's design, and indeed sometimes that is correct. But even if a council manages to persuade people that regeneration is both necessary and desirable, it must then meet two further challenges.

The first is persuading tenants that there will be enough units for everybody who wants to move back to the estate once it has been rebuilt. This right of return is crucial if tenants are to be persuaded to back the regeneration proposals. The second is agreeing a scheme which releases land to build properties for private sale in order to fund the regeneration. This inevitably means an increase in density and raises real concerns that the newly built estate will give pride of place to private dwellings, relegating social housing to less desirable locations.

Councils also have to joust with developers over what is and is not viable in their battle to have social rented units reprovided. Residents are rightly suspicious, because the viability studies which underpin the assumptions about what will and will not stack up are often commercially confidential and hotly contested. Then there is the question of ensuring that leaseholders get a good deal. They should get the market value for their property and they, too, should be able to return to the estate if they wish after the regeneration is complete.

Taken together, those are immense financial, logistical and political headaches, and there is clear evidence that some councils are already having great difficulty. In Southwark, for example, the Heygate estate, which has more than 1,000 council properties, is being redeveloped at the moment. Of the 2,500-plus homes being built, only 79—less than 3%—will be social rented property. These situations can only get worse if the Bill gets on to the statute book unamended.

A recent report of the London Assembly Housing Committee showed that on regenerated estates across London, the number of social rented units has reduced from 30,000 to 22,000. By contrast, the number of private market housing units has increased from 3,000 to 36,000. These figures show the difficulties that local authorities face in the negotiations for these regeneration schemes.

Any local authority with a serious commitment to social housing will be asking the developer for what may well turn out to be a quite impossible mix: to rebuild the estate, to build enough private housing to fund the scheme, to reprovide all the social rented, shared-ownership and leasehold units, and also to provide starter homes. As we have seen from Shelter's research, starter homes are not going to make the situation any better. In practice, the Bill will make the vital principle of a right to return almost impossible to achieve. This means that estates either will not get regenerated or, if they do, it will be done in a way that means not just decamping existing tenants but permanently evicting them from the estates concerned—and some tenants have lived on these estates for generations.

So I ask the Minister to consider how the Government's twin priorities of the provision of starter homes and the regeneration of 100 of Britain's most difficult estates, with existing tenants protected—that is the promise that the Prime Minister made—will sit together. My amendment aims to help the Government to ensure that both objectives are met, and I hope that the Minister will be able to give a constructive response.

Lord Kerslake: My Lords, I add my support to what I think is an excellent amendment from the noble Baroness, Lady Doocey. It absolutely goes to the heart of the practical challenge of estate-based regeneration. Typically, in those situations, you are dealing with stock that is either time-expired or very badly designed, and the only solution there is to redevelop and re-provide on the site. Anybody who has been involved in such schemes will know that the viability of doing this is extremely hard. It is compounded, as the noble Baroness said, by the proper requirement—I emphasise the word "proper"—to ensure that those who live on the estate at the time of the redevelopment can stay on the estate when the development is completed. It typically involves a phased process of redevelopment, decant and then development of the properties that have been freed up.

Yesterday, I was at the unveiling of public art for a scheme in St John's Hill, where the leader of the council, Councillor Govindia, was in attendance as well. That is the first phase of a scheme there. What we have secured on that site is an increase in supply from 351 homes to 528. Of those homes, 249 are for sale and 279 are affordable. The point I make is that that scheme took over five years to get to a point of viability. We had to provide for those who were already living on the estate and we had to cross-subsidise the whole initiative through the market-sale properties on the site. We have there a scheme that we at Peabody can feel genuinely proud of. However, I can tell the Minister that if another requirement was superimposed on that scheme that itself involved the loss of value in the form of starter homes, I do not think that we could have delivered both a viable scheme and met the needs of the tenants. These issues will be replicated up and down the country. We have had a long debate about the pros and cons of this, but it is crucial that in the introduction of starter homes we do not inadvertently create a problem for the practical regeneration of estates that so desperately need it.

Lord Horam: My Lords, I add my voice to the support for Amendment 42 in the name of the noble Baroness, Lady Doocey, and the noble Lord, Lord Kerslake. I am aware, as they have said, that there are many chief executives, of big London boroughs in particular, who are very anxious to regenerate their existing—very often large and troublesome, I must say—estates in an interesting and innovative way. But the first thing they have to do is get the support of the people on the estates. They have votes, and it is no good not giving them the sort of right of return that this amendment involves—you simply would not get the support that you need to go ahead with the kind of development that is necessary.

Although it encapsulates a very important idea, this particular amendment is not right, and perhaps I can anticipate the Minister's response in this respect. I do not think that you can exclude any starter home-type development. It would be wrong to do that, as the amendment appears to, because some sort of mix is needed. None the less, I think that the right of return for existing tenants should be guaranteed. Indeed, that is essential if you are going to get these schemes off the ground.

Lord True: My Lords, I also agree with the underlying force of the amendments. They do not apply only to large developments. In some developments there is pocket regeneration and smaller examples of where a decant and a return is needed. It is a question of where in my first 11 for solving the problem, as it were, starter homes come. Some of these schemes are extremely delicate at the edges, not only as my noble friend said in terms of selling and carrying the support of existing tenants and leaseholders but also on finance.

I was interested to hear my great friend, Councillor Ravi Govindia, the leader of Wandsworth, yesterday. I could testify from my local authority's concern that we need to think about this very carefully. Whether it is rightly addressed by this sort of prescriptive amendment, or by a more concessionary approach to exceptions, which we might discuss between now and Report, I do not know, but I hope that my noble friend will think carefully, because it would be a great pity to lose delicate developments of social housing and estate improvement on the margins. I speak from personal experience when I say that some developments are balancing on the margins at the moment.

Lord Deben (Con): My Lords, I remind the House of my interest of chairing a company which tries to help people to develop sustainably. I come back to the amendment tabled by the noble Lord, Lord Kennedy, about the areas on which such housing could be built. I do not want to restrict it to this kind of housing, starter homes, but I would not like the Committee to miss the fact that this is a housing Bill which does not make some of the fundamental statements which we ought to be making.

Every time anyone tries to deal with a housing problem, those clever people who dislike planning of any kind suggest that we should build on greenfield sites or move into the green belt. We have had another such statement recently. I have been Minister for Housing, and many of us recognise that if you allow people to build on easy sites, they will never build on difficult ones. That is part of the nature of things.

I am disappointed that we bring forward yet another housing Bill in which we do not reiterate the fact that there is plenty of land which has been used on which such housing can be built. Yet again, we give opportunities for largely right-wing think tanks to suggest that we should build on the land which we have no more of, the land which we were given and which needs to be protected. I say that because another interest of mine is sustainability for climate change. We will need this land, and we will need it to be productive, because we will not have enough, unless we are very tough.

Sometimes, a Bill is characterised by what it leaves out rather than what it puts in. This is my only opportunity to raise this matter, so I hope that the noble Lord, Lord Kennedy, will not mind that I do not want to restrict my remarks to what is in the amendment.

I say to my noble friend that we have to start getting real about the limits of a very small island, or series of islands. The only way that we can do that is to say that when land has been used, it must be reused. We are wrong at this time to allow government institutions, quasi-government institutions and former government-owned institutions to retain the land until they can get

[LORD DEBEN]
a better price for it. I have often thought that we should release the whole lot at once to lower the price and say that the public will carry that cost in order to lower the basic price of land—you must have all sorts of protections to do that.

I am deeply disappointed that there should be a Bill about housing which does not at any point approach the crucial issue, which is that we are wrong to despoil any more of our land, whether it be, as one organisation suggested, our parks, our green spots in towns or our green belt and greenfield sites. We have to make sure that once-used land must be developed, and if you allow people easier options, they will not do that. It is time that we faced that fact. Anyone who has been a Minister for Housing knows perfectly well that that is what happens: if you say that 50% of a site will be greenfield, then the bit that gets built is on that while the 50% that is not built is the more difficult area which has to be redeveloped.

I say this to my noble friend: please can we take more seriously this fundamental part of the kind of mix that we are trying to put together?

5.15 pm

Baroness Williams of Trafford: My Lords, I thank the noble Lords, Lord Kennedy, Lord Beecham and Lord Kerslake, and the noble Baroness, Lady Doocey, for their amendments. They give me an opportunity to explain our key parameters for the delivery of starter homes, particularly in relation to unviable and underused brownfield land and housing regeneration schemes.

Perhaps I may start by addressing Amendment 41, which seeks to restrict starter homes to underused and unviable brownfield land in line with our original starter homes exception site policy, as the noble Lord, Lord Kennedy, has said. Let me be clear that we still expect exception sites to make a significant contribution to starter home delivery, and the first planning applications have been submitted under the exception site policy which has been in place since March 2015. We expect these to deliver a substantial number of starter homes, boosting the overall housing supply, and we have consulted on planning policy changes to extend and strengthen this policy, as well as bringing forward more land for starter homes, building on the exception site policy. We want to ensure that sufficient appropriate land is brought forward to meet housing need.

This planning reform will be further strengthened by the £1.2 billion starter home land fund which was announced by the Prime Minister in January. The fund forms a significant part of the £2.3 billion allocated to deliver more starter homes in the spending review and will support further brownfield site preparation, delivering at least 30,000 starter homes. It builds upon £36 million made available this year to secure and prepare more land for a first wave of starter homes, and it includes £8 million offered to councils to support starter homes on 27 underused or vacant brownfield sites across England. The HCA is using the remaining funding to acquire further suitable brownfield sites to drive up housing delivery.

But we also need to deliver starter homes on more conventional housing sites so that first-time buyers across the country can benefit from discounted home ownership. Limiting this would limit the opportunity for home ownership. It will also bring the benefit of a new mix of housing types on site: discounted properties for first-time buyers alongside wider market housing and any shared ownership or rented housing secured on the site. It is our view that the opportunities for first-time buyers have too often been neglected. Starter homes provide for a new model which should be delivered alongside other housing types. My department will be consulting on proposals for starter homes requirement on conventional sites in a technical consultation to be launched in the near future, and we want to look carefully at the proportion of starter homes required.

Lord Kerslake: I apologise for intervening again, but there is a critical point to be made here. When you consider the viability of a regeneration scheme, you can juggle the mix between market, sale, affordable rent and shared ownership, but in the case of the proposals for starter homes, we will have a number dictated by central government that in effect will be required to be delivered. That will have an impact, whether we like it or not, on the viability of a scheme. The issue is the ability to deliver a scheme and the flexibility required to make it viable. That will be significantly impacted by an absolute requirement to deliver starter homes regardless of the other requirements.

Baroness Williams of Trafford: I take the noble Lord's point that the requirement to deliver starter homes might affect the viability of a site. That would be absolutely counterproductive, but it will often be the case that not only will the starter homes requirement be able to be met, but the council, in consultation with the developer, may well be able to provide other types of housing. I particular refer to houses for affordable rent, because they are quite often the grant-funded houses that effectively act as a pump-prime for the construction of homes.

Turning to my noble friend Lord Deben's point on the green belt, we are very committed to protecting the green belt, despite what noble Lords might read in the newspapers, and we are maintaining the strong safeguards that are set out in national planning policy, which allow for development only where special circumstances exist. I agree with my noble friend that once it is gone it can never be got back.

Lord Deben: I just hope that my noble friend will remember that it is not just the green belt that I wish to defend: it is green fields and it is the need to build on land that is already built on, or has been built on, in order to get the homes we need. This is very important part of it; I do not want to restrict our building.

Baroness Williams of Trafford: Yes, I understand my noble friend's point. Under our proposals in the NPPF national planning policy consultation, small-scale development in the green belt for starter homes could take place, but only where it is endorsed by the local community. I take my noble friend's point, certainly in light of recent flooding, about the need to have this

very finely balanced and for green belt not to be used as a sloppy method for builders to be able to build willy-nilly.

Lord Kennedy of Southwark: On that point, the idea for this policy was originally to build on brownfield sites and get them back into use, but the policy has now been widened. As the noble Lord, Lord Deben, said, people will opt for the easier options. I am worried that we will end up with a situation where we will still have the old brownfield sites, because no one wants to build on them, and other options, in our towns and elsewhere, will become more attractive for people to build on.

Baroness Williams of Trafford: I am in total agreement with the noble Lord and with my noble friend. One thing we are testing is whether there should be more flexibility on developing brownfield that is in the green belt—that exists, of course, but it is 0.1% of all green belt. It has been suggested that there should be a bit more flexibility on that, but not on the green belt itself. The noble Lord and my noble friend are absolutely right that these will become go-to sites for developers unless we are very careful.

Amendment 42 seeks to prevent housing regeneration schemes from incorporating starter homes. In January the Prime Minister announced an ambitious new programme to regenerate public sector estates, to tackle deprivation and build more homes. As I announced at this Dispatch Box a couple of weeks ago, £140 million of loan support funding has been made available to support regeneration and encourage investment from the private sector. My noble friend Lord Heseltine has appointed his estates regeneration advisory panel and its first meeting was held in February. Clause 2 is very clear on the definition of a starter home, which we need to ensure our reforms are widely understood. Clause 4 sets out the requirement for the provision of starter homes for residential development. My department will be bringing forward a technical consultation on the requirement so that we get it right.

The consultation will recognise that there are some developments where the inclusion of starter homes could help to secure a diversity of tenures and support mixed communities, but that compulsory inclusion could alter the viability, as my noble friend Lord True pointed out. But as my noble friend Lord Horam said, we should not exclude it at the outset—I think that that is absolutely right. I reassure noble Lords that our consultation will invite views on whether these schemes should be subject to the minimum starter homes requirement. As my noble friend Lord Horam absolutely rightly pointed out, engagement with tenants is crucial.

My noble friend Lord Heseltine was very keen to make sure that this is a truly genuine engagement with tenants, as well as other people involved in the scheme. So we need to wait for the outcome of the consultation to enable us to take into account the views and expertise of the sector. We need to work with those who will make this work on the ground to ensure that we get it right. Setting the requirement through regulations will help us to keep this operation under review and give more flexibility in the future.

Given my comments, I hope that the noble Lord will feel content to withdraw his amendment.

Lord Kennedy of Southwark: My Lords, I thank all noble Lords who have spoken in this short debate—the noble Baroness, Lady Doocey, the noble Lords, Lord Kerslake, Lord Horam and Lord Deben, and, of course, the Minister.

I agree with virtually all the comments that were made, including those of the noble Lord, Lord Deben. The amendment seeks to put the homes policy back to its original intention. In a debate earlier this week, I think it was the noble Lord, Lord Kerslake, who said that we had gone from a concept, to a policy, to an expanded policy and that we have now added more—and we have not yet put a brick down. It is disconcerting to find ourselves in a situation where we do not know what is going to happen. I have voiced my concern in previous debates about how we get these policies, how they are developed and how they find their way into Bills. I do not know whether it is through a right-wing think tank or anything else, but there is an issue about what ends up here for us to discuss. I am supportive of the proposal for the regeneration of estates. Having said that, I am happy at this stage to withdraw my amendment.

Amendment 41 withdrawn.

Amendments 41A to 42 not moved.

Amendment 42A

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

42A: Clause 2, page 2, line 4, leave out "has any other characteristics" and insert "meets any other criteria"

Amendment 42A agreed.

Amendments 43 and 44 not moved.

Amendments 44A and 44B

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

44A: Clause 2, page 2, line 16, after "regulations" insert "—

(a) "

44B: Clause 2, page 2, line 17, at end insert—

"(b) disapply the age requirement in subsection (3)(b) in relation to specified categories of people;

(c) specify circumstances in which a dwelling may still be a starter home even if it is available for purchase by joint purchasers not all of whom meet the age requirement."

Amendments 44A and 44B agreed.

Amendment 45 not moved.

Amendments 45A and 45B

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

45A: Clause 2, page 2, line 21, at end insert—

"( ) Before making regulations under subsection (8) the Secretary of State must consult—

(a) each local planning authority in England,

(b) the Mayor of London, and

(c) any other person the Secretary of State thinks appropriate."

45B: Clause 2, page 2, line 21, at end insert—

"( ) Regulations under this section may amend this Chapter."

Amendments 45A and 45B agreed.

Amendment 46 not moved.

Clause 2, as amended, agreed.

Clause 3: General duty to promote supply of starter homes

Amendments 46A to 48B not moved.

Clause 3 agreed.

Clause 4: Planning permission: provision of starter homes

Amendments 48C to 50 not moved.

Amendment 50A

Moved by ***Lord Cameron of Dillington***

50A: Clause 4, page 3, line 16, at end insert—

"( ) Through regulations the Secretary of State shall require that local planning authorities only allow starter homes on rural exception sites where these are subject to locally agreed "in perpetuity" arrangements and will contribute to delivering a significant increase in the supply of affordable homes to meet local needs, including those for rent.

( ) Rural exception sites—

( ) are small sites in or adjoining rural settlements of less than 3,000 people;

( ) are used for affordable housing in perpetuity where sites would not normally be used for housing;

( ) are sites which seek to accommodate households who are either current residents or have an existing family or employment connection with the community where the development is occurring.

( ) Affordable rent is defined as a rent at or below 80% of open market rents in the locality of the development."

Lord Cameron of Dillington: My Lords, the two amendments in the group concern exception sites and, for the purposes of clarity, they contain definitions of such sites. If you agree with the definitions of affordable housing in perpetuity to accommodate local households and so on, then the amendment needs little explanation. However, this is the House of Lords and so I shall proceed to give one anyway.

The key point is that these,

"sites would not normally be used for housing".

They are outside the village envelope and are usually ordinary farmland or open countryside. In terms of planning, our countryside has two major conflicting pressures. First, there is the desire to keep England both green and pleasant—for the fifth most densely-populated country in the world, we do very well at that. Secondly, we need to resolve the biggest worry of many rural families, namely where on earth their children are going to live.

5.30 pm

Housebuilding is restricted, obviously. Eighty per cent of the population want to live in the countryside—at least the last survey I saw of southern England indicated that—and many people who have worked all their lives in cities want to retire there. So, market forces dictate that rural homes are very expensive. As we all know, average rural wages are lower than their urban counterparts. There is a conflict in priorities here. As a result, exception sites have been born, allowing building outside the normal restrictive rules of planning. This has happened with the strong support of the CPRE, whose very aim is to preserve our green and pleasant land.

These sites are almost always limited in occupation in perpetuity—that is a very important word. They are limited to people who either live or work in the parish or contiguous parishes. Sometimes there is a cascade of choices rippling out from the parish in question, but usually one with a limit. I should add that the houses are usually occupied either as tenancies with affordable rents or under some form of shared equity or shared ownership arrangement. In my village the site is on a 50:50 basis.

Landowners who value the integrated and diverse mix of their communities donate the land, either for free, or for a little over its agricultural value. Occasionally they donate it in exchange for a cottage to house a keyworker, or on some of the larger sites for the right to build one or even two commercial dwellings. Meanwhile, the parish supports these sites because they are assured that the new properties will be for locals in perpetuity, and are not—to quote a phrase I heard at a village meeting—"cheap housing for city misfits". They do not want that.

Sometimes elderly parish councils or communities are the most difficult to persuade. They are terrified that some organisation—dare I say some thoughtless organisation, although I am not trying to point any fingers?—will undermine all the commitments that have been given or are being demanded. As I said at Second Reading, unless there are rules about the permanency of the purposes of these exception sites they will no longer exist. Neither landowners nor parishes will agree to them. That, for instance, is why a decade or so ago we fought so hard to ensure that tenants involved in shared equity deals were not allowed to staircase above 80% equity. If they had been, and had been allowed to get full ownership so that they could sell, it would have killed this very important supply of affordable housing stone dead.

In an ideal world I would not allow starter homes on exception sites at all. This is not only because landowners and parishes would be reassured if this were in the Bill, but also because they serve very little purpose for the normal exception site candidate. They will merely reduce the availability of genuine affordable homes on these small, typically four to 12-house sites. In the spirit of compromise normal to this House, we have proposed that either local planning authorities should be able to ban starter homes from their exception sites, as in Amendment 50C, or else—but preferably in addition—the legislation should insist that all houses on exception sites should be subject to "in perpetuity" arrangements, as in Amendment 50A.

Exception sites provide a much-needed service in rural villages. In 2014-15, some 45% of affordable housing in rural areas was delivered on exception sites. When a village is relatively cut off due to intermittent public transport, or is truly remote, the importance of being able to retain family members within a community

is vital for making that community tick. Family members and long-term neighbouring families are able to look after each other and thus save social services and the local health service unnecessary expense.

Young families housed in these exception sites also tend to be the ones who do all the voluntary work around the parish—running and repairing the village hall, for instance, and mowing the children's play area or the graveyard. There is no one else to do that sort of work in the countryside, where there are rarely council workers to be called on or seen. Exception sites are also vital for providing housing for key workers who need to be nearer their place of work, enabling much-needed local businesses to survive within a rural community. When I say "much-needed", these businesses often provide the only jobs available to local people who are without their own transport.

I hope that the Government will look favourably on our message in these two amendments. We all want to create many more affordable homes in rural areas, if we possibly can. Our point is that exception sites are an important source of such homes. They have an invaluable and proven track record, so please let us not do anything to upset that record. I beg to move.

Lord Young of Cookham: My Lords, it will come as no surprise to my noble friend when I indicate that I have some support for these two amendments. What we are basically seeing is two worthwhile government initiatives coming into contact. On the one hand, there is the rural exception sites policy and on the other hand the starter homes initiative. I quite understand why the Government take the view that they do not want to deprive rural communities of the benefits of starter homes. However, the interface between the two policies is quite difficult. If I did not conceive the rural exceptions policy, I was certainly one of its midwives when it was brought forward in the 1980s. To use an analogy used earlier by the noble Lord, Lord Best, the real risk about this is that the cream will disappear in the form of the sites becoming available.

I know from my own experience of representing a rural constituency in the other place that there were villages where a benign local landowner made land available under the rural exception site policy, in the confidence that the homes provided would be available in perpetuity, as the noble Lord, Lord Cameron, has just said, and at affordable rents. If the landowner feared that those homes would disappear into the market, I am not sure that those sites would ever have been made available.

The features of the rural exception site policy were that, first, you have to do a survey to establish a local need for affordable homes for rent. Secondly, those homes have to be available in perpetuity—normally, for rent through a housing association. In some cases, they are for sale but with a lock such that the discount has to remain there in perpetuity. The starter homes initiative is different in that 80% of market value will still be beyond the reach of many local people, who would have been able to afford an affordable rent under the rural exceptions policy. Also, under the starter homes initiative, after the first time the second purchaser need have no local connections at all.

I understand that the Government are aware of the sensitivities on this. The briefing that we got says that their proposals included,

"using rural exception sites to deliver starter homes in rural areas",

and allowing,

"the flexibility to require a local connection test on these sites".

That is an important concession and, as we heard in earlier debates, it is not a requirement for the starter homes initiative anywhere else. None the less, some extra flexibility is required by either giving discretion to the local authority, as in Amendment 50C, or exempting sites below a certain level from the requirement to have starter homes.

When my noble friend replies to these amendments, I hope she can indicate that the Government are aware of the risk of losing the additional supply which the rural exception sites can provide and of the sensitivities in local areas to the change in the occupancy of these sites via the starter homes initiative, which were well represented by the noble Lord, Lord Cameron. I hope that there can be some flexibility in response to these two amendments.

Lord Deben: My Lords, as another of those involved in getting this policy in the first place, I remember the battle to try to get townspeople to understand the particularity of the problem in the countryside. Just in case—although I look at your Lordships and realise that all will have understood it—I want to repeat the fact that many of our villages, and some would say most of them, are in danger of becoming middle-class, middle-aged and middle-income groups, with hardly an opportunity for anyone else at all. This is a serious social problem. It also creates a community unable to sustain itself. Communities are about all sorts of different people doing different kinds of things and contributing in different ways.

In my former, very rural, constituency, one of the biggest difficulties is that, because there is a large number of older people and a need for a large number of carers, the social mix having been altered because people buy up houses in the countryside, it is more difficult to get carers in those circumstances than it often is in the towns. This never used to be true, but it is true now and it is to do with the social mix that has now been reduced for so much of rural England.

There is a bigger issue here, which hangs round this individual concern for the protection of exception sites. When we had the argument originally—this really is history—we managed to convince people that, because of the planning system itself, we had created a particular kind of shortage in the countryside. Every little house that used to be the house of a farmworker is, once it comes to market, an ideal, bijou residence for the part-time—very often for someone who will retire there. I am not suggesting that second homes are necessarily a bad thing, merely that such houses are so attractive that the price means that they are well out of reach of people living on agricultural wages or the lower wages in the countryside. I do not think that this is something that is bad just for that section of the community—it is bad for the whole community. It creates an artificial community of the kind that many of us deplore in the towns, and it is becoming

[LORD DEBEN]
more and more true of large areas of the countryside. I therefore think that this is a social problem for all of us.

The one way that we managed to get people to be able to gift and to sell at an agricultural land price, or something of that kind, was, as my noble friend Lord Young and the noble Lord, Lord Cameron, said, because they were convinced that we meant it when we said that it was in perpetuity, for local people, and that it would not be changed. It was not only a concept but something that we felt we had committed ourselves to. I am concerned, as are others, that once you undermine people's trust—and I think that the present circumstances without the amendments does undermine that trust—there will be no more land provided in that way. I put it to my noble friend that, if the land does not come forward because we were hoping to have some extra starter homes, what we will have done is to reduce the number of homes all over, not just starter homes but other opportunities.

5.45 pm

So trust is a crucial part of this in order to achieve the end, which the Government have done. In discussing this, it is probably true that all sides of the House understand precisely what the Government are about, and we do not have the kind of clash of disagreement that we have had up to now. If it were possible to have starter homes in this mix in a way which did not reduce the other homes and which provided an opportunity in certain areas, I suspect that the House would be very supportive of it. That is why I think both amendments are really very helpful.

One of them enables us to have starter homes, but in the areas where local people recognise that as a need. In the original agreement, that was precisely why we had the survey to which my noble friend referred. We wanted local people to see that there was a local need and then get other local people, particularly the parish council, to accept that need and to support the building, which otherwise they might have opposed. So it is in that spirit that we say that there should be a local lock on this. That is a reasonable sort of localism, which the Government might well feel they could back.

The last thing I will say is that however we do this, the only thing that really matters is to ensure that land goes on coming forward. Therefore, an absolute determination to show people that we are not weakening the "in perpetuity" element is necessary. It is so necessary that almost anything else does not matter, because that is the reason that decent people who care about their community give their land, which is very often a real cost to them. They are genuinely giving up some real value, but they do it for the sake of the community. We owe it to them to ensure that, having given their land for the sake of the community, they do not feel that we have undone the promise that we made both directly and implicitly.

Lord Campbell-Savours: I want to intervene very briefly. In the old days—certainly when the noble Lord, Lord Deben, was a Minister in the Department of the Environment, if I remember rightly—in the Lake District we had what were called Section 52 agreements, whereby the planning authority placed a requirement on planning permission that people had to live within either a parish or some other defined area. In so far as Amendment 50A deals with,

"affordable homes to meet local needs, including those for rent",

surely locals-only agreements could apply in the case of starter homes in small rural communities. Rather than planning authorities simply saying, "We will not have them. We will exclude them in particular areas", could they not exist within those areas but subject to locals-only agreements?

Lord Deben: They certainly could; the noble Lord is absolutely right. But they would have to exist in a way which meant that they were not lost when the next tenant comes forward. You would have to have them in perpetuity as well. As long as that is the case, I do not mind two hoots.

Lord Campbell-Savours: If I remember rightly, under Section 52 agreements, that was precisely the case: the permission attached to the property was carried forward to subsequent buyers. In this mix of debate whereby it is being suggested that we should be more careful about their inclusion in these rural communities, if you have that kind of restriction in place, I cannot see that there is such a great problem.

Lord Stoneham of Droxford (LD): My Lords, I remind the Committee of my interests as chair of Housing & Care 21. The noble Lord, Lord Cameron, has moved this amendment very fully. I will just mention a local example that illustrates the issue to which the Minister has to respond.

It is a village near where I live in Hampshire on the edge of the South Downs National Park called Wickham—the birthplace of William of Wykeham, the famous Lord Chancellor in the reign of Edward III. It is a nice rural village. A friend of mine who is a local landowner and farmer decided, in the interests of the village, to donate some land as an exception site for approximately 11 properties and a doctors' surgery on the edge of the village. That was done, and the houses were divided between a housing association and a community land trust. When he heard about the right to buy, he was incandescent, because he had given this land in good faith. Despite remaining a substantial landowner in the area, he vowed that it would be the last piece of land he would give up for an exception site.

This is the issue that needs addressing, and that is why I support the amendment. We will come on to other aspects of this particular site when we get to the amendments on community land trusts, but I raise this as an example of why the issue needs to be addressed. That is what the Minister needs to respond to and why it is so important.

The Duke of Somerset (CB): My Lords, I support both these amendments and declare my interest as a rural landowner. Although the idea of encouraging home ownership through starter homes is a very laudable aim, I do not believe that these clauses will be successful in the wider context of rural home provision without

the promotion of other tenure models, such as those we heard about in the earlier groups, which remain in perpetuity. This is the point with the discount.

One of the aims of the Bill should be to keep a balanced mix of tenures, particularly in rural areas, with both rented and owned—partially or entirely—properties. I think the Government have confirmed this is their intention. Despite what the Minister said in an earlier group, the Bill does threaten the future success of rural exception sites, which have delivered many lower-cost homes in communities where local families, often already employed nearby, and supported by the wishes of the community, can find a more affordable house. Such sites make the group with these two amendments different from the earlier ones, but many of the same principles apply.

As we have heard, these sites are provided through the altruism of the landowners selling them. Various figures have been suggested, but this is normally at 10% of the development value. Very few landowners will want to continue to offer this, if after five years the house can be sold on in the open market, perhaps to an incoming second-home owner. If I understood the Minister correctly, we have had slightly contrary answers to this question. In one reply I think she said that the Government were going to take measures to stop purchases by second-home owners, although perhaps I have got that wrong.

Baroness Williams of Trafford: Could the noble Duke repeat that?

The Duke of Somerset: I was under the impression that we had had two contrary replies. On one occasion the Minister said that the Government accepted that second-home owners would be able to purchase such houses eventually, while on another occasion she said that the Government were going to take measures to stop that from happening.

Baroness Williams of Trafford: My Lords, I think the noble Duke is referring to when I talked about second-home owners purchasing starter homes.

The Duke of Somerset: I thank the Minister. Surely it must be sensible to protect the 20% discount in perpetuity, as the amendment suggests, or to use a tapering mechanism; or else to exclude starter homes from rural exception sites. They should also be kept for first-time buyers after the five years.

We have heard various statistics, particularly from Shelter. One published piece of research shows that in order to buy in the countryside, an applicant would need a salary of at least £50,000, with a deposit of £40,000. Those figures are after tax, which is a point that has not been made very much; so they are very high and would probably have to apply to two people in the household. Self-evidently, that is not widely affordable.

The old Section 106 affordable home requirement would be made largely redundant. Perhaps that would mean higher profits for developers, because they would not need to provide a percentage of affordable housing. In the past, that has often been 30% to 50% of the total. This is also going to mean less rental accommodation. Will the council tax banding be based on the open market value, or on the discounted value?

It is important to point out that prospective owners must consider the extra cost of the maintenance of their new houses. That is often included in the rent, and can amount to a large sum. I also want to take the opportunity to suggest that in the past so many new houses have been built to an abysmal standard of appearance and greening. Perhaps this Bill allows a chance for planners to have more say over that. Low-cost and efficiency are not mutually exclusive.

Rural villages need organic, holistic and good-quality growth. Vital assets of infrastructure—transport and medical—pubs and shops all need to be planned together, as I proposed in my Second Reading speech. I may be anticipating a slightly later grouping, but that issue is important.

Let me return to where I started. The main problem is the contention that government funding, especially in rural areas, should be spread equitably between shared ownership, starter homes and renting—that is, mixed tenures. That is why in perpetuity is such an important concept. I support both these amendments.

Lord Best: My Lords, my name is on Amendments 50A and 50C and I rise to support my noble friend Lord Cameron to whom I pay tribute not just for his eloquence today but for setting a perfect example of a landowner who has made available land on very favourable terms to ensure that local people get decent housing. There are other Members of your Lordships' House who have done the same; all of them deserve absolute credit.

I was delighted that the noble Lords, Lord Young and Lord Deben, have also joined in. If tribute has to be paid to the actual founder of the feast, Nicholas Ridley, as Secretary of State at the time, must get the laurels for inventing this particular piece of policy. It is the hope in these amendments that local authorities would not be required always to insist upon starter homes on rural exception sites, knowing that these will be lost to the locality five years later if the purchasers sell up, perhaps to second-home owners for holiday lets or to better-off commuters.

Last year I chaired the Rural Housing Policy Review, which was conducted with the noble Lords, Lords Cameron of Dillington and Lord Taylor of Goss Moor. This review was promoted by Hastoe Housing Association, which is a leading player in the housing association world in this regard. It joined forces with the Campaign to Protect Rural England and the Country Landowners Association to take forward these issues. Our report set out the special position of rural areas, which others have outlined today. From the report I would only add the following additional points.

First, promoting home ownership in rural areas, where people often put down roots and stay for a lifetime, is particularly important. However, a 20% discount will not, on its own, do the trick for affordable starter homes. Shared ownership can be of particular value in those circumstances, with young households buying for half or less than the market value and paying affordable rent on the remainder. The problem, as in so many other cases,

[LORD BEST]
would come from the Government requiring local authorities to push out other contenders to make way for starter homes.

6 pm

Secondly, as the statistics have made so clear, many of the people whom rural areas require to sustain local economies and local communities are not going to find even shared ownership to be within their means. Good old-fashioned affordable housing for rent is of special value in rural areas because the level of affordable rented homes, council houses or housing association properties reaches only 8% of the stock in these localities, compared with 19% in the country at large. The right to buy has led to a greater loss of rural council housing than urban housing. I know that there are many villages where all the council housing, often on the edge of the village, has now been sold. Where housing associations can obtain land at a substantial discount from its open market value, and maybe also where they cross-subsidise with some profits from sales of one or two homes sold outright, the rented option can still be feasible, and we must have the opportunity to continue to pursue it.

Thirdly, since we are not able to have one of our colleagues from the Bishops' Benches with us today, I should add to the comments about helpful landowners by saying that the churches can be invaluable players in rural areas. We know that the Church of England and other denominations can be persuaded to part with sites on excellent terms, but only if the resulting homes are kept available for local people in perpetuity. Glebe land can be ideal for small infill schemes of cottages for local people, and redundant church buildings, such as the church hall that is no longer fit for purpose, may represent the only available opportunity for development in the village. Like other responsible landowners, though, the churches are likely to be unsympathetic if they are asked to make over land on the basis that the initial occupiers can sell in five years to more affluent people and outsiders of the village itself.

Fourthly, the support of the village—not least through the production of the excellent new neighbourhood plans, of which 1,600 are now in the pipeline—as opposed to vociferous opposition will be forthcoming only if housing is being developed for local people and can be held for that purpose in perpetuity. As the noble Lord, Lord Deben, says, without that opportunity it may be that we do not see development at all, and the Government, in quite properly going for greater numbers of new homes being built, will be thwarted by that local opposition, which, as we all know, can be so incredibly powerful.

Lastly, I note that the Government are consulting on the issue of whether starter homes should be required on rural exception sites, and are thinking about an additional test that only those with a local connection can buy these properties. Simply requiring a local connection but still switching the supply from shared ownership and affordable renting to starter homes would, I fear, be of very limited value. We know that in many villages the relationship between the value of village homes and the earnings of those wanting to live and work there are so out of kilter that a continuing insistence on the starter homes model would miss the target in most places. I strongly support the amendments.

Lord Kennedy of Southwark: My Lords, I am fully in support of both these amendments. I agree with virtually all the contributions that have been made by noble Lords. The noble Lord, Lord Deben, very eloquently—certainly more eloquently than I could—set out why the Government should accept these amendments, or at least reflect on them carefully and possibly bring back their own amendments on Report. We on these Benches are very supportive of the point that he made about localism. Obviously the exception sites policy is very important, and to lose this opportunity would be very regrettable for the rural areas. That is why in perpetuity is so important.

We have all heard about keeping rural communities alive and thriving, with people of different ages and occupations, or none, all coming together to build a community. What we do not want to see, as the noble Lord, Lord Deben, explained, is a group of 60-plus people living there, with no other services. That is the route to that community dying and not being sustainable at all.

Baroness Hollis of Heigham: My Lords, I also support these amendments. As a child and as a teenager, I was brought up in a village in south Devon of what we used to call "150 souls". For some time in the 1970s and 1980s I was a parliamentary candidate in a constituency with a large number of rural villages. As we went round from village to village, there were half a dozen council houses here and half a dozen there—hopefully and usually, but not always, having Labour stickers in their windows. Every one of them has gone. What is left are housing association villages. Obviously housing associations are on a voluntary basis but, as the noble Baroness will know, we are going to have a somewhat similar debate over the problems of rural exception sites with right to buy. There will then be the question of whether there is a portable discount, as opposed to the sale of those particular houses, because government recognises that stripping out affordable rented housing from villages or ensuring that new housing is not of that sort will kill those villages.

It is worth reminding ourselves of how poor, how low and how modest some incomes are in such areas. In much of the parts of rural Norfolk that are not occupied by retirees from Essex, by second home owners from Islington or by reasonably new purchasers on the outskirts of Norwich, incomes are exceedingly low. As the noble Lord, Lord Deben, said, many of the people connected to the agricultural and food processing industries, some manual public sector and building and construction workers—and they are mostly men here—will be lucky if they are taking home £20,000 a year before tax. What about their wives and partners? I was checking when we were doing amendments on previous Bills and found that women in those situations, because they did not have a car, were dependent on their locality and were lucky to piece together an income of £5,000 a year. From what? They cleaned caravans, boats and houses. They picked mushrooms and, occasionally, in summer, they might pick fruit.

They amplified that with bar work in the local pub on a weekend. If they could take home £5,000 or £6,000 in total in the course of the year, they regarded themselves as fortunate.

Such people will never buy. What they would like to do is to enjoy an attractive home in which they can keep their roots; where the children can go to the local schools and all of the community virtues, values and emphases that the noble Lord, Lord Cameron and the noble Lord, Deben, have expressed so well are continued. The Government seem to have a conflict of issues here. I am sure that they respect and support the need for communities—particularly viable communities—in more rural areas. The Government also support the philanthropy of landowners, as we all do. At the same time, the Government are also calling for social mobility—for people who actually want to stay, put down roots and make their community thrive. This is inconsistent with the philosophy of starter homes, where you keep your discounts, sell on and make those houses unaffordable to the local community, but you are none the less allowed to buy your next home up the ladder.

I think the Government have to accept that small rural communities are different from the cities, where you have a choice of housing, a choice of occupation and can, to some extent, construct your income. If the Minister does not understand—which I am sure she does—the physical and social immobility and, to some extent, the mental immobility by virtue of family connection, then those villages will die. Certainly, in Norfolk, they are already dying. If all new developments are increasingly monopolised by starter homes and we find, as a result, landowners drying up their donations, particularly to housing associations, then this Government will have the honour of seeing the death of so many of our villages.

Lord Campbell-Savours: My Lords, I wonder if I might intervene again. In some ways I find myself at odds with much of this debate. I do not think that people understand what happens with Section 52 agreements. The noble Lord, Lord Deben, understands them, but I think he was in the department when they were brought in. The effect of a Section 52 agreement is that the smaller the locality that applies to a particular planning permission, the lower the demand for the property, which affects the price. Therefore you can have a house in a village which is free of any restriction that is identical to a house which is covered by a Section 52 agreement, where the locals-only agreement is so containing that it might cover only a few hundred yards, depending on the parish, and one house might be half the price of the other.

I thought that the objective of the people behind this amendment was to ensure that local people were provided for long term in property within their community. I would be a little concerned if we concentrated on development in villages which was simply about rental. I have no problem at all with people buying in villages as long as they do not come in as outsiders and inflate the market, driving up the price. However, if you can create an arrangement whereby, because of Section 52-type agreements, the price is contained within very restricted localities, you can then contain the price and stop huge price inflation bringing in the very people to which some Members of the Committee have taken exception during this debate.

Baroness Williams of Trafford: My Lords, I thank the noble Lords, Lord Best, Lord Cameron, Lord Kennedy, and Lord Stoneham, and thank all noble Lords who have spoken in this debate. They give me the opportunity to set out how we think starter homes can contribute to the important rural housing agenda.

Noble Lords have articulated very well how rural areas have a series of challenges, including being dominated by perhaps a certain age group or second-home owners, and seasonally dominated—I can think of one place in Cornwall, Mousehole, which I am sure the noble Lord, Lord Cameron, knows well, which is almost deserted in the winter and packed so full in the summer that you can hardly move. Further challenges are how the few people that live there sustain themselves during other times of the year and how key workers can be brought in to fulfil certain essential jobs, and so on.

Amendments 50A and 50C are both concerned with rural exception sites. Young first-time buyers face significant affordability pressures in many rural areas, so we want the development of starter homes to make a significant contribution to housebuilding in these areas. The use of rural exception sites is an established means for supporting sensitive housing growth where it is locally supported and meeting local needs. It is very important to underline that. We do not want to undermine the operation of rural exception sites.

Our rural productivity plan, which was published last August, set out priorities for growing the rural economy and the need to increase the availability of housing in rural towns and villages to help them thrive. In our consultation on changes to the NPPF we have consulted on amending the policy on rural exception sites to allow starter homes to be included. The current policy allows for some market housing on rural exception sites to enable some cross-subsidy of affordable housing, and we have tested at consultation whether this mix should include starter homes.

We also consulted on allowing local planning authorities to have the flexibility to require a local connection test on rural exception sites. This reflects the particular needs of rural areas, where local connections can be important and access to the housing market for working people can be difficult, as a number of noble Lords have pointed out. It would also reflect the current local connection tests on rural exception sites.

My noble friends Lord Deben and Lord Young talked about philanthropic landowners; the question of whether they will continue to bring forward their land for the best-intentioned purposes needs to be addressed. We have absolutely no wish to switch off the operation of these sites. They can provide a really good mix of tenures, including private housing for cross-subsidy, and starter homes might be another tenure type.

I would like to make several points here. First, many of the sites that come forward in rural areas are small. When we start to deliberate about the site size for starter homes, it may well be that many sites will not be relevant.

6.15 pm

Baroness Hollis of Heigham: Does the Minister have any idea yet whether she is talking about sites accommodating 12 or 20 homes?

Baroness Williams of Trafford: I do not know but, as I said either earlier today or on Tuesday—the days are rolling together—I expect that the size of the sites will be roughly what we see now in terms of affordable housing. However, that is my guess rather than something that I have been informed about.

Lord Kennedy of Southwark: I thank the noble Baroness for giving way—she has been very kind in that respect. Part of the problem is that you may agree a certain size for a site but then a rumour goes round that that is not the case. Although it may not be the intention, people will fear that these sites will be lost, in which case they will not bring the land forward for use.

Baroness Williams of Trafford: Perhaps I may make another point about covenants, which many philanthropic landlords attach to their sites. We appreciate their benefits. Sometimes sites are donated to the local community and, if the donor wants to put a covenant on the land prohibiting its use for starter homes, that is within their gift. Although, again, we stress the benefits of starter homes in communities that are looking to create homes, we also appreciate the other factors that are in play.

We want to see policies working together. My noble friend Lord Young of Cookham highlighted how well-intentioned policies working together can in fact conflict with each other. We know that we need growth in rural areas to allow young people to stay in the communities in which they grew up. However, we also want neighbourhood planning to play a role in identifying the sites on which starter homes should be built so that there is collaboration between the landowners, the developers and the communities that they serve. That is an important point. One of the benefits of neighbourhood planning has been its collaborative nature, and that must be a factor in the doubling of acceptability of housebuilding that we have seen. Local people feel far more in control in terms of what is put in their community than perhaps they did 10 or 20 years ago. That is not a political point; it is something that we have all learned over the years.

However, we do not agree that starter homes on rural exception sites should be in perpetuity rather than having the five-year restriction that we are proposing. We believe that there should be a consistent model for first-time buyers. Why should rural workers not have the same opportunities as workers in towns and cities? They, too, need to move and grow.

We are currently considering all representations and will issue our formal response to the planning consultation in due course. Any changes to national planning policy will be a material consideration which a local planning authority must take into account when making planning decisions and developing planning policy. If changes are made, starter homes will be an additional, not a replacement, type of affordable housing which can be delivered on these sites following consultation with the local community.

Amendment 50C would allow local councils to ensure that the requirement for starter homes did not have to be met on rural exception sites. We will consult separately on the starter homes requirement for suitable, reasonably-sized sites for the regulations. We will also test in the consultation any exemptions from the requirement. Again, it is right that we discuss this with the housing industry and ensure that we achieve the best outcome.

I want to be clear that the consultation will include a minimum site size for the starter homes requirement. Any sites, urban or rural, below the size threshold will not, as I have said, be subject to the starter homes requirement. Starter homes can be delivered on sites below the threshold but this will not be a compulsory requirement; it will be a matter for local determination.

Baroness Hollis of Heigham: Forgive me for interrupting, but can the Minister tell us when we will know what the minimum size is? Will it be measured in hectares or by planning density? Can the Minister give us a feel for this? Are we talking about an acre?

Baroness Williams of Trafford: My Lords, I would strongly imagine that we are talking about numbers of units.

Baroness Hollis of Heigham: Does the Minister have any idea what sort of numbers she is talking about?

Baroness Williams of Trafford: I do not. What I have said is that I strongly expect—although I do not know—that it would be very much in line with what was expected through the affordable housing duty. However, that is just a guess from me at this point.

Lord Kennedy of Southwark: The Minister said that people living in rural communities should have the right to benefit from the starter homes policy. I am absolutely fine with that, but the whole issue is about how much people earn and whether they would be able to afford these starter homes. My noble friend Lady Hollis has mentioned a number of times that these homes may be unaffordable. During the debate a couple of days ago my noble friend talked about an area in Norfolk where building two or three bungalows in the village would free up some of the family homes in order to get people to go there. It is regrettable that that is going to be the case here. If we stick with this policy, we are not looking at the wider implication that, actually, it is unaffordable for most people in rural areas.

Baroness Williams of Trafford: I do not agree with much of what the noble Lord said. Obviously, the mix of tenures is essential, whether it is starter home level, shared ownership, affordable rents or social rents, and a number of funding streams are available for the different types of tenure. I think that the noble Lord and I may be saying the same thing but in a different way. I hope that the noble Lord will feel happy to withdraw the amendment.

Lord Greaves: Before the noble Lord does that, and I have no doubt that he will, the Minister made some interesting remarks about the importance of neighbourhood planning in relation to starter homes.

At some stage in Committee, she said that there are now 1,600 neighbourhood plans at some stage of gestation. A few of these have been adopted but none of them will be busying themselves at the moment with starter homes, because starter homes are still being discussed in this Committee. What will be the process of neighbourhood planning in relation to starter homes? Will starter homes be put into the mix of that large number of neighbourhood plans that are still being worked out and will go to inspection and referendum, et cetera? Or will it require a process of amendment and change in adopted neighbourhood plans to cater for starter homes, which is, of course, a time-consuming and bureaucratic process? Will there be a presumption that in areas with neighbourhood plans, which are strongly biased towards rural areas and places with parish councils, there will be no starter homes until the neighbourhood planning process has dealt with how many there should be and where they should be?

Baroness Williams of Trafford: My Lords, I think it will be done through amended neighbourhood plans. It also may be done through the NPPF. I will need to come back to the noble Lord on that, because the mechanism is important. I probably would have known the answer about six hours ago but, at this time of the day, I do not know.

Lord Campbell-Savours: Under the starter home arrangements, I envisage in a village half a dozen or a dozen terraced houses sold under this principle, subject to strict locals-only Section 52-type arrangements, whereby there is no great market when you sell at the end of five years and where people have the right of ownership. That enables young families to stay in villages in properties that they own, rather than having to rent.

Baroness Williams of Trafford: My Lords, six terraced houses would be quite a small site size. It is important for noble Lords to know in due course what the site sizes will mean, and I will let the noble Lord know. I am guessing at this point, but six sounds like a very small site size, and therefore probably exempt.

Lord Kennedy of Southwark: Just one final point. I was pleased to hear that we may be agreeing after all; I am not sure that we are, but that would be great. The point about rural areas is not just what happens in 10 years—the important issue is the people who are living there.

Baroness Williams of Trafford: I think I addressed quite a lot of my remarks to the local test.

Lord Cameron of Dillington: My Lords, I thank all noble Lords for their participation in the debate and for their nearly universal support—especially the noble Lords, Lord Young and Lord Deben, who are both old hands in this area—even if they only assisted in the birth of the site, not being the rightful daddy, as the noble Lord, Lord Best, said.

I was reminded when the noble Lord, Lord Deben, was speaking of a phrase that I believe he did conceive when he was Secretary of State at the DoE, "executive ghettos", which is what we are all trying to avoid. I have heard another phrase recently in planning philosophy, which is "place making". What we are trying to do here is place saving, because I hope that, mostly, we already have reasonably good places in the countryside.

The noble Lord, Lord Campbell-Savours, talked about Section 52 agreements. I am not too concerned how we organise the exception sites or homes for locals; the real point about the exception sites is that they are outside the planning system: the land would not normally get planning permission of any sort. It is the cheapness of the land and the way that the house can be built by the housing association which enables houses to be very good value for locals, not only the control of the marketplace, as the noble Lord rightly says, which the Section 52 agreement dictates. They start off being of very low value. I would be very keen on trying to maintain the houses being owned by a housing association; in that way, no one owns them outright so that they can sell them, whether at a low value or not.

I repeat that 45% of all rural affordable houses built in the past year are on exception sites. Without the amendments, the supply of exception sites will dry up; neither landowners nor parishes will accept them. The noble Baroness, Lady Hollis, said that, without them, we could easily kill the village. It depends what your definition of village is, but it would definitely kill the community, which is perhaps the major point, as they very possibly revert to the said executive ghettos.

I am glad that the Minister supported the sentiment behind the amendments, even if she did not totally accept them, but I was very dismayed when she said that starter homes could be allowed on exception sites, and would also still fall out after five years and be sold as homes. That very statement will kill exception sites stone dead. I cannot see parishes or landowners agreeing to continue on that basis. It is all very well saying that the landowner can place a condition of sale, but conditions of sale are very difficult and expensive to enforce, particularly after the first sale.

I hope that we can continue to discuss the arrangements between now and Report so that these executive sites will be able to continue to come forward, but at the moment I do not think they will.

6.30 pm

Lord Best: Perhaps I may intervene and say that before we go home in a really gloomy state of mind, I did catch the point made by the Minister that below a certain number of homes on the site, there is likely to be an exclusion from this whole system. If that number is high enough, an awful lot of rural exception sites will still be possible. Before the noble Lord concludes his remarks, I should say that I cling to that hope.

Lord Cameron of Dillington: As I say, I have no doubt that we will be able to discuss this between now and Report. In the mean time, I beg leave to withdraw the amendment.

Amendment 50A withdrawn.

Amendments 50B to 50E not moved.

Clause 4 agreed.

Amendment 50F

Moved by ***Lord Kennedy of Southwark***

50F: After Clause 4, insert the following new Clause—

"Infrastructure requirement: provision of starter homes

(1) Prior to the first occasion on which planning permission is granted for a site involving starter homes, the Secretary of State must produce an infrastructure plan to be implemented as part of the starter homes programme.

(2) The plan must outline—

(a) which services (such as hospitals, doctors' surgeries and schools) will be built alongside new housing developments involving starter homes, and

(b) where funding for the new infrastructure will come from.

(3) The infrastructure plan must be laid before both Houses of Parliament."

Lord Kennedy of Southwark: My Lords, I am conscious of the time. The amendment, tabled in my name and that of my noble friend Lord Beecham, seeks to place a duty on the Secretary of State to produce an infrastructure plan to be implemented as part of the starter homes programme. This is only a probing amendment but it is particularly relevant to the larger brownfield sites where new housing developments are taking place. We cannot just build a group of houses and have no plans to address the services that are required to make the scheme viable. Those services include access to health services, doctors' surgeries, dentists, schools, shops and transport including bus services—I am not even going to mention rail services. They are all important and need to be taken into account on these brownfield sites.

Amendment 51 in this group seeks to improve the quality of the information that is to be provided under Clause 5. I beg to move.

Baroness Hollis of Heigham: My Lords, I support my noble friend in his Amendment 50F. If we do not do what my noble friend says and ensure that infrastructure and community support are built alongside housing, we will not be building communities, we will be building estates—and many of us know what that problem has meant. Back in the 1950s, Plymouth City Council built estates. It did not build the infrastructure to go along with the housing: community centres, doctors' surgeries, pharmacies, shops and the like. As a result of things like the *Essex Design Guide*, steered in part I suspect by the noble Lord, Lord Deben, in the 1980s, local authorities were encouraged when building developments—in the case of Norwich it was the Bowthorpe estate with something like 15,000 people on it—to build the infrastructure in with the first homes. This included not only shops, community halls, chapels and churches, and of course bus routes and so on, but also small units for industrial use to try to develop to some extent a self-sustaining community.

Within those developments half of the properties went to social housing and half went for sale. In Norwich we could not get builders to build or building societies to lend, so I went to Companies House and got a company from the books in order to make sure that we had a balanced community. To my delight, once when I was in one of the leading stores in Norwich, I heard someone say to someone else, "I see you've bought one of those new houses up at Bowthorpe. What's it like?". She said, "Oh, it's very nice with lots of support and amenities. There's only one thing wrong with it. You can't tell the difference between my home and a council house". That was exactly the compliment I wanted to hear.

What we learned from that development and from the *Essex Design Guide*, which stressed respect for the local environment, was that if you do not put in the infrastructure along with the housing, what you get are soulless estates that are empty during the day and problematic at night. It is deeply important that any developer or local authority which is seeking to develop extensive sites for starter homes should take this into account. I am sure that the Minister knows very well indeed, given her local authority background, that if you do not, you will be building a problem estate from the day you begin.

Baroness Grender: My Lords, Amendment 53, in my name and that of my noble friend Lord Shipley, calls for an annual report by the Secretary of State containing information on the construction and sale of starter homes in the area, and a report on the composition and incomes of people who have purchased starter homes in each area during the relevant period. The amendment has two purposes. The first is to assess progress and the second is to understand who is benefiting from it. I also take this opportunity to say that we support the other amendments in the group. In particular, 50 years on from Shelter being started, the fact that children are still in temporary accommodation reflects a failure for all of us.

Shelter calculates that the starter homes scheme is a significant public subsidy of £8.4 billion, working on the assumption that starter homes sell at 20% less than the average price paid by first-time buyers in England, and that the subsidy per home will be worth about £42,200. Other noble Lords have raised concerns about starter homes being in place of social housing. The noble Lord, Lord Kerslake, set out in some detail how inaccessible this product may be, particularly to families on low wages currently in the private rented sector. But it is worth reminding ourselves that Shelter calculates that the average starter home will be unaffordable even to families on average earnings in some 58% of the country.

Given that starter homes will be sold at a discount from the market price and that this discount will be paid for through a reduction in the usual obligations, and with such a large amount of public subsidy going to the buyers of starter homes, it is vital that the Government and regulators such as the National Audit Office have good evidence as to who is benefiting from such subsidy. This will help them and others to assess whether public money is being well spent in the context of the wider housing crisis.

We have already explored possible abuses of the scheme in some detail. It is critical that the Government take steps to know who is living in them—that is the second part of the amendment—what their incomes are and whether we are reaching the all-important gap in the market that the Minister described today. Given that we already know that 40% of right-to-buy sales are now buy-to-lets, we do not want the same thing to

happen with starter homes. I welcome the Minister's reassurance earlier this afternoon that there will be some kind of mechanism to ensure that that does not happen: I am glad that we have learned that lesson.

I shall talk very briefly—I know it is getting late—about the market confidence among developers in this area. I promise I shall be brief. We have already heard Jones Lang LaSalle referenced a few times as part of the development sector. It says that the UK housebuilding sector will need to see a near 50% increase in capacity if it is to meet the ambitions of the Government's 200,000-plus homes per annum. The jury is very much still out for the Council of Mortgage Lenders: while it is working with the Government to try to make this happen, it worries terribly about this being such a distortion of the market.

There was a very interesting report by Pocket, which is exactly the kind of innovative, private-sector thing that we should be encouraging in London and which produces the kind of homes that starter homes actually look and feel like. It is a highly innovative company, but it says that there is a real danger that this could put off developers such as itself. Its report states:

"For lenders, it is virtually impossible to value a product that only has a five-year shelf life. Lenders will, as a result, limit their exposure to developments with Starter Homes, which, without sufficient credit, will fail to grow in number".

I am sure we will explore issues of market distortion and how developers are feeling—whether they have full confidence in starter homes—over the next few days, but I felt it important to raise it now because it is one reason we believe in this amendment: there should be some mechanism for annually looking at how this is progressing.

The Earl of Lytton: My Lords, I generally support both amendments, up to a point. On Amendment 50F, so ably moved by the noble Lord, Lord Kennedy, the question of infrastructure clearly goes beyond starter homes alone. For example, in certain coastal towns along the south coast it has become evident from my travels to and fro that the amount of development in what I call the suburban areas has now produced difficult traffic conditions—not because of the development process but because of the subsequent use which is causing an overload on feeder roads. This, I fear, will become an increasing problem because alternative forms of transport for journeys to work have not had the necessary investment and it does not look like they are going to get it any time soon. For instance, the high-quality rapid-transit type of bus such as you have in large parts of central London—where you can see when the next bus is coming and where it is going to—is not there. It is a considerable problem.

We know that doctors' surgeries, schools and other infrastructure are not keeping pace with the state of development. The noble Lord, Lord Kennedy, is right that we have to look at the broader picture of the setting—otherwise we will be creating the latter-day slums of tomorrow while we are trying to create high-quality homes. I say high-quality homes because I had the privilege of serving on the Select Committee on National Policy for the Built Environment, which looked particularly at the need for decent quality and not just building anything at any price with all that that means.

On the amendment in the name of the noble Baroness, Lady Grender, I understood her to be referring to what I know as post-occupancy evaluation. I hope I have not used the wrong term. Some years ago, an All-Party Parliamentary Group on the Built Environment—which is not the same thing as a Select Committee, I hasten to add—on which I also had the privilege to serve, produced a report on procurement. It identified various shortcomings in the procurement process. First, the people who were doing the procuring—they might have been a particular subsector of local government, school governors or parish councillors—did not have the tools or the ability to deal with the procurement themselves and were not bringing in the necessary skills required to do that properly. What they were procuring ended up not serving its proper purpose, not having any reuse value, being over budget and not being properly controlled. That failure, in particular, identified a complete absence of post-occupancy evaluation—in this respect, it pointed the finger rather pertinently at many government departments. You did not have any feedback as to where you were going wrong and so you made the same mistakes all over again the next time round. We have got to do better with this.

The noble Lord, Lord Deben, referred to the scarcity of the precious space that is available for development without impinging on the green spaces outside. I say hooray to that. However, the process is getting much more demanding than it used to be. If you do not want to create cramming, if you want to create greater density and the best use of urban, previously developed land, then we have got to be smarter about how we do it. The two amendments seem to address aspects of being smarter about it and I support the principle that lies behind them. I hope the Minister will consider them in that tone.

Lord Greaves: My Lords, I support a great deal of what the noble Earl, Lord Lytton, has said about the importance of infrastructure in relation to housing. I am greatly worried that there is now such a housing crisis in this country that we are doing exactly what the noble Earl suggested and failing to learn the lessons of the past. At times in the past in the post-war years, large numbers of houses were built but infrastructure and services were not put in and local authorities spent a long time playing catch-up. In some cases they did not succeed because of the problems which existed on those estates. So what has been said is absolutely right. There is a huge danger that under the pressures to find ways of building more and more houses the proper overall planning of houses as part of future communities is being forgotten in too many areas.

6.45 pm

However, I do not think that Amendment 50F is the right way forward. It is an extraordinary amendment which would give the Secretary of State the duty to produce an infrastructure plan for every new estate built in England, which must then be laid before the House of Commons and the House of Lords. I am a huge believer in the importance of the House of Lords and the work that we do here, and I do not think that our powers should be reduced, but I really do not think that we should be scrutinising infrastructure

plans for every new estate. I forecast that this is not an amendment that the Labour Front Bench will bring back on Report.

Baroness Young of Old Scone (Lab): My Lords, regardless of whether the Labour Front Bench brings this amendment back on Report, it still encapsulates an important principle. Perhaps I can draw the Minister on the issue of infrastructure provisions.

It is true that the dash for the development of starter homes at all costs runs the risk of producing poor-quality homes that are inadequately served by infrastructure. Although we are not yet at the point in the Bill where we talk about permission in principle and, in particular, brownfield registers, it is important that we hear from the Minister, before we reach that point, how those provisions will take account of the need for planned infrastructure alongside fast-track provisions to get starter homes and new housing developments on to small-scale brownfield sites quickly. We need to hear how they will do so without transgressing the very important requirements for good infrastructure and principles of design.

I have asked the Minister in several ways and on several occasions—I keep promising her a letter which I have not yet written—for a flow chart on the "permission in principle" issue that shows when various factors will be taken into account and when various consultations will take place on the provision of infrastructure such as schools, doctors' surgeries, roads, sewerage and plumbing, as well as an assessment of the downside of development on these sites, taking into account biodiversity conservation, flood risk management and an assessment of whether there is enough water available to flush away sewage.

I remember volubly—although I should not at this stage, on this day and at this time, give an anecdote—how in Basingstoke at one stage of its housing development there was enough water to allow people either to clean their teeth or to flush away their sewage but not enough for both. We have got to get these infrastructure issues right well before the fast-track development processes are put in place. Perhaps I may also press the Minister to give me my flow chart before we come to discuss the "permission in principle" part of the Bill. I will be extremely grateful if she does.

Lord Deben: I support the noble Baroness opposite. This is not a sensible amendment and I am sure that my noble friend will not accept it. It is not sensible for the reasons that the noble Lord, Lord Greaves, put forward. It also reminds us that we are going to come on to the whole question of infrastructure. Again, this is a Bill that does not say what I hoped it would about greenfield sites. It has also not faced a number of infrastructure issues. It is, therefore, going to have this kind of amendment—whether good or bad—because these issues have to be faced. For example, I do not see how we can go forward with the starter homes concept—which I agree with; I am very supportive of my noble friend on it—if we go on having a situation where, whenever anybody gets a planning permission, not only does the local water authority not have the right to be consulted but it has to connect any new property to the sewage system even if that causes a flooding risk. We have not faced that issue and yet we have a Bill which is about all of that.

It seems that there is quite a lot of work to do between now and the point where we get to that issue. I feel that I ought to warn my noble friend that we will have to discuss those issues in detail if we are to give her the support which many of us would like to give, because they are not yet in the Bill and we need to have them there.

Baroness Williams of Trafford: My Lords, this has been an interesting debate and I thank all of your Lordships who have taken part. Perhaps I may start by addressing Amendments 51 and 52. Clause 5(4) already makes provision that an authority must make these reports "available to the public". The clause also provides that the Secretary of State may make regulations "about their timing" and whether they should be combined with the local authority's authority monitoring report. The authority monitoring report is an existing requirement, which must be published on at least an annual basis. We do not want to introduce unnecessary burdens and it would be sensible to combine starter-home reporting with this existing requirement. We will be consulting on the monitoring requirements associated with starter homes shortly. We want to understand wider views on what the reports should contain and their arrangements for publication.

Furthermore, local planning authorities are already required to report on affordable housing delivery. They must report on the extent to which their planning policies are being achieved through their authority monitoring reports. This is a statutory requirement in Regulation 34 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Measures under this amendment are already covered by the legal framework.

Amendment 52 would require all local planning authorities to demonstrate that these sites were not otherwise needed for employment, retail, leisure, industrial or distribution use. Our planning policies look to encourage the productive use of brownfield land. Our starter homes exception site policy has a crucial role in delivering starter homes by providing new and cheaper land to be used for housing—and, because the land tends to have a lower value, this helps to improve the viability of starter home developments. This is why we have consulted on extending and strengthening this policy as part of our national planning policy consultation. Let me be clear: this is not about building houses at the expense of all other types of use but about releasing land where there is no reasonable prospect of it being used for its original purpose.

As part of the consultation, we invited comments on evidence to be used to justify the retention of land for commercial or similar uses and on whether there should be a fixed time limit on land retained for commercial uses. We expect local authorities to be proactive in identifying and publicising these exception sites and, where applications for starter homes come forward, in being prepared to give planning permission. The intention behind the new duty to promote starter homes in Clause 3 is to encourage local authorities to do this. Before they grant that permission, of course,

local authorities will need to assure themselves that this brownfield land is an exception site and, in particular, that it is underused and unviable in its current land use. I believe that local authorities are capable of taking this decision using our guidance without the Government monitoring them. For this reason, Amendment 52, which would require all local planning authorities to report in detail about the appropriateness of sites, is unnecessary and bureaucratic.

Amendment 53 would require the Secretary of State to prepare a report on an annual basis containing information on the construction and sale of starter homes in the area of each local authority. As part of this, the report should contain information about the household composition and incomes of persons who have purchased a starter home in each area. As the noble Lord, Lord Greaves, put it rather articulately, this would not be a particularly proportionate approach to reporting on the operation of the policy. Any monitoring requirements should not be overly onerous or waste precious resources. I believe that reports should be published at local level, to ensure that first-time buyers can access them easily and that local councils can be accountable.

Baroness Grender: My noble friend Lord Greaves was actually talking about the main Labour amendment and not Amendment 53, just to be clear.

Baroness Williams of Trafford: I do apologise—I was trying to give him credit because I disagree with him on quite a lot of things. But he knows what I mean.

Lord Greaves: I think that the Minister was trying to stir up trouble on these Benches—I would not dare to contradict my noble friend Lady Grender.

Baroness Williams of Trafford: I was not trying to stir up trouble—honestly, my Lords, it is getting a bit late for that. Amendment 50F is, I think, the appropriate one, which the noble Lord articulated very well. It would seem to be quite strange for the Secretary of State to produce an infrastructure plan as part of the starter-homes programme.

We particularly want to see local authorities and infrastructure providers planning positively for the broad infrastructure needs of their areas as part of local plan-making, and our starter homes reforms will not change this. In particular, local planning authorities will still be able to secure Section 106 contributions—which we spoke about earlier—for site-specific infrastructure improvements required for development, including new roads or financial contributions to local schools. Finally, we have announced a £1.2 billion fund to ensure that sites are prepared and have suitable infrastructure on site. This will support delivery of starter homes on brownfield land.

A couple of noble Lords talked about design, and I wholeheartedly agree about innovative and energy-efficient design. The Government have a design panel looking specifically at avoiding, I suppose, some of the mistakes of the past and providing far more innovative designs for the huge number of houses that we are expecting to deliver.

I thank the noble Lords, Lord Kennedy, Lord Beecham, Lord Kerslake, and Lord Best—in fact, the noble Lord, Lord Beecham, has gone so I will not thank him—for explaining why they have concerns about Clause 6. This direction would state that the incompatible policy must not be taken into account when certain planning decisions are taken. The remaining local development documents would not be affected and the local planning authority may still have regard to these in its decision-making in the usual way. The compliance direction would not apply to policies forming part of neighbourhood plans and the local plan. Communities would continue to shape development in the area. This is a reasonable and balanced approach.

The compliance direction must set out the Secretary of State's reasoning for making the direction and must be published. A copy must be given to the local planning authority and the compliance direction would remain in force until revoked by a further direction given by the Secretary of State. We will set out very clear guidance on the operation of the duties so that all local planning authorities are fully aware of what they need to do to comply with them. I will reassure noble Lords at this point that the compliance direction is a backstop provision. It will only be used in limited circumstances where the local planning authority is in breach of its starter-home duties and we envisage that it would be rarely used

The Secretary of State will decide whether to issue the compliance direction based on information within the monitoring reports that local planning authorities are required to produce under Clause 5. There will be the opportunity for councils to submit further evidence to the Secretary of State and any exceptional circumstances could be considered at this point. It will only be revoked by a further direction if the Secretary of State is satisfied that the local planning authority has taken adequate steps to meet its duty.

Turning now to the amendment to Clause 7, Amendment 53D seeks to place a duty on the Secretary of State to publish a strategy that includes targets for reducing the number of children living in temporary accommodation with their families. Under the Homelessness Act 2002, all local housing authorities must have in place a homelessness strategy and must consult public or local authorities, voluntary organisations or other persons, as they consider appropriate.

Each housing authority records information pertaining to its statutory homelessness activities under Part 7 of the Housing Act 1996. This includes the number of households and children in different types of temporary accommodation on a quarterly basis. The data are published on the GOV.UK website and allow comparison at a local authority, regional and national level. I think that it is unnecessary. Local housing authorities already record the number of children in temporary accommodation. They have clear duties to secure settled accommodation for them and must produce a homelessness strategy setting out how they will tackle the issue.

To conclude, I think that the Government's current proposals strike the right balance. At this stage, I hope that the noble Lord will be happy to withdraw his amendment.

7 pm

Lord Greaves: Before the noble Lord speaks, I have a question for the Minister. I am trying to work out how the compliance directions will work. Are they intended to apply to future development plan documents, including the core strategy or whatever and site allocations, or retrospectively to development plan documents that have already been historically agreed and which have things in them that conflict with the concept of starter homes?

Baroness Williams of Trafford: My Lords, I think that they will be for future plans, because they will include starter homes, but I will correct that if I am wrong.

Lord Greaves: In that case, why is it necessary to do this? Why cannot any defect in relation to starter homes be dealt with during the inspection?

Baroness Williams of Trafford: My Lords, that is a very good question. Can I come back to the noble Lord on that?

Lord Kennedy of Southwark: My Lords, I thank everyone who has spoken in the debate this evening. My amendment was only a probing amendment, although I fully accept that it is not the best that I have ever proposed from this Bench or elsewhere in the House. It is important that we had a debate on infrastructure, and we will discuss that further in the days ahead. It is very likely that it will come back to us on Report.

I very much agree with the noble Baroness, Lady Grender, on her concerns about developers having these proposals. I am also grateful to the noble Earl, Lord Lytton, for his support, as well as my noble friends Lady Hollis of Heigham and Lady Young. With that, I beg leave to withdraw the amendment.

Amendment 50F withdrawn.

Clause 5: Monitoring

Amendments 50G to 53 not moved.

Clause 5 agreed.

Clause 6: Compliance directions

Amendments 53ZA to 53B not moved.

Clause 6 agreed.

Clause 7: Interpretation of this Chapter

Amendment 53C not moved.

Clause 7 agreed.

Amendment 53D not moved.

Amendment 53E

Moved by ***Lord Kennedy of Southwark***

53E: After Clause 7, insert the following new Clause—

"Sunset provision: sections 1 to 7

(1) Subject to the following provisions of this section, sections 1 to 7 of this Act are repealed at the end of the period of three years beginning with the day on which this Act is passed.

(2) The Secretary of State may by regulations made by statutory instrument provide that the provisions of sections 1 to 7 are not repealed in accordance with subsection (1) but instead continue in force indefinitely, or for a specified period of time.

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

Lord Kennedy of Southwark: My Lords, I will be as brief as I can. This amendment is in my name and that of my noble friend Lord Beecham. No one can deny that the sections of the Bill on starter homes are not without their critics. They include an interesting policy idea for building homes on brownfield sites that had not previously been considered for housing, having transformed overnight into the main housing policy for the Government to the exclusion of all others. This has been done without a Green Paper, without a White Paper, without any pre-legislative scrutiny or proper consultation and without any testing to see if this is the right way forward to deliver the homes that we all agree need to be built. I hope that noble Lords, whatever their view, can all agree that it is a bit risky and not the way to roll out a new policy. The saying "Act in haste, repent at leisure" could not refer to a more suitable policy.

On top of that, we must not forget that we have not seen a regulation yet, and we are not going to see the regulations perhaps until the autumn—which, when we consider the implications of this Bill, is nothing short of outrageous.

To try to bring some order to the whole process, we put down Amendment 53E for consideration by your Lordships' House. It would provide for a sunset clause to bring an end to the programme unless the Secretary of State makes regulations for these clauses not to be repealed. That statutory instrument would have to be laid and approved by both Houses of Parliament. The period of three years was selected because we are in a fixed-term Parliament, so the Government can accept this amendment in the full knowledge that they will be able to get the regulations through Parliament without the risk of a general election getting in the way—unless of course some unforeseen circumstances arise. This is a useful device for the Government to consider, and I hope the noble Baroness will look at it carefully. I beg to move.

Baroness Williams of Trafford: My Lords, the noble Lord has just left me with a very horrible thought, but I thank him and the noble Lord, Lord Beecham, in his absence, for their amendment to introduce a sunset clause to the starter homes provisions. The effect would be that the starter homes provisions would be repealed unless affirmative regulations permitted them to continue.

I am sure the noble Lord will not be surprised that I strongly resist this amendment. This Government made a manifesto commitment to deliver 200,000 starter homes. The electorate supported the manifesto and expect the Government to deliver. We intend starter homes to be a new but enduring aspect of housing delivery. We have heard how first-time buyers are increasingly unable to access the housing market, and

we want to ensure there are new opportunities for home ownership and to support young people into home ownership.

A sunset clause would introduce uncertainty to delivery. It would cause developers to pause as the sunset period approached and would be unhelpful not only in starter home delivery but in overall housing supply. If we want to achieve the uplift in housing supply we need, we must give clarity about the future rather than uncertain messages.

I accept that starter homes are new and we are embarking on a new journey in affordable housing delivery. We have made provision in regulations that give us flexibility for the future in setting the starter home requirement, the minimum site threshold and any exemptions to the requirement. With that assurance, I hope that the noble Lord will withdraw the amendment.

Lord Kennedy of Southwark: I am very happy to withdraw my amendment, but want to place on the record our thanks from these Benches, and from the whole Committee, to the noble Baroness. She has handled the debate today and all the questions from around the Committee with great skill. We appreciate that she has been very kind to us all and thank her very much for that. With that, I beg leave to withdraw the amendment.

Amendment 53E withdrawn.

House resumed.

House adjourned at 7.08 pm.

Grand Committee

Thursday 3 March 2016

Armed Forces Bill

Committee (2nd day)

2 pm

The Deputy Chairman of Committees (Baroness Henig) (Lab): My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Amendment 10

Moved by ***Lord Craig of Radley***

10: After Clause 14, insert the following new Clause—

"Limitation on prosecutions of members of the armed forces

No member of the armed forces may be prosecuted for any offence alleged to have taken place more than 20 years ago while the member of the armed forces was engaged in military operations outside the United Kingdom."

Lord Craig of Radley (CB): My Lords, this is clearly a probing amendment. It flies in the face of the norm that there is, in general, no time limit on investigating or bringing a charge for alleged criminal behaviour. My reason for tabling such an amendment is to encourage debate and a reasoned response from the Government. I shall not repeat my arguments, given at Second Reading, for bringing this to the Committee now. Noble Lords are well aware of the industrial growth in historical cases of alleged criminal behaviour of service personnel, going back over time not just years but decades. The Bill clearly indicates that it is acceptable for the Armed Forces to be treated differently in legislation where there is a military operational reason for so doing. An amendment on these lines, not necessarily using my precise words, would fit that purpose.

The growth in the number of historical claims now being dealt with by the MoD has been the topic of recent media coverage, which has quoted the irritation of Ministers and even the concern of the Prime Minister. Therefore, I hope to hear not only that the MoD is well aware of the growing problem but that it has specific plans in mind to tackle it. If it is to be by some form of inclusion in the Bill of Rights that we have recently heard about in the Chamber, I urge that it should be in the form of an amendment to the Bill before the Committee today. Better still, as I have already proposed—although I do not do so now with great hope—why not include the relevant part in the Bill before the Committee?

Wherever possible, legislation that applies to the discipline and behaviour of our Armed Forces should be contained in one Act. Not only will this alleviate the problem of potential conflicts between Acts, as has been happening with the Human Rights Act, it will make it easier for the Armed Forces themselves to be aware of and to be dealt with by their own specific legislation. I look forward to the Minister's response on that point. I hope he will be as forthcoming as possible about the Government's intentions in this area so that the opportunity to debate and help form acceptable legislation is not missed. This should not be in any way a party matter and I hope the debate will avoid any such approach. The Armed Forces are ultimately responsible to the Government of the day, regardless of which party may be in power. I look forward to the noble Earl's response. I beg to move.

Lord Hope of Craighead (CB): I just want to make one or two short points. It is interesting that although the noble and gallant Lord is perfectly correct that it is not the practice in the United Kingdom for there to be any statutory limitation on prosecution for crimes other than summary crimes, it is quite commonplace in the civil law countries for there to be limitations. So our allies in France or Germany, for example, would, I suspect, be protected by a limitation of the kind proposed. I am not suggesting that we should adopt that philosophy, which is quite contrary to our practice, as we can see in cases of historical child abuse. I wonder, however, whether the wiser course, rather than going into the area of limitation, which is so difficult and would be seen as an invitation to start doing this for other crimes, would be simply to have a blanket immunity for our servicemen when engaged in military operations, of the kind that I think used to be the case—I stand to be corrected—before the law was changed some years ago by the previous Armed Forces Act. This is certainly an important point to consider, but I favour doing so not by way of limitation but by way of exclusion entirely for acts of that kind while engaged on military operations, while making it quite clear that we are not dealing with cases of one serviceman on another—let us say of one serviceman assaulting another, stealing from him or things like that.

Lord Brown of Eaton-under-Heywood (CB): My Lords, as I indicated at Second Reading, I, too, am entirely sympathetic to the general feeling underlying this amendment. As the noble and gallant Lord has said, he is not wedded to this language. I am not clear, for example, whether,

"engaged in military operations outside the United Kingdom",

would include peacekeeping operations in Northern Ireland, or matters of that character. However, I also see the basic difficulty, as my noble and learned friend Lord Hope indicates. This is certainly contrary and alien to English law down the years. We recognise the problems of delay, and if you can show plain and incurable prejudice through delay, you might well get the cases struck out. One would hope for a measure of fastidious thought before anybody launches prosecutions in these cases. It is deeply offensive to people that, in relation to the problems in Northern Ireland, amnesty was given to a whole lot of terrorists, but there is still a risk, apparently, on the part of the soldiers who were acting on our behalf.

I am a bit troubled by my noble and learned friend Lord Hope's suggestion of a blanket immunity. What happens if there is a clear case of murder on the face of it? Should we really, with ample evidence and so forth, say that there can be no prosecution? I do not know: would Sergeant Blackman have taken the benefit

[Lord Brown of Eaton-under-Heywood]
of that? One must have regard to where these things go, but I certainly hope that the Government will give very sympathetic thought to this. A clever and ingenious lawyer might be able to find some formula whereby what I suspect all of us here feel could be reflected in some form of protection for those on active service abroad.

Baroness Smith of Newnham (LD): My Lords, I was not able to speak at Second Reading, and I would like to briefly reassure the noble and gallant Lord, Lord Craig, that the Liberal Democrats have no intention whatever of trying to sabotage this Bill in any vainglorious or other way. We are committed to the Bill, and, like other Members of your Lordships' Committee, to ensuring that the Bill becomes as good as it can be.

We do not wish to civilianise the Armed Forces, as the noble Viscount, Lord Slim, said on Tuesday: we certainly have no intention of doing that. However, there are some concerns about this amendment. Although I accept that it is a probing amendment, we share the concerns of the noble and learned Lord, Lord Brown of Eaton-under-Heywood, that there is a danger in either a blanket limitation or looking at things that are any sort of military operation. There may be cases that clearly should not be dealt with after 20 years; there may be other cases that need to be looked at. In cases of murder, rape or the sort of crimes that we were talking about in previous amendments, it would seem extremely strange to service men and women and their families if we somehow said, "If this happened in civilian life, you might get closure, but if it happens while your son or daughter is overseas engaged in military operations, there is a 20-year cut-off, and the rule of law no longer holds". I ask the Minister whether it would be possible to find a way of dealing with the genuine concerns that have been put forward in the amendment that would ensure that service men and women and their families felt reassured that they were not going to lose the rule of law as would normally be expected.

Earl Attlee (Con): My Lords, I share the concerns of the noble and gallant Lord, Lord Craig. I am particularly concerned about putting retired servicemen in the frame again after there has been a judicial inquiry. It might be that a subsequent judicial inquiry comes to a different conclusion, but once you have had a judicial inquiry and no prosecutions have arisen, servicemen ought to be able to carry on with their duties, retire and not worry about further legal action; they should not be worrying about further legal action for the rest of their natural lives. I very much support the general thrust of his amendment, therefore, but perhaps it needs some more tests—in particular, in relation to the case we are obviously talking about but not mentioning, that there has been a judicial inquiry.

Lord Tunnicliffe (Lab): My Lords, we recognise that there is an issue in this area, but, according to my understanding of the law, this is not the way to address it. As I understand the application of the law to service personnel, they come under both the military law—the 2006 Act—and the general law of the land. This is not generally a problem, as, by arrangement between the two authorities, a decision will be taken about which law someone is prosecuted under.

I understand—I may not be right—that there are statute of limitation provisions in service law but no significant statute of limitations in English criminal law. There is a considerable statute of limitations in civil claims—a great big schedule—but the application of a statute of limitations in criminal law is limited to summary offences only. In practice, from my brief research this morning, that generally seems to mean motoring offences in magistrates' courts. To introduce a limitation of this magnitude into the normal body of English law, which is what we would be doing, would be a radical change, and I do not believe the Bill is the right vehicle to introduce such a radical change for one narrow purpose.

Many would argue that we should rethink the whole issue and that the prosecution of historical cases is not sound. The only time I have been in court as a witness, my evidence was useless, because it referred to things that had happened at a meeting—one of about 400 I would have had that year—six years before. I was asked for precise details, and my standard, and absolutely honest, answer was, "I cannot recall". I have trouble remembering most of the details of last week, never mind 10 years ago. So there is a real evidential case for looking at that issue.

Nevertheless, public opinion is, in many ways, the very opposite at the moment. In many ways, public opinion, particularly in the sexual cases coming before the courts at the moment, is in favour of pursuing historical cases—in one case related to this House, even after the death of the supposed perpetrator. There is a real tension between public opinion and the whole "old evidence" issue, which I think has some validity and which I suspect wider society will need to debate in the years to come.

In our view, a change as radical as this—as I understand it—for such a narrow purpose should not be in the Bill and should not go forward without wide public discussion and analysis and a recognition that it would have to flow right through criminal law. It cannot realistically be related to this single, narrow area.

2.15 pm

Lord Thomas of Gresford (LD): My Lords, there is no limitation on serious criminal cases, and that is part of the criminal law. In this area, I think of the war crimes that, until very recently, were still being brought forward relating to the Second World War as a result of investigations into the actions of German soldiers in prison camps and elsewhere. The thought that that type of case would be barred through limitation would have a very unfortunate effect on the victims of the Holocaust, who feel those crimes so strongly, and rightly so.

As a result of the debates we had on Tuesday, and this debate, my view is that the clever and ingenious lawyers in the Ministry of Defence should be thinking about putting the concept of combat immunity into some statutory form, to define the boundaries of it so that commanders who are engaged in warfare know

that if they are in a combat situation they do not have to worry about criminal civilian law affecting them personally, and so that the soldiers involved do not subsequently face criminal charges as a result of their conduct in the clash of arms—the warfare itself. But "military operations" as in the amendment can cover such a wide area and I do not think that we should go against the whole thrust of the common law and the whole purpose of the criminal law by an amendment of this sort. There are other ways. What is combat immunity? What are the boundaries? They may be fuzzy at the edges but I am sure they are capable of statutory definition.

Lord Brown of Eaton-under-Heywood: I do not want to be tiresome but combat immunity, as I understand it, has never applied in the context of criminal law at all. It is a purely civil law concept.

Lord Thomas of Gresford: Perhaps it could be used as a criminal law concept. Perhaps the lawyers would like to think about it. I follow what the noble and learned Lord says on that.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, this amendment would introduce a time bar on bringing prosecutions against members of the Armed Forces, shielding them from prosecution for their actions while engaged in military operations outside the United Kingdom. The time bar would apply to their acts where more than 20 years had passed since those acts took place.

It is important to be clear, as noble Lords have observed, that the amendment would prevent personnel being prosecuted under either the service justice system or the civilian criminal justice system. It would cover all offences, not only against civilians or prisoners of war but against members of our own Armed Forces; for example, if evidence eventually came to light that a soldier had murdered another soldier while on operations, there could not be a trial if more than 20 years had passed.

I have much sympathy with the reasons that I know underlie the amendment. If criminal allegations are raised many years after the events in question, witnesses may be dead, memories may have faded and documentary evidence may have been lost. Indeed, those difficulties can be encountered even after a few years, never mind many years. However, I was grateful for the comments of the noble Lords, Lord Tunnicliffe and Lord Thomas of Gresford, and the two noble and learned Lords, among others. Members of our Armed Forces engaged in military operations must be subject to the rule of law and I cannot support a blanket ban on prosecutions of members of the Armed Forces after a stated period.

As the Committee is aware, the Armed Forces Act 2006 contains a system of service law that applies to members of the Armed Forces wherever in the world they are operating. This makes provision that a member of the Armed Forces commits a service offence if he or she commits any act overseas which would be an offence under the law of England and Wales were it done here. I am afraid I cannot see on what principle we should make an exception from the criminal law for those in military service overseas.

It is worth emphasising that, in both the civilian and service justice systems, when considering any case prosecutors are required to consider not only whether there is sufficient evidence to provide a realistic prospect of conviction but whether a prosecution is in the public interest. It has never been the rule that a prosecution will automatically take place once the evidential stage is met. Similarly, in the service system prosecutors are required to consider whether a prosecution is also in the service interest, including service interest factors. Clearly, if the offence is more serious, the public interest for a prosecution is more compelling.

It should also be noted that before a former member of the Armed Forces can be prosecuted for a criminal conduct service offence in respect of things that they did during their service, the consent of the Attorney-General must be obtained if more than six months have passed since they left the Armed Forces.

I am of course aware of the concerns expressed by the noble and gallant Lord over investigations by the service police of events in Iraq many years after those alleged events. In many of these cases, the allegations were not made immediately—for reasons which are not always clear. I assure the noble and gallant Lord, and the Committee, that intensive efforts are being made to bring these investigations to a conclusion as soon as possible. We are investing considerable resources in this area. We are looking at streamlined processes to ensure that those cases without substance are weeded out quickly, and so on. The Iraq Historic Allegations Team is doing an excellent job given the difficulties it faces. It has completed a number of investigations.

I do not believe for a moment that this process will still be in progress when the 20-year limit envisaged by the new clause would be reached. Indeed, the only theatre in which, so far as I am aware, criminal investigations or prosecutions of soldiers or veterans are in progress relating to events from more than 20 years ago is Northern Ireland, which is excluded from the scope of this clause because it covers only operations outside the UK.

I also assure the Committee that, while the Ministry of Defence will discharge its duty to provide any information in its possession relevant to such police investigations, it will also provide effective support, legal and pastoral, to veterans who may find themselves facing investigation for matters related to their duties. Although, I repeat, I sympathise with the concerns behind the new clause, in principle it would be wrong to provide an exception to the criminal law for members of the Armed Forces serving overseas in this way. On that basis, I hope that the noble and gallant Lord will agree to withdraw his amendment.

Lord Empey (UUP): The noble Earl referred there to hoping that investigations would be brought to a speedy conclusion. Could he confirm that the Iraq investigation team will continue its operations until at least 2019? Also, on Northern Ireland, the noble and learned Lord, Lord Brown of Eaton-under-Heywood, pointed out that some 40 years or more after the event a team of 30 detectives has been operating for the last three years doing nothing but pursuing these particular individuals, whereas the people who were the primary perpetrators of violence were away in the smoke many years ago.

Earl Howe: My Lords, I can confirm to the noble Lord, Lord Empey, that IHAT—as it is known—will be in place until at least 2019 under our current plans.

Lord Tunnicliffe: The noble Earl seemed to say something fairly profound there about support for service personnel who may come under investigation in the Iraq cases et cetera, and about legal and historic pastoral support. Could he flesh that out, particularly the extent of legal support that he sees being provided? I recognise that might require a somewhat delicate answer so a written response could be more appropriate.

Earl Howe: I shall be happy to write to the noble Lord with further and better particulars on that issue. I add to the noble Lord, Lord Empey, that the aim of the Iraq Historic Allegations Team is to try to compete the majority of its investigations by the end of 2017. The team believes that that is within its grasp, although it may slip. I hope that is helpful as an indication of the timescale to which it is working.

Lord Tunnicliffe: Following the precedent of other Bills, when the Minister writes to me could he copy in any other noble Lord who has participated in the debate?

Earl Howe: I shall be glad to do so.

Lord Craig of Radley: My Lords, first, I thank all those who have spoken in this short debate. I made it very clear that my amendment was meant to be no more than a probing one, and I certainly did not expect the Minister to accept it as it was written or even close to what was written. But I am particularly grateful for the support that I have had for the thought behind what I was trying to get at, and I hope that the Ministry of Defence and the rest of the Government will continue to give this very close attention and not just park it as too difficult to deal with. It really does need to be dealt with. Meanwhile, I beg leave to withdraw my amendment.

Amendment 10 withdrawn.

Amendment 11 not moved.

Amendment 12

Moved by ***Earl Attlee***

12: After Clause 14, insert the following new Clause—

"Operation of "pay as you dine" system

(1) Within 12 months of the coming into force of this Act, the Secretary of State shall lay a report before Parliament on the operation of the "pay as you dine" system of catering for members of the armed forces.

(2) The report shall cover—

(a) estimated numbers of service personnel who are in "single living accommodation" but are acquiring and preparing their food locally rather than using "pay as you dine" facilities;

(b) any social impact, especially on military camaraderie, of service personnel either eating on their own or in small groups;

(c) an assessment of the economics for service personnel;

(d) comparisons between different services and different locations;

(e) the effect of "pay as you dine" on a balanced diet; and

(f) any other matter the Secretary of State thinks appropriate."

Earl Attlee: My Lords, in the past, servicepeople living in barracks or the equivalent were charged for their food whether they ate in or whether they ate out. It could be the case that they were taking most of their food outside the barracks. This caused some resentment and a new system of pay as you dine was introduced several years ago. I shall not weary the Committee much further, as I do not oppose the policy, but I am concerned to ensure that it has not had undesirable or unintended effects. It may well be that there are differences between different locations and contractors; there could be the good and the not so good—and I am hoping that the noble Baroness, Lady Jolly, who has experienced pay as you dine more recently than me, may give us some of her experiences.

I am a little worried about balanced diets, about the pettiness in some locations of being charged for every extra portion of vegetables, and about any adverse effect on military cohesion. What I used to experience in what I would call the cookhouse, because I am so old-fashioned, was that you would sit down and have a meal with people with whom you might not normally sit down because they were in a different platoon or organisation. That is extremely beneficial and important to the unit, and I am a little worried about that. Furthermore, at one point, I found that the food in the cookhouse was better than the food in the officers' mess, because in the cookhouse you got a wider variety.

I hope that when my noble friend replies he can give us an update on how the policy is working. It may well be that a review study has already been carried out. Perhaps the Minister could let the Committee have a copy. I beg to move.

2.30 pm

Baroness Jolly (LD): My Lords, I have had some experience recently in several officers' messes of the Royal Navy, which all operate on a pay-as-you-dine basis. They are all outsourced, so they all operate on different principles. In one you might get all your vegetables including potato, while in others you might pay piecemeal—so there is no particular pattern. Were the department to do an analysis of the type suggested by the noble Earl, it might be worth looking at the issue of outsourcing. Is the same sort of thing happening across the other services? They say that an army marches on its stomach. This also highlights the issue of the quality of the food and the balance of the diet.

During recess, I was in the Arctic Circle; I am a member of the Armed Forces Parliamentary Scheme. I was taken to task by some marines who were talking to us about the quality of the ration packs that they take with them. I tried a chicken tikka masala, which had been dehydrated, and it was sort of identifiable. The serious point that they were making is that on an exercise such as that a marine should consume between 6,000 and 8,000 calories a day to be operational.

There were several elements of the packs that were fairly good in terms of quality and being part of a balanced diet, giving them the nutrition that they needed, but they really resented that the calorie number was added to by putting in chocolate bars. They maintained that this was something on which they got a sugar high and then a sugar low straightaway, and that if we were really serious about them we should look again at the ration packs. Whether any dietitian has looked at them I know not, but the Minister might at some stage care to ask somebody who might know the answer to that question.

Another issue that has come up is with the Navy in particular. Clearly, ships need to carry chefs. With outsourcing, so that all bases at home are run by outside catering organisations, when a chef's time for leave or a shore-based job comes up, there is nowhere for them to work because none of those opportunities is available. I know that the Navy is looking at that.

Those are short reflections for a very interesting topic, but perhaps not for legislation.

Earl Attlee: My Lords, before the Minister and the Opposition Front Bench reply, the noble Baroness made a very important point about the ration packs, which was slightly outside the scope of my amendment, but I have spoken slightly outside the scope of other noble Lords' amendments. One of the challenges of manufacturing the ration packs is the exact point that the noble Baroness made about packing enough calories into them. It makes it very difficult to find suppliers that can pack that many calories into the packs.

Lord West of Spithead (Lab): My Lords, I did not intend to speak on this, but I will say a couple of words—not that I try to eat my 6,000 to 8,000 calories a day. That is a real issue, but we are not on operations. I will speak on the concern that the noble Earl, Lord Attlee, expressed about cohesion. There is something in that. In the Navy we are all right. We are on ships and it is not pay as you dine—the food is there and we all eat together. When they are ashore and living in a barracks or a mess, compared with the old system where people went to the mess hall and all ate together, they now, instead of having barrack rooms, have individual cabins, which are much nicer, of course. There is a real danger of a lack of social cohesion. To be quite honest, I do not think there is anything that can be done about it. We have to move down this route, but it is right to be raised as an issue. Certainly, very junior ratings living independently in single cabins have to have particular care taken of them by their divisional officers, because they do not have that factor of living with other chaps and other people to help to support them. That needs very close looking at.

Lord Touhig (Lab): My Lords, we all agree that having a healthy meal and good food inside us is important for increased productivity and performance. Not for nothing did Napoleon say that an army marches on its stomach. In the Armed Forces, being able to perform at your best is paramount to the role of those we ask to serve our country. Labour introduced the pay-as-you-dine scheme for the Armed Forces in 2006. I cannot remember whether I started it as a Minister, but I was certainly around as they were planning it. As noble Lords will know, I left the ministry soon after that, but that is nothing to do with this piece of legislation.

If required, service men and women who are single and live in service accommodation pay for their own meals when not on active duty, meaning that they would pay only for the meals they actually eat. Under the pay-as-you-dine system, they are responsible for their own meals and making healthy choices, which the Ministry of Defence encourages.

There have been many concerns about the scheme. Some report that it disadvantages the lowest paid in the Armed Forces, as they often run out of money to pay for their food at the end of the month. Others are concerned that individuals may not be following a healthy diet as a result of choosing and cooking their own food, and some, as is highlighted in the noble Earl's amendment, are concerned that pay as you dine leads to a decline in camaraderie, as personnel of all ranks are not all eating together any more and are instead eating alone or in small groups. I do not want to say more about these concerns at this stage, although I recognise they are perfectly legitimate and should be addressed.

I suggest to the noble Earl that if he is not successful in persuading the Minister of the merits of his amendment, he should press for the information he is seeking to be included in the *Armed Forces Covenant Annual Report*. That comes out every year. We would then not need primary legislation. It would mean it would be reported every year, people would see it, it would raise the profile of the issue and some of the noble Earl's concerns could then be better addressed. The Armed Forces covenant is our obligation to the military, and it is likely that this issue will get greater attention if we were to do it that way.

Earl Howe: My Lords, I welcome the initiative of my noble friend in reminding us that the health and well-being of our Armed Forces are especially important. Pay as you dine was adopted by the Armed Forces in 2005, as the noble Lord, Lord Touhig, mentioned. It replaced the deduction of food costs taken directly from pay at source, regardless of whether meals were taken or not.

At the moment, catering is provided for under the catering, retail and leisure contracts. Our industry partners are required to provide a core meal at each meal service of the day. Food is charged at cost, and contractors do not make a profit on the food they provide. Core meals served at breakfast, lunch and dinner provide a nutritious and balanced menu cycle. Throughout the day, when taken at each meal service, core meals provide 3,300 calories per day at a daily price of £4.79. A range of alternative meal choices is also available outside the core meal price.

We believe it is important to give service personnel the choice about how and where they spend their money with regard to food. We fully recognise that sometimes service personnel like to take their meals in a different environment, to visit their local shops to choose what they want to eat and even to cook their own meal. We have no reason to believe that this has a detrimental effect on unit cohesion, although I would not seek to belittle that as an important issue.

[Earl Howe]

However, we recognise that some service personnel are not good at choosing a healthy diet, whether they are living in single living accommodation or not. This is, of course, not a problem that affects just the Armed Forces—it is a reflection of wider society and there is much concern about unhealthy lifestyles generally—but we aspire to bring about change and we acknowledge the need for members of the Armed Forces to be better informed.

We are therefore working in partnership with Public Health England to produce some lifestyle guidance for service personnel. In parallel, the services are developing a new programme to educate personnel in healthy lifestyle choices, including diet and nutrition, and encourage a change in their behaviours. Dieticians, general practitioners, physical development experts and public health consultants are among those who have contributed to this work. I will write to the noble Baroness, Lady Jolly, on ration packs.

I thank my noble friend for his interest in the pay as you dine system, but I do not believe his amendment is necessary. However, there is no sense of complacency here. Various assurance activities related to the system take place, including contract monitoring, site visits, reviews, customer engagement and assurance by single-service catering subject-matter experts to evaluate and improve the service provided. I hope that, with that measure of reassurance, my noble friend will feel able to withdraw his amendment, but naturally, if he feels that there is any more information I can provide him with, I shall be happy to do so.

Earl Attlee: My Lords, I am grateful to all noble Lords who have contributed to this short debate. The thing that slightly worries me is that the Minister did not offer to give us any information from any reviews. He said that reviews had taken place, and presumably those review reports could be obtained under FoI, so there does not seem to be any good reason why we should not see a copy of the relevant review, just to see how it is going. Maybe the Minister would like to reflect on that to see whether there is something.

Earl Howe: I will gladly look at what is available. On the face of it, I see no problem in releasing the content of such reviews if they are in a form that represents fairly the quality of the system and the action to be taken to improve it.

Earl Attlee: I thank the Minister for that undertaking. The noble Lord, Lord Touhig, tempted me to table a suitable amendment relating to the Armed Forces covenant and the requirement to produce reports. My ration of unhelpful amendments is strictly limited, so I do not think I will be doing that. I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendment 13

Moved by ***Lord Judd***

13: After Clause 14, insert the following new Clause—

"Enlistment of minors

(1) The Armed Forces Act 2006 is amended as follows.

(2) After section 343B (interpretation of Part) insert—

"Part 16B

REPORT ON THE ENLISTMENT OF MINORS

343C Report on the enlistment of minors

(1) The Secretary of State must in each calendar year—

(a) prepare a report on military service by minors; and

(b) lay a copy of the report before each House of Parliament.

(2) The report must evaluate the effects on the individual, and on the armed forces, of the enlistment of persons under the age of 18.

(3) In preparing the report the Secretary of State must have regard in particular to—

(a) the principle that the best interests of minors must be paramount in all policy relating to them;

(b) whether service people under the age of 18 are at a disadvantage in the immediate and long term future when compared to civilians of the same age, including disadvantage in education and training; and

(c) any implications for the armed forces, including financial implications.""

Lord Judd (Lab): My Lords, in moving this amendment, I should first say that the noble Baroness, Lady Jones, contacted me this morning to say how sorry she was that other commitments made it impossible to be here, and how strongly she supports the amendment.

I particularly thank the Minister for his very courteous response on several occasions to my concerns in this area, and I thank his many officials for the helpful letters they have sent us. I would like the Minister's reassurance that this correspondence will be made readily available to a wider audience than just me, and I hope that it has been, or can be put in the Library.

I also want to put on record my very real appreciation to a number of concerned organisations, including, of course, Child Soldiers International, which has impressed me by the responsible and well-researched approach it brings to giving substance to its generalised concerns.

When I tabled a very similar amendment in 2011, the noble Lord, Lord De Mauley, on behalf of the Government, replied that it was unnecessary because the annual Armed Forces covenant report would take special account of the needs of those under 18 years of age. I may have misread it, but in the 114 pages of the 2015 covenant report, any mention of minors is conspicuous by its absence. Will the Minister now give a firm undertaking that in future editions of the covenant report, the three key points raised in my amendment will be fully covered? His response on this will obviously bear on how I decide to take the amendment forward.

Fewer than 20 countries still allow in law the direct recruitment of 16 year-olds by their Armed Forces. We in the United Kingdom are among them. We are the only major military power, the only country in Europe, and the only member of NATO to do this. Two-thirds of states worldwide now recruit only adults from the age of 18 into their Armed Forces, and this is becoming the global norm.

Among those to have challenged our existing system are that UN Committee on the Rights of the Child, the Commons Defence Committee, the Joint Committee on Human Rights, the Office of the Children's Commissioner for the four jurisdictions of the UK

and the Equality and Human Rights Commission. Major British children's organisations and human rights groups have called on the Armed Forces to recruit adults only, as indeed have a significant number of MPs across the political spectrum, many faith groups and indeed, veterans. The public seem to agree with this. Answering an open question in a 2014 Ipsos MORI poll about what recruitment age should be, 77% of those who expressed a view said that it should be 18 or above; only 14% thought it should be 16.

2.45 pm

Overall, some 2,000 16 and 17 year-olds per year are recruited by the armed services, of whom some 80% join the Army. Of course, 16 year-olds are minors. We have had an impressive cross-party record of international leadership in the international fora establishing the rights of children and the responsibility of Governments and others towards those in our armed services. We are rightly outspoken critics of the use and abuse of child soldiers in conflicts across the world. There are far too many horrifying and deeply disturbing examples of this. It is therefore essential that, if our criticisms are to carry weight, and are not to be dismissed as hypocrisy, we establish transparently the highest standards of care in the recruitment and deployment of our own youngsters.

This is particularly important when we recognise that many of the recruits come from our most socially deprived communities and that there is a heavy emphasis on recruiting for the infantry. The infantry inevitably has disproportionately high casualty and death rates. Sadly, it has been calculated that soldiers recruited at 16 who completed their training were twice as likely to be killed when serving in Afghanistan as those who enlisted at 18 or more. It would be most helpful if the Minister could say something about the MoD's experience and consequential policy changes in the preparation of minors for active service.

It is sometimes said that the military environment provides young people with structure and a feeling of worth. I do not dismiss that argument and therefore I am not an absolutist in this sphere; I am simply concerned that we have the best possible procedures and conduct, and that we face the realities. I recall that, when I was—we still had that role then—the Minister responsible for the Royal Navy, I was tremendously impressed by some of the things that I saw. In particular, I was really quite moved by the Royal Marines and the work that they were doing, taking youngsters from very socially disadvantaged backgrounds and turning them into fine musicians; certainly, the Royal Marines Band produces excellent music of the highest standard. Perhaps this is not known by everybody when seeing the parades and the rest. If noble Lords have the opportunity to go and hear the band putting on a classical music orchestral concert, which it usually does at its own base, it is a very impressive experience indeed.

However, there is too much evidence that recruitment at this age can aggravate the effects of an adverse childhood, which is often typical of the youngest intakes. Young children from disadvantaged backgrounds are more likely than others to enlist before they turn 18. They are more likely to join the infantry, where exposure to the trauma of warfare is greatest, and more likely to struggle when they leave the forces. For example—I think all of us will be worried about this—there is too much evidence in this group of heavy drinking, self-harm, other mental health problems such as post-traumatic stress, and, of course, homelessness.

Although the MoD disputes it—my correspondence with the Minister is relevant here—those concerned about this issue frequently raise their perception that minimum standards of educational provision still do not apply to Armed Forces trainees, since they are, in effect, exempt from the provisions of the Education and Skills Act, which mandates the new duty to participate in education until the age of 18. The Army's 16-year-old recruits are enrolled into short, sub-GCSE courses in three subjects, as well as a public services apprenticeship, which consists of basic soldier training and is not primarily designed to support career progression outside the Army. The Army takes great pride in the range of apprenticeship courses it says it provides, but we have to scrutinise this very carefully to see whether it is keeping pace with what is happening outside.

The Department for Education's recommended minimum standard of education for the entire 16 to 19 age group is the achievement of good passes in core GCSEs, which it seems is not always as available as it should be within the Army. Two in five of the youngest infantry recruits will have left the Army within four years—most of them in training. Having joined the Army straight from school and been offered only very basic qualifications in the Army, these early service leavers are left at a disadvantage when looking for another job or trying to re-enter education. This group is particularly prone to unemployment and mental health problems. Those who stay in the Army are less likely to be promoted through the ranks than soldiers who enlist as adults.

In enlisting minors, the Armed Forces require them to make a decision while still legally a child that binds them in adulthood, suspends certain fundamental rights and commits them to a minimum period of service up to two years longer than is required of adult recruits. It could be argued that the Army's recruitment material for young people and their parents, which should be very full and objective, is inclined to sanitise military life, and it is argued that it underplays the legal obligations of enlistment. It is also argued, by those who are anxious, that three-quarters of junior entrants now have a reading age of 11 or less and that 7% have a reading age as low as five, which must surely call into question their ability fully to comprehend the enlistment obligations. It has come to my attention in recent months—I had not realised before—that recruiters are not required to meet with parents. A signature on a form sent by post is the only indication that parents understand and consent to their child's enlistment. I am not sure that this is really satisfactory.

For the reasons I have outlined—there are a good deal more; because of our obligations under the UN Convention on the Rights of the Child, in the drafting of which the UK proudly played a leading part; and because of the imperative to put the well-being of the child at the centre of our concerns—we all in Parliament have unavoidable responsibilities for keeping policy in

[LORD JUDD]
this area under constant review. The amendment seeks to ensure that we can strengthen and regularise our scrutiny.

The Earl of Dundee (Con): My Lords, I support the amendment moved by the noble Lord, Lord Judd, and the noble Baroness, Lady Jones of Moulsecoomb, who cannot be here today. Indeed, they might possibly have advocated discontinuation straightaway. As the noble Lord pointed out, in advancing a strong argument, there is a good case for no longer enlisting 16 and 17-year-olds into the Armed Forces. Most other countries would agree. Indeed, as he has also reminded us, Britain is the only country in Europe, and the sole member of the United Nations Security Council, that enlists 16 and 17-year-olds, yet the amendment provides that we should decide what to do after building up our own proper evidence, such as would accumulate through systematic annual reports produced by the Secretary of State. This balanced approach is commendable, and consequently the amendment is all the more compelling.

However, along with what is proposed, and provided that the discontinuation of enlisting minors were to be supported by further evidence, as envisaged, I wonder if my noble friend the Minister, together with the noble Lord, Lord Judd, might connect a time structure within which the Secretary of State could decide about abolition. In due course, as a result, evidence-based abolition might then ensue, without unnecessary delay or procrastination.

Lord Tunnicliffe: My Lords, the amendment from my noble friend Lord Judd is clearly designed to cover the general issue of the recruitment of 16 and 17-year-olds into the Armed Forces. It is worth reflecting on the history in this country of young people in the Armed Forces. In the 19th century, two young men—aged 15, I think—received Victoria Crosses. I have no doubt that on 30 May, my noble friend Admiral Lord West will find some way of reminding us that it is the 100th anniversary of the Battle of Jutland, at which, famously, a young person, Jack Cornwell, Boy 1st Class, won the Victoria Cross at the age of just 16. So before discussing the present terms of recruitment, we must remember that in the past young recruits have played a brave part in the history of our Armed Forces.

Things have changed, however; nobody would suggest it is other than absolutely right that things have changed. In terms of how we represent ourselves to the world, these young people, the terms and conditions, and so on, we must take a thoroughly modern approach. I hope that the approach being taken by Her Majesty's Armed Forces is satisfactory, but this is an appropriate occasion to test those conditions and receive, I hope, assurances from the Minister. He has helpfully sent us an email, which I will quote from, and I hope he will read those assurances into the record. In his email, he makes a number of points, but I will quote the key ones:

"No-one under the age of 18 can join the Armed Forces without formal parental consent, which is checked twice during the application process … Service personnel under the age of 18 are not deployed on any operation outside the UK except where the operation does not involve personnel becoming engaged in, or exposed to, hostilities".

The third important point is:

"All recruits aged under 18 are enrolled onto apprenticeships".

Obviously, it would be useful if that could be fleshed out a little more. The next point is:

"All Service personnel have a statutory right to claim discharge up to their 18th birthday, and the right of discharge is made clear to all Service personnel on joining the Armed Forces".

Given those assurances, we continue generally to support the recruitment of young people into the Armed Forces. We think it has the potential to provide a good grounding for their future career and life in general.

3 pm

However, I have a couple of additional questions. First, there is a lingering doubt in one's mind about the opportunity to withdraw from the Armed Forces at 18. How is that facilitated? Is it facilitated in a non-coercive environment where the young person clearly knows that he or she has that choice? Are they reminded, approaching their 18th birthday, that they have this option? Do they have available any advice to help them make that decision?

Secondly, as my noble friend Lord Judd said, we are proud signatories of the United Nations Convention on the Rights of the Child. For the avoidance of doubt, Article 1 says:

"For the purposes of the present Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier".

Majority is not attained earlier in the UK, so clearly these 16 and 17 year-olds are children for the purposes of the convention. Article 3(1) says:

"In all actions concerning children"—

which these people clearly are—

"whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration".

Does the Minister feel that the Armed Forces fall under those general categories? If so, do they have the obligation set out in Article 3 to take the rights of the child as paramount in how these young people are handled? What mechanism do the Armed Forces have to show that they have properly discharged that responsibility?

As to the slightly more complicated question of whether my noble friend Lord Judd's idea of a report is the right vehicle by which to continue to focus on this area of concern, I will listen to the debate and to the Minister's response. But, if we are to continue to have young people in the Armed Forces and as a generality we find that an attractive idea, it is absolutely clear and important that the general public should be confident that the rights of these young people are properly protected and that their ability to leave the Armed Forces, if they so choose, before their age of majority is ensured.

Earl Howe: My Lords, I very much welcome the interest of the noble Lord, Lord Judd, in this issue, and his reminding us that the welfare of those who join the Armed Forces under the age of 18 is especially important. I begin by assuring noble Lords that we

take our duty of care for entrants aged under 18 extremely seriously. Close attention has been given to this subject in recent years, especially after the tragic deaths at Deepcut. We have robust, effective and independently verified safeguards in place to ensure that under-18s are cared for properly.

I should perhaps make it clear at the outset that all service personnel have, since 2011, a statutory right to claim discharge up to their 18th birthday. The right of discharge is made clear to all service personnel on joining the Armed Forces. I will say something more about that shortly. Before I do, I need to say to the noble Lord, Lord Judd, that I do not share the negative slant that he sought to cast on the enlistment of minors. We are very clear in our belief that junior entry offers a range of benefits to the individual, to the Armed Forces and to society, providing a highly valuable, vocational training opportunity for those wishing to follow a career in the Armed Forces.

The noble Lord mentioned educational attainment. The provision of education and training for 16 year-old school leavers provides a route into the Armed Forces that complies with government education policy, while also providing a significant foundation for emotional, physical and educational development throughout an individual's career.

There is no compulsory recruitment into the Armed Forces. Our recruiting policy is absolutely clear: no one under the age of 18 can join the Armed Forces without formal parental consent, which is checked twice during the application process. In addition, parents and guardians are positively encouraged to be engaged with the recruiting staff during the process. We also recognise that not all those recruited find that they are suited to life in the Armed Forces. In 2011, the Armed Forces terms of service regulations were amended to provide all service personnel under the age of 18 with the right to claim discharge up to their 18th birthday.

I wish to allay any concern that discharge as of right is ineffective. The noble Lord, Lord Tunnicliffe, asked about the ways in which discharge is facilitated. The Army recruits the majority of under-18s. I assure the Committee that every junior soldier arriving at the Army Foundation College in Harrogate is briefed by the permanent staff on their rights to discharge. Junior soldiers sign and retain the personal terms of service record of briefing and understanding, and the college retains a copy. The brief and document clearly set out the right to discharge and the process to be followed. During the reception day, the junior soldiers' company commander briefs all parents and guardians in attendance on the processes involved in discharging junior soldiers, who have ample opportunity to seek advice on discharge outside their training team from the extensive welfare staff network and from fellow junior soldiers—particularly those in the senior intake.

Regardless of whether they are still in training, the regulations provide that for the first six months of service a person may claim discharge by giving not less than 14 days' notice in writing to their commanding officer after an initial period of 28 days' service. At any other time after six months' service, those under the age of 18 who wish to leave must give notice in writing to their commanding officer who must then discharge the under-18 within the next three months. For those who give notice just prior to their 18th birthday, this means that the latest they will be discharged is at 18 years and three months of age. Those three months represent a cooling-off period, to avoid the unintended consequence of a decision made in the heat of the moment—say after just having failed a test or while feeling homesick.

A shorter period may well be agreed with the commanding officer, but three months provides the under-18 with a period of due reflection and the right to rescind their request for discharge. This process ensures that individuals under the age of 18 have an appropriate period of time to consider their decision to leave, and offers flexibility depending on individual circumstances. Voluntary discharge accounts for approximately 65% of those who do not complete the course at the Army Foundation College. I can also say that the college has routinely discharged those who are unhappy but may no longer claim discharge as of right, because clearly it is not in the Army's interest to retain those who feel that way.

I also wish to say something about those who leave early. Indeed, I quote from one of Ofsted's reports, which says:

> "Early leavers receive very good additional support in developing job search skills, writing CVs and researching further education opportunities … families are kept well informed at all stages of the process, and appropriate help is sought to look after children".

On those who choose to stay, all recruits aged under 18 receive key skills education in literacy and numeracy, should they need it, and all are enrolled onto apprenticeships. The Armed Forces remain the UK's largest apprenticeship provider, equipping young people with valuable and transferable skills for life, based on structured training and achievement. Over 95% of all recruits, no matter what their age or prior qualifications, enrol in an apprenticeship each year.

The Armed Forces offer courses in a wide range of skills, such as engineering, information and communications technologies, construction, driving and animal care. Ofsted regularly inspects our care of newly-joined young recruits, and we are very proud of the standards we achieve. We welcome this specialist confirmation that we treat our young recruits well.

The noble Lord, Lord Tunnicliffe, mentioned the United Nations Convention on the Rights of the Child. The protection and welfare of our young people, as is required by Article 3, are important. The Armed Forces are careful to ensure that appropriate mechanisms are in place to comply with the law and to afford special consideration of the needs of under-18s. This extends to the service justice system, where appropriate.

What does that amount to in practice? Commanding officers are provided with guidance on the care of service personnel under the age of 18. Guidance covers supervisory arrangements, risk assessments, welfare and mentoring, and contact with parents and guardians. It also covers such things as prohibiting the sale of alcohol and tobacco, the requirement to provide an appropriate adult for those who are arrested and, of course, the right to discharge. I should also remind the Committee that service personnel under the age of 18 are not deployed on any operation outside of UK, except where the operation does not involve personnel becoming engaged in, or exposed to, hostilities.

[Earl Howe]

During the Select Committee on the Armed Forces Bill, the Chief of the General Staff, General Sir Nick Carter, described the recruitment of young people as "incredibly positive". I take pride in the fact that our Armed Forces provide challenging and constructive education, training and employment opportunities for young people while in service. I suggest that this is the right end of the telescope through which to look.

The *Armed Forces Covenant Annual Report* is about the effects of service on service people. Those under the age of 18 are well within the definition of service people, but this amendment would require the Secretary of State to give particular consideration, every year, to the effects of service on those under 18 years of age. It would also require him to have particular regard to those effects right through until the individuals become veterans. It obliges us to treat those who joined under the age of 18 as a separate category throughout their service and perhaps throughout their lives. I am not persuaded that this would be right or appropriate. It is perhaps relevant to mention that in July 2015, the High Court dismissed a judicial review brought by Child Soldiers International—CSI—alleging that the enlistment of Army recruits aged 16 to 18 was in conflict with the equal treatment directive.

I do not believe that this is an appropriate distinction to build into legislation, but I nevertheless hope that my remarks have been reassuring to the noble Lord, Lord Judd, in so far as he can be reassured on this topic. I am happy to circulate the letter that I sent him if it has not already been circulated. I am glad it was helpful to him. On that basis, I hope the noble Lord will agree to withdraw his amendment.

Lord Judd: My Lords, I am very grateful to the Minister for his characteristically full and sensitive reply. I shall just say that there are at least two letters, not just one, that should be available.

Let us be very clear about this: I made it plain in my introductory remarks that I am open-minded on this issue. I can see advantages and I can see social advantages. It is very easy for people in caring, comfortable, middle-class life to be worried about others and to raise issues that concern them, but when you look at the harsh realities of life for some of those who are recruited, it perhaps brings a different perspective to the situation because what are the alternatives? They are gangs, drugs and goodness knows what. We must be realistic about this.

My concern is that we have the highest standards and that these are all the time transparent. I cannot for the life of me see why it would not therefore be very sensible to have an arrangement in the Bill which enables this scrutiny to take place. We in Parliament have special responsibilities as custodians of these children. It therefore seems very important indeed that this issue should be openly discussed and evaluated.

3.15 pm

The Minister has indicated some very positive arguments that will come to light and will inform the public better about what is happening but at the same time will give people an opportunity to take a constructive interest in how things might be improved. That applies particularly in the educational sphere, where there is real concern about what happens to children later in life.

I take second place to nobody in my admiration for many of the military staff who are working with youngsters, who do take their responsibilities very seriously and very often in a very telling way take on almost a parental sense of responsibility for those in their charge. That is something very fine and is coupled with real military professionalism.

My noble friend Lord Tunnicliffe referred to our being signatories to the UN convention. Indeed we are, but I remind him that we were also very central players in the drafting of the convention. We got a great deal of international credit for that and it underlines our responsibilities in this sphere. It is not just a formality, it is something to which we have a real emotional and influential commitment.

If he will forgive my saying so, the Minister's very full and helpful reply has indicated just how useful it would be to have a provision in the Bill for a discussion of this kind. It would be particularly good with somebody like him replying because he is always constructive and always tries to be as helpful and open as possible. I will take away what he has said and look at it very carefully with regard to what I now do, but at this stage I thank him most warmly for his response. He has given us a good deal on which to chew and to look at in more detail. I may bring this back but at this stage I beg leave to withdraw the amendment.

Amendment 13 withdrawn.

Amendments 14 to 16 not moved.

Amendment 17

Moved by ***Lord Thomas of Gresford***

17: After Clause 14, insert the following new Clause—

"Inquests

Every violent or unnatural death of every person subject to service law whether within or outside the United Kingdom shall be reported as soon as practicable to a coroner who shall determine by what means and in what circumstances the deceased came to his death."

Lord Thomas of Gresford: My Lords, in 2006 I moved an amendment in these terms to the 2006 Bill with the support of my noble friend the late Lord Garden. At that time, inquests involving the services were very much a controversial area. There were long delays and lots of families were very concerned about the fact that these inquests took such a long time and seemed to be so unsatisfactory. At the same time, coroners were making some very trenchant criticisms. Lord Garden and I thought it would be right to have a statutory duty making it quite clear that the coroner should have jurisdiction in this area and that cases should be reported to him by commanding officers, in the terms of the amendment that I put forward.

That amendment was not accepted, but after that the Army itself became concerned and set up Project Ajax, and in 2008 the Defence Inquests Unit was

formed. It is interesting to note that Mr Mike Venables, the head of that unit, said that,

"the MOD was struggling with how we handled inquests because there was no focus … The families were dissatisfied by the service they were getting and by the way that inquests were working. Many didn't understand why we were having them or what they were for".

The unit went to work. It seemed to have a number of aims. On the first aim, Mr Venables said:

"Our role is to support bereaved families".

Its next role was to train coroners and explain the particular circumstances in which a death had taken place, to identify and locate military witnesses, to furnish reports and information to the coroners and to organise a familiarisation event—annually, as it turned out—so that coroners would know what vehicles and kit were used on operations and what mine clearance drills were, and could experience the weight of packs that troops carried, and so on.

Case officers under the unit read through the Royal Military Police reports, Special Investigations Branch reports and witness statements before handing them to the coroner. Colonel Newell, who was in charge, said:

"We read through everything first and redact them for security—which is something that they do worry about so we explain that … We point them"—

the coroners—

"to what we see as the salient information and suggest who we see as the key witnesses who should be called to the inquest. We provide them with a Rolls-Royce service".

The next function was to provide support to witnesses. Mr Venables said:

"It can be a hugely difficult experience for some witnesses … we don't…coach them. All we say is, 'you've got nothing to fear from this, all you have to do is tell the truth'".

So the unit seems to have various conflicting aims.

The purpose of my tabling this probing amendment today—in identical terms to the one we tabled in 2006—was to inquire into how the system is working and whether it is satisfactory. Case officers under the unit appear at inquests for the Ministry of Defence, so not only are they training and advising coroners, and redacting witnesses' reports; they are actually appearing for the Ministry of Defence at inquests. That must cause concern to families who wonder whether their purpose is to protect the Ministry of Defence from the sort of trenchant criticisms that, as I indicated, were very much abroad in 2006 when we first approached this problem.

I will be interested to hear the Minister's response. I may not have expressed quite clearly the full scope of my intention in tabling this amendment—I apologise for that—but I commend it to the Committee.

Earl Attlee: My Lords, I am grateful to the noble Lord, Lord Thomas of Gresford, for raising the issue of inquests. He has raised some important issues.

For many years, I have not been able to give my counsel on this matter because sadly we were taking many casualties on operation and, therefore, the timing was completely wrong. I must stress that I have no intention of pressing any of my own amendments relating to this issue at a later stage—I am merely giving my counsel—but I intend to compete with noble Lords who are lawyers in terms of the amount of detail that I will give. I accept that matters have improved with these inquests, but I am still not convinced that holding detailed inquests into fatalities incurred on operations overseas is likely to reduce casualties or be a good use of resources. I hope the Committee will allow me to explain why before calling for the silken rope.

All members of our Armed Forces should be highly motivated. Most of them will have a secret dream of being able to have strategic effect, even if it involves a significant risk to themselves. By "strategic", I mean an action they take that significantly alters the outcome of the campaign. That is why many servicemen with particularly good qualities seek selection for Special Forces. Their incentive is that they are very likely to be able to have strategic effect at some point. One can also have strategic effect by denying the enemy's strategic effect. That is what the off-duty serviceman did in France in that train attack, and it is an issue to which I will return at a later stage.

I understand that, prior to the mid-1980s, it was not necessary to have an inquest into an overseas operational fatality. The law changed, but it did not matter, because there were very few hot operations. If we had ever engaged in conflict with the Warsaw Pact, we would not have been worrying about inquests. I am very sorry, but I think that these inquests into operational fatalities have limited utility. If we think that we need inquests to learn from what went wrong, we are deluding ourselves. As I touched upon in the human rights amendment on the first day of Committee, quite often the deceased, or someone closely involved, made a misjudgment or a mistake. That is the nature of military operations. As I said then, this makes it extremely difficult for the MoD or the chain of command to explain these facts, because we would be shocked if those on the ground at the time were blamed. According to Wikipedia, in Sergeant Roberts's case, very unfortunately, the soldier who fired the coaxial machine gun on the Challenger tank did not know, or he forgot, that there was a parallax effect in short range. Does anyone seriously think that that error would not have been immediately reported back to the Armour Centre in Bovington and compared with the existing training plans? Of course not.

One inquest that I read about centred on electronic countermeasures. The feedback cycle in this area is extremely fast: days, if not hours. It must be extremely demoralising for the experts—sometimes, I think the term "boffin" is rather more complimentary—at the Defence Science and Technology Laboratory, to read these unfair criticisms in the press. The reality is that we have a fabulous capability in this area and we should be very grateful. Think how demoralising it must be for the Taliban to take the very real risk of planting an IED, only for the initiation system to fail for some mysterious reason at the crucial moment.

Some argue that we need the coronial system to identify any defects in training and procurement. I touched on this during the first day of Committee and remind your Lordships of my inverse law: the attention and scrutiny applied to a fatality on operations is

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inversely proportional to the number of fatalities taken. That is why I believe that inquests into operational fatalities have limited utility. I also remind the Committee that they soak up considerable amounts of staff effort that could be better spent on prosecuting the campaign. I fear, however, that this is nothing compared to the negative effect.

In order for the enemy's leaders to motivate their own side to make a very risky or even suicidal attack on coalition forces, it would be an enormous help to them if they could show that the attack would have strategic effect. We cannot avoid the MoD making the formal announcements of casualties or fatalities: we know perfectly well that it would be deeply damaging to mislead the nation regarding the level of casualties that we are taking on an operation.

What we actually do is have an exercise to publicly blame Ministers and then the chain of command for things that have or are alleged to have gone wrong when, for reasons I explained, they cannot effectively defend themselves without acting improperly and damaging morale. It should also be remembered that service personnel in theatre read newspaper reports and have access to the internet. It must be quite easy to damage confidence, especially that of more junior personnel. Reports of discord can also be shown by the enemy's leaders to their subordinates to motivate them to make an attack which they can, frankly rightly, claim will have strategic effect.

3.30 pm

The losses we sustained in recent operations are deeply regrettable and tragic. I suspect that the majority are the only son, the only daughter or even an only child. Each loss hurts like hell. However, in strategic terms the losses are sustainable—although we must not forget life-changing injuries and mental damage. I suspect that the Armed Forces have always had many more fatalities due to road traffic accidents at home than from operations. Also, the rate did not adversely affect recruitment or morale. Right up to the end of Operation Herrick, units were happy to go on operational tours. Sadly, what gave each fatality a strategic effect was the way we handled it at home.

What is to be done? We could simply not involve the coronial system at all, but I can see serious difficulties with that. I suggest that we limit the role of the coroner to determining whether the deceased serviceperson succumbed to enemy action or perils of the operation—which largely means road traffic or industrial-type accidents. Suicides would need very careful consideration as to the appropriate procedure. The finding available to the coroner could be "Died while on Her Majesty's service", which seems extremely descriptive.

Of course, that is nowhere near enough for the loved ones and families. The current system for looking after the family is, I submit, simply not fit for purpose. The next of kin gets very little official information and fact. What information they get comes from the media, the internet and, worse still, unauthorised disclosure. The MoD has an absolutely terrible culture of secrecy—a point touched on by the noble Lord, Lord Thomas of Gresford. It always says nothing or the absolute minimum. That means families can understand less than anyone else and wait months and months for the inquest to give them some information. I explained some of the difficulties with the inquest system. One of the worst aspects of this, touched on by the noble Lord, Lord Thomas, is that families do not achieve closure for a very long time.

I suggest having a retired one-star personally tasked with very frankly explaining what happened. I am not merely thinking of a sympathetic chat over a mug of tea. It may take several days to explain what happened. Of course, inquests takes several days. It is very difficult to explain everything that relates. I can think of two cases, for instance, where a visit to the Armour Centre at Bovington might have been appropriate if the next of kin wanted it. In one case involving the issue of arcs of fire and identification of the target, a visit to our training centres in Canada would have been extremely enlightening because the suggestion was that our servicemen went on operations in Iraq improperly trained. We have fabulous training facilities in Canada. We should not spare any effort in this regard and we should be frank. If we need to clear the next of kin for secrets, why not?

There is a counterargument that it is impossible to prevent families misunderstanding and believing that there is some conspiracy at the MoD. That is certainly possible, but it is not a very good reason for not trying. I believe that knowledge counters fear and misunderstanding. It would enable the next of kin to explain to families and friends what actually happened from a position of strength and perhaps pride, rather than anguish.

Lord Brown of Eaton-under-Heywood: My Lords, I had not intended to speak to this amendment; I ought to be better prepared. Down the years, I have often been involved with coronial law. Indeed, I was Treasury Counsel in the early 1980s when for the first time it was decided, contrary to my argument, that there could be an inquest in this country in respect of a death abroad. It was the Helen Smith case. She was the nurse who fell from a balcony in Jeddah on to some railings and impaled herself. There was long, fraught litigation in the early 1980s. Since then, this area has developed hugely and has been complicated and clouded by the impact, reverting to where we were earlier in the week, of Article 2 of the European Convention on Human Rights and the need, in certain circumstances, for an Article 2-compliant investigation into a death.

I confess that when I first read the proposed new clause, I rather thought that that essentially is the present law. I shall listen, fascinated, when the Minister tells us exactly what the present position is in terms of inquests in respect of such deaths as are encompassed here. Certainly, I understand that the coroner will be informed in every case. There will always be an inquest, and he will always determine by what means the death occurred. The phrase "and in what circumstances" may be more contentious because this is a very technical area and I seem to recall that that phrase has been the subject of a good deal of specific litigation about exactly what it encompasses.

There is routinely an inquest in these cases. As I understand it—but this is very much anecdotal—the result of our now having and retaining a chief coroner

is that these inquests are now heard by a comparatively limited number of coroners and essentially they deal with these matters in a way which is regarded as essentially satisfactory on all sides. That may be a misunderstanding of the position, and I know there was a problem some years ago when coroners were thought to be seeking to investigate way beyond the scope of what ordinarily would be permitted in terms of inquiring into military supply and matters of that sort, but I thought it was now under control. However, I shall say no more. I do not think this is a very useful contribution. I shall listen to what the Minister says.

Lord Hope of Craighead: My Lords, there is one aspect of this amendment to which I think I should draw attention. It arises because of its scope. The amendment applies to every violent or unnatural death of every person subject to service law within the United Kingdom. The coronial system does not apply in Scotland. I do not know whether it is the intention that we should extend the coronial system to Scotland in the case of every violent or unnatural death, but the system which applies in Scotland is very simply this: every death of that kind is reported to the procurator fiscal of the area in which the event occurred. There is then an exercise of discretion because it does not follow that every death is subject to an inquiry. It is a matter for the procurator fiscal, possibly with the advice of a law officer or his counsel, to decide whether it is in the public interest that there should be an inquiry. If there is such an inquiry, it goes not to a coroner but to a sheriff, who does indeed determine by what means and in what circumstances the death occurred. It is there that the public interest is served because if there is something to learn from the event, the opportunity is taken through the accident inquiry to determine the circumstances and in some way to improve practice or inform the public about how events of that kind could be avoided in future.

As I listened to the debate I wondered whether that system applied in the case of persons subject to service law. I think I am right in saying that when one reflects on the tragic events on the Mull of Kintyre, when a Chinook helicopter flying from Northern Ireland to Scotland with a number of very senior people on board crashed and everybody was killed, that event was dealt with under the Scottish procedure. I would have thought that that procedure is perfectly adequate to cope with all that one would expect from events of this kind and the need for the circumstances to be inquired into.

There are two features that need to be stressed. First, not every death of this kind is the subject of an inquiry because it is only if the public interest requires it. On the other hand, where the inquiry is resorted to, it is a full inquiry, with the results that I think the noble Lord, Lord Thomas of Gresford, is looking for; that is, the lessons to be learned from the evidence that is laid. I wonder whether he really does intend that every death—even a road accident, for example—occurring north of the border should be subject to this system; or, to take another example, whether training exercises in the Highlands, where unfortunately deaths do occur due to the very severe weather on mountains, should be subject to the coronial system. I think the Scottish prosecutors—the procurators fiscal, I should say—would rather that they retained control of these events and dealt with them under the Scottish procedure, which they would believe is perfectly adequate to provide the lessons that people need to avoid these events occurring again.

Lord Thomas of Gresford: My Lords, there were specific provisions in the Coroners Act 2009 relating to investigations in Scotland. Sections 12 and 13 provided that the Secretary of State would notify the Lord Advocate if,

"the Chief Coroner thinks that it may be appropriate for the circumstances of the death to be investigated",

and there would be an inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976. I think that is the position.

Earl Attlee: My Lords, the noble and learned Lord, Lord Hope, talked about training fatalities. My view is that all training fatalities, wherever they arise, should be subject to an inquest. I think there is a far bigger problem with training accidents than with operational fatalities. Those occur where the enemy has a better position on you and sadly some servicemen are unlucky, but with a training accident, it is quite likely that something has gone wrong.

Lord West of Spithead: My Lords, I have a certain sympathy with what the noble Earl, Lord Attlee, has said. Indeed, I think that the coronial system, certainly when it was first being used for these sorts of events, was giving some very unfortunate results. There is no doubt whatever that one or two of the coroners were going way beyond what was required, and it put the whole thing into dubious territory and people began to think, "Why on earth should we do this at all?" because it was so damaging.

In terms of telling people what has happened, we talk of the next of kin's need to know, which is absolutely right, but of course we have an established system whereby as a commanding officer you write a letter—I have written many of those letters—to the next of kin, explaining what happened and talking about their son, husband or father. Indeed, on the subject of fathers, I used to write another letter to all the children, to be opened when they were 18, explaining what had happened. I also let it to be known to all the families that they could come and talk to me about it if it happened. I am sure most COs do similar things. Indeed, a number of the next of kin took that up and I was able to sit down and talk it through with them.

I think the coronial system has got better but I still have concerns that there is the risk of this becoming a blame game. That is not what was intended at all and I was very nervous about that. I am not sure about this amendment but I think some of those wider issues that have been talked about are important and I am pleased we have had this opportunity to have this debate.

Earl Attlee: I am grateful for the partial support from the noble Lord. I have read the Army's casualty procedure and looked at the advice to the commanding

[Earl Attlee]
officer, and when I last looked at the document—I doubt it has changed that much—it said as little as possible. It certainly went nowhere near the detail that I propose. I am proposing that the next of kin would be able to talk about the circumstances with great knowledge, so that when someone suggested that something was wrong with the equipment, they would be able to say, "No, you have to understand that this was the difficulty". Also, if perhaps the serviceman was the author of his own demise, they would understand why it was so easy to have an unfortunate outcome.

3.45 pm

Lord West of Spithead: In the Navy, the rules are not quite so direct, but you are given guidance to be sure that you do not raise issues that would become extremely difficult. But I always felt that that gave you quite a lot of scope. As we know, rules are for the obedience of fools, and one was able to do quite a lot in those letters.

Lord Thomas of Gresford: I am grateful to the noble Lord, Lord Touhig, who drew my attention to a Scottish television report of September 2012, which says:

"Investigations into the deaths of Scottish military personnel killed abroad will be able to take place in Scotland for the first time from later this month. Up until now inquests into the deaths of servicemen and women have often had to be heard in England, forcing their bereaved families to travel long distances to take part in the hearings. But a change in the law means that from next Monday, September 24, the inquests will be able to be held north of the border".

The mechanism is that the chief coroner, Peter Thornton, can,

"recommend to the Lord Advocate … that an investigation be transferred to Scotland".

It arises out of 14 servicemen dying when their Nimrod crashed in Afghanistan; they were based in Moray, at RAF Kinloss, and the inquests were held in England.

Lord West of Spithead: We have gone down the route of the coronial system. As Plato said, only the dead see the end of war. Sadly, I am afraid that at some stage we will be in a war when we lose thousands of people, and I have no idea how the system will work at that stage or what the thought processes are about that.

Viscount Slim (CB): Just to give noble Lords an example of an incident that might have involved an inquest and lessons learnt, in Korea, in an hour and a half, my battalion lost about—I am giving approximate figures as I do not remember them—probably nearly 30 dead and slightly more than 70 wounded. The reason was that during the battle, when we called for air support, we got some excellent American pilots, but they bombed us with napalm, instead of the enemy. We would call that "blue on blue" today, and you would have an investigation. Of course, it encouraged the enemy, who were the North Koreans at that time, to put in a counterattack, so we really had a very unpleasant time for a couple of hours. In those days, when we had a good number of soldiers, we had a reinforcement system, at the back of the Korean peninsula and in Japan, that sent you, within 24 hours, fully battle -trained soldiers to replace them—and we got about 100 or 110 good new soldiers.

Today, someone would want to have an inquest about why we were bombed. The chaps made a mistake, we had all those casualties—what use is an inquest? You have to get on with the battle. Lessons learnt—well yes, we can learn a lesson in 20 minutes about how to improve on what went wrong. In those early days of close air support, it was a lengthy process—not like today, when it is almost instantaneous. The military is the first to make amends for, and take decisions about, what went wrong and put that right. I do not see how a coroner with no military experience looking at that disaster would have helped at all. You must get on with the war.

The noble Earl was right to talk about what happens when a chap you have with you and who is your responsibility is killed. As the noble Lord, Lord West, said, you write to his mother, father, wife, daughter and whoever there is, and I am not sure that you write just a little—you write quite a lot. Those are the hardest letters to write of any kind. When everyone else is having a night's sleep, you are up all night writing those letters—it is not just one. The commanding officer will write and so will his platoon or company commander. The wretched widow, mother or whoever gets two or three letters. On the whole, because you must explain how and why the son was killed, you write rather fully. You write in your own hand. When there are 30 of those letters to write, that is quite difficult. Do not tell me that the odd tear does not come down from the officer writing them.

Inquests play into the hands of the opposition nine times out of 10. On lessons learnt, nobody learns them quicker than the Army, Navy or Air Force.

Lord Touhig: My Lords, I will be brief. This debate is very important and shows that there has been a degree of overlap between inquests into the death of an individual and inquiries into perhaps wider problems that have arisen in conflict.

I spent 27 years working in newspapers and publishing before entering the House of Commons. I know only too well from my time as a young journalist covering inquests how important they were to a grieving family who had sometimes lost a loved one in the most tragic circumstances. With that experience of observing, I am not sure that inquests brought closure to a family coming to terms with a sudden and unexpected death but I have no doubt that they contributed to a sense of healing and understanding that the family was desperate for—an understanding of what happened and why some tragic death occurred to a son, daughter, husband or wife.

To no other group is that more important than to service families. A service family worries and frets as soon as its loved ones are sent on deployment somewhere in the world to defend Britain's interests. We all agree that we have a duty of care to those who serve in our Armed Forces but we also have a duty of care to the families of those who serve. The noble Lord, Lord Thomas of Gresford, made clear that this is a probing amendment, really seeking to find out more about the

present way in which these things operate. That is important and this is a step in the direction. It is fully supported on this side.

Earl Howe: My Lords, I found this an extremely interesting debate and I thank the noble Lord, Lord Thomas, for his proposal and his interest in ensuring that the death of a service person such as described in his amendment, where that tragically occurs, is reported to a coroner quickly for thorough investigation.

I listened with care to the views expressed by my noble friend Lord Attlee and the noble Viscount, Lord Slim, putting the opposite case. Our view is that reporting a death to a coroner is no more than the families of those killed in these circumstances deserve. The first thing I would like to do is reassure the noble Lord that the Ministry of Defence works hard to support coroners in all investigations connected to the Armed Forces. I am very happy to outline the current system, and I hope that I can reassure the noble Lord that that system is working well.

As I am sure the noble Lord will be aware, in the United Kingdom, where the death of anyone—whether subject to service law or not—is believed to have occurred by violent or unnatural means, there are already requirements in relevant legislations in England and Wales, Scotland and Northern Ireland for those deaths to be reported to the coroner or equivalent without delay. Naturally, the Ministry of Defence complies fully in the case of Armed Forces deaths, wherever and however these occur.

In England and Wales and in Northern Ireland, where the coroner believes a death to have occurred as a result of violent or unnatural means, the relevant legislation requires him or her to conduct an inquest. In Scotland, the procedure is called a fatal accident inquiry. I should just make clear that an inquest is an independent judicial inquiry conducted in England and Wales by a coroner into the facts surrounding a death that is sudden, unexpected or unnatural. Her Majesty's coroners have a vital task giving certainty and reassurance to the bereaved and meeting the public interest by determining the facts of death where the circumstances were violent, unnatural or unknown. The Ministry of Defence will provide as much support as the coroner needs, and the Defence Inquest Unit has an important role in offering that support.

In recent years, a number of measures have been introduced to improve the inquest process for bereaved families of service personnel. These have included, in particular, measures to tackle delays in cases coming to inquest, including completion of inquests within six months wherever possible and flexibility to transfer investigations to another coroner. With regard to deaths of those serving overseas, there is a similar requirement, under existing legislation, for the authorities to notify the coroner. Once the deceased has been repatriated to England and Wales, the coronial process runs the same way as a death that occurred here.

The noble and learned Lord, Lord Hope, helpfully reminded us of the arrangements that applied in Scotland. The noble Lord, Lord Thomas, will, I am sure, be aware that until recently, not all service deaths in Scotland would have been subject to a fatal accident inquiry by the Crown Office and Procurator Fiscal Service. However, with effect from 14 January 2016, the introduction in Scotland of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 ensures that all unnatural or violent deaths that occur as a result of a person's duties will be subject to a fatal accident inquiry.

Concerning the scope of a coroner's inquest, this is determined by the individual coroner on the basis of the evidence available to him or her. Where a coroner considers that the deceased's right to life was not protected by the state, then the coroner is required to widen the scope of the inquest—or fatal accident inquiry in Scotland—to investigate the broader circumstances of the death. The Ministry of Defence will do everything possible to support the coroner, whatever the scope decided upon.

I hope that I have explained that the legal framework that the noble Lord's amendment is aimed at achieving is already in place. I listened with care to my noble friend Lord Attlee's concerns and those of the noble Viscount, Lord Slim, about the utility of inquests into the deaths of those subject to service law. I hope that they will allow me to reflect on what they said and to write to them with my considered observations. I will, of course, copy my letter to all noble Lords who have taken part in this debate. With those remarks, I hope the noble Lord, Lord Thomas, will agree to withdraw his amendment at this stage. Of course, if I can supply him with any further information on this subject, I would be glad to do so.

4 pm

Earl Attlee: My Lords, I am grateful for the Minister's response to my amendment. I have a wicked question to ask him, following the point made by the noble Lord, Lord West, about what happens if we start taking large numbers of casualties, especially if the circumstances of each casualty are different. Suppose in 100 days of an operation we take 10 fatalities per day. We are in for 1,000 inquests, and the circumstances of each one are different. Presumably at some point as a conflict escalated from peacekeeping to warfighting and, to put it bluntly, it was not going very well, we would have to suspend the system of inquests. It would be ridiculous—God forbid we could have 5,000 outstanding inquests! We would get to a point where we would have to stop the inquest system. That proves my perverse law that the scrutiny of each casualty is inversely proportionate to the number of casualties we take.

Earl Howe: My noble friend is right that that is a question from left field because I do not think I can answer him substantively today. Clearly, in the circumstances that he outlines the coronial system would be overwhelmed and one would have to consider the best way of arriving at the end point that we would all wish to see, which is that for all those deaths, no matter how many, an explanation is provided to families of how those people died and what lessons were to be learned from that. I do not think I can usefully speculate in these surroundings about what might happen in particular circumstances, but I will reflect on my noble friend's question, and if I can give him a better reply in the letter that I have undertaken to send to him, I will be happy to do so.

Earl Attlee: I do not really expect the Minister to give me a precise figure, but I am very grateful to him for saying that he will reflect on what I have suggested. I do not expect him to get particularly far, but I am grateful for his attitude to my speech.

Lord Thomas of Gresford: My Lords, those of us who were around in 2009 will recall the great controversy in the Coroners and Justice Bill about whether we should have a chief coroner. Eventually the argument prevailed that we should have a chief coroner. We have a highly competent, able and experienced person in the shape of Peter Thornton. I am sure he will deal with many problems unless and until the system is overwhelmed, as the noble Earl suggested. I am very reassured, and I am grateful to the Minister for his careful response which brings me up to date on where we stand with the inquest system. I will reflect on what he said to see whether there is any necessity for me to take this issue further. I beg leave to withdraw the amendment.

Amendment 17 withdrawn.

Amendment 18

Moved by ***Earl Attlee***

18: After Clause 14, insert the following new Clause—

"Guidance on definition of "on duty" for reservists

The Defence Council shall promulgate an instruction or notice giving clear guidance as to when a reservist is on duty and when he or she is not, and any such guidance must cover, but need not be limited to—

(a) all hours of a day when it is intended that the reservist is to be paid,

(b) the period after dismissal parade but when the reservist is still on Ministry of Defence premises."

Earl Attlee: My Lords, I shall speak also to Amendments 19 and 20. This group of amendments explores when a reservist and, in some cases, a regular is or is not on duty, is subject to military law and can be expected to be supported by the MoD. When the Minister has replied, I hope the Committee will have a much clearer understanding of the position.

For most of my active years in the TA—now the Army Reserve—my understanding, and certainly my ethos, was that I was subject to service discipline for the full 24-hour period for which I was to be paid. This applied to both my commissioned and my non-commissioned service. On a Saturday morning, I might be in bed until 0600 hours; I might not be on parade until 0800 hours; work on military activities might finish at 1800 hours; and we might be engaged in social activities, on or off defence premises, at 2200 hours. I am absolutely certain that our ethos was that we were subject to service law all the time and that the chain of command was effective. This state of affairs did not seem to deter anyone from joining the TA, even if they were aware, nor did it encourage anyone to leave. Indeed, a reserve unit is a safe place precisely because there is an effective chain of command, with someone in charge all the time.

Nowadays there seems to be some doubt or uncertainty. Now it is being suggested that reservists are not subject to service law after dismissal parade, even though they are still on defence premises. It seems most odd that one would want to collapse the system of command, control, good order and military discipline at some artificial and very uncertain point in the day, which may also have to be moved back at a later point for some good reason.

There is also uncertainty for reservists when travelling to and from their place of duty. It now appears that they are not under service law at that point, but what happens if some reservists are acting in a way that would tend to bring their service into disrepute, but not so badly as to interest the civil police? If an officer, senior NCO or service policeman chanced upon the incident, they could not take any action because the reservist would not be under service law. In this case of any insubordination to a regular or reserve officer, nothing could be done. One of my amendments calls for a defence instruction and notice—a DIN—on the issue, but the Minister can start by explaining the situation to the Committee and telling us exactly when a reservist is or is not on duty. I am sure that is his intention.

My other amendments deal with the related issue about duty, which is about self-tasking in a range of emergencies. The first point for the Committee to understand is that ordinary service personnel never have the powers of a police constable or a firefighter. There is no need and that is not the role of the Armed Forces, but I and a very large proportion of the Armed Forces, both regular and reserve, are hard-wired to intervene in any form of emergency. The most obvious example is any form of transport accident. We would not fail to prevent an emergency situation deteriorating until the emergency services arrive, and we would do all we can to preserve life and limb, and to promote recovery. However, we are trained to assess risk and not become casualties ourselves. Officers and senior NCOs can exercise a fair amount of command and control just through leadership and personality. More junior personnel will find that they can often be far more effective and willing if they are in uniform.

None of this will be a surprise to the Committee, but what happens if there is not a happy outcome arising from the resolute actions of the serviceperson, whether he is a reservist off duty or a regular serviceperson off duty? I will not weary the Committee with a scenario, but perhaps there is some legal issue despite the serviceperson being compliant with the terms of my amendment. My understanding is that if the serviceperson is not on duty, they are on their own. Of course, various press offices in the MoD will lap up any easy and good news stories, so can my noble friend the Minister confirm to the Committee that, in a civil emergency, a self-tasking, off-duty serviceperson is on his own and there will be no "big firm" back-up from the MoD?

My next amendment is closely related to being on duty. The Committee will recall the failed terrorist attack on a train in France near Arras last summer. The attacker was heavily armed with automatic weapons, but there were no fatalities thanks to the very courageous actions of two off-duty US servicemen

who disarmed him. It is important to understand that they could have been killed. They did what we expected them to; they certainly did not wait for any orders or rules of engagement. This type of attack is not a hostage situation, where the tactics would be to drag out the situation and try to make friends with the hostage-taker if at all possible. In this case, it is necessary to destroy or defeat the attacker in the shortest possible time to minimise the overall number of civilian casualties. Such an incident is likely to be particularly messy. The amendment is designed to ensure that a serviceperson who is self-tasked in such a situation is on duty, and in the aftermath will be supported by the MoD and HMG in the same way as if they were on a conventional operation.

It would also ensure that he or she knows that the law recognises in this particular situation that there may be collateral damage. I am not suggesting that the proportionality test of the law of armed conflict can be ignored; it certainly cannot.

The counter to my amendment is that it is not necessary because the law already allows for it. That may be the case but why should a serviceperson who has acted courageously and skilfully be put through all the worry? If the worst happens and they are killed, will the pension arrangements and death-in-service benefits be any different from if they were on duty in the normal way? In such a situation, would it not be better for the serviceperson, self-tasking in such a matter, to be considering military matters, such as estimating the number of rounds fired by the attacker rather than worrying about his or her legal position? I beg to move.

Lord Tunnicliffe: My Lords, on Amendment 18, which seeks clarity, we have nothing to add and look forward to the Minister's response.

Amendments 19 and 20 seem to want to create an individual who is, in terms of rights and indemnities, somewhere between a citizen and a constable, or perhaps a firefighter. That would be a significant new piece of law. It would have to be accompanied by a significant portfolio of training in the management of risk to self and collateral damage. It seems to me that we would end up with the implication that the MoD had some sort of duty of care to make sure that the individual was equipped to behave in some way differently from a citizen, and we would end up in some area of certification whereby individuals would have to be seen to be competent not only in their straightforward military duties but in this self-tasking. There could be almost a proliferation of miniature armies among the citizenry.

I find it difficult to believe—I may be persuaded otherwise—that the complexities and costs of such a concept would justify the benefits. If the Government were to come forward with such a proposal, that would be a different matter. I would expect to see a body of research that looked into the various scenarios in which it might apply. I would expect that research to include an analysis of unintended consequences and how the appropriate ancillary rules would support those consequences, and I would expect extensive consultation. If such a concept were to come forward from the Government, accompanied by that level of analysis and consultation, of course we would have an open mind and treat it on its merits. Introducing such a powerful, new legal concept through an amendment to the Bill is not something we feel we can support.

4.15 pm

Earl Howe: My Lords, I am grateful to my noble friend for setting out the rationale for his Amendment 18. However—without, I hope, disappointing him too much—I am not convinced it is necessary to set out in the Armed Forces Bill a statutory requirement for the Defence Council to issue guidance on when a member of the Reserve Forces is on or off duty.

We ask a great deal of our reservists, who, in many cases, attend training and fulfil military duties alongside their full-time civilian employment, as well as committing to deploy on operations when they are required to do so. It is self-evident that in return for this dedication, the MoD needs to make it clear how members of the Reserve Forces will be treated and supported when they are on mobilised service or training, or travelling to and from their reserve centre. Principally, we set this out because reserve service is not risk-free and we need to be able to give reassurance that we will support people properly if they suffer an injury or illness during service.

When is a service man or woman subject to service law? Section 367 of the Armed Forces Act 2006 sets this out:

> "Every member of the regular forces is subject to service law at all times".

The position for reservists is different. Reservists are subject to service law in the following circumstances only: when they are mobilised—called out; when they are in full-time reserve service; when they are undertaking any training or duty; and when they are serving on the permanent staff of a reserve force.

Single service regulations, which are made under the Reserve Forces Act 1996 for each of the reserve forces, already define the circumstances in which a reservist is to be regarded as on duty. As might be expected, this includes during Armed Forces training but it also includes time while they are on MoD premises for the purpose of training, or time spent travelling to and from training or duty for which they are entitled to claim payment. Travel to a mobilisation centre in answer to a call-out order is also regarded as duty. The regulations are principally intended to define the MoD's liabilities in the event that a reservist sustains an injury at any of these times.

Of course, the actions of a reservist at a time when they are not on duty may none the less be relevant to their service; for example, reserves regulations stipulate that officers may at any time have their commission terminated, be called upon to retire, or be called upon to resign their commission because of misconduct, whether or not that misconduct took place during training or other duties. It is also fully understood by reservists who are present on service premises at times when they are not on duty—for example, those making use of unit gymnasium facilities in their own spare time—that they are to conduct themselves at such times in the same manner as they would were they on duty.

[Earl Howe]

It is worth clarifying that the practice of payment of members of the Reserve Forces for training or other duties in increments of a day's pay, half a day's pay or a quarter of a day's pay is not directly linked to the issue of when during that day the reservist is on duty. Thus a reservist who works an eight-hour day will receive a full day's pay for it—the same payment as he or she would receive for working for all 24 of the hours in that day. However, that does not mean that the reservist who works an eight-hour day is on duty for all 24 of the hours in that day. It might be considered odd to suggest that they would be. It would be surprising to suggest that a reservist who left their reserve unit at 1600 on a Saturday after completing an eight-hour day and returned to their civilian life—and perhaps their civilian employment—would still be on duty until midnight.

For the reasons I have set out, and given that existing regulations already contain provision for when members of the Reserve Forces are on duty, I hope my noble friend will be reassured and will agree to withdraw his amendment.

I turn now to the amendments which would make provision with respect to members of the Armed Forces who encounter civil emergencies or terrorist attacks. Amendment 19 makes provision with respect to members of the Armed Forces who take it upon themselves as individuals to intervene to help in civil emergencies where they have received no orders to do so. I am sure this is intended to encourage them to intervene in such circumstances. In the case of members of the Reserve Forces, this would include interventions when they were not otherwise on duty. However, it would apply only to reservists who were in uniform and were either on duty, were intending to be on duty that day or had been on duty that day.

I read subsection (3) as intending to allow provision to be made to place service personnel under an obligation to intervene in certain circumstances. Subsection (4) would offer those who intervene indemnities from legal action. Amendment 20 makes similar provision with respect to intervention of members of the Armed Forces during terrorist attacks. This new clause would apply to reservists and members of the regular forces whether or not they were in uniform at the time.

The first point to make is that the criminal law provides protections for members of the public who use force for the purposes of self-defence, defence of another, defence of property, prevention of crime and lawful arrest, although the force used must be reasonable in the circumstances. Thus a member of the Armed Forces, whether in uniform or on duty or not, who intervenes during a civil emergency or a terrorist attack and uses reasonable force for any of the purposes to which I have just referred has a defence to charges under the criminal law.

However, Amendments 19 and 20 suggest that my noble friend is concerned that a person who intervenes in an emergency situation to prevent loss of life, serious injury or serious damage to property may be at risk of being sued in the civil courts. We think it highly unlikely that a person who did what they honestly believed was reasonable and necessary in the circumstances, during a civil emergency or a terrorist attack, to prevent loss of life, serious injury or serious damage to property could be successfully sued in respect of injury or damage caused by them in doing so.

It is not immediately apparent why an off-duty member of the Armed Forces who decides to intervene to help in a civil emergency or a terrorist attack should be in any different position in law from any member of the public who does so. No doubt contrary to my noble friend's intention, the amendment might in fact make a claim in respect of the actions of a member of the Armed Forces more likely, because those actions would not simply be those of a member of the public in their private capacity but would instead be those of the Armed Forces.

Another concern that I have with these new clauses is whether, if a member of the Armed Forces intervened in a situation and was then deemed to be on duty and perhaps somehow under orders, there could be a risk that they could find themselves not supported but actually challenged by the chain of command as to the usefulness or otherwise of their intervention. While we would not want to deter off-duty members of the Armed Forces from intervening in a personal capacity in an emergency situation, we do not think that it would be appropriate for them to be duty-bound to intervene or to think that they were. Would we want an unarmed, off-duty member of the Armed Forces to think that they were duty-bound to tackle heavily armed terrorists and that they might face disciplinary action should they fail to do so?

We should also not rule out the possibility that their efforts, however well-intentioned, may not necessarily be welcomed by the police or other emergency services. It is long-established that it is only in very exceptional circumstances that members of the Armed Forces should deploy in an official capacity on the streets of the United Kingdom. The civilian emergency services rightly have primacy in such matters.

The notion that individual service personnel may deploy as members of the Armed Forces on official duty not under orders but instead, in effect, on their own say-so would also represent a very significant departure from very long-established practice, under which the use of service personnel is authorised and regulated under orders through a chain of command. I am afraid that it is a departure that the Government cannot support.

I also note that Amendment 20 would purport to allow members of the Armed Forces to use,

"all necessary steps to neutralise",

an attack. The criminal law allows only the use of such force as is reasonable in the circumstances. This is the standard that applies not only to members of the public generally but also to the police and members of the Armed Forces who are under official orders to tackle armed terrorists. We do not see any basis for departing from this long-established standard.

In short, we do not consider that the proposed amendments are necessary to allow members of the Armed Forces to intervene in the circumstances discussed and we are not convinced that it would be appropriate

to put in place the proposed legal rules regarding such intervention. I therefore ask my noble friend not to press his amendments.

Earl Attlee: My Lords, I am grateful to all noble Lords who contributed. The Minister gave me exactly the answer I would expect. The first part of his answer was particularly useful so I am grateful to him for that. I am a little surprised by the response of the noble Lord, Lord Tunnicliffe, because nowhere was I suggesting that there would be any special training. It was basically whether off-duty servicemen should have any top cover from the MoD. I do not see that there would be any extra costs in that. It certainly would not be a new task or mission for the MoD. I am still very grateful for the noble Lord's response and beg leave to withdraw the amendment.

Amendment 18 withdrawn.

Amendments 19 and 20 not moved.

Amendment 20A

Moved by ***Earl Attlee***

20A: After Clause 14, insert the following new Clause—

"Career employment group

(1) Subject to subsections (2) and (3), no female member of the armed forces shall be allocated a "career employment group" whose primary role is to close with and then engage or destroy the enemy in close combat.

(2) In this section, "career employment group" means any alpha-numeric reference number to identify a trade and used for personnel management.

(3) Subsection (1) does not apply to a female member of the Armed Forces who has been specially selected on the basis of being extraordinarily fit and having exceptional mental and other capacities."

Earl Attlee: My Lords, this is a short probing amendment to explore where the Government are on the issue of allowing women to serve on the front line. I do not intend to return to it at a later stage.

There is a wide variety of important roles for women in our Armed Forces and they make a significant contribution. In many cases, they stand in harm's way and take the same risks as their male counterparts. Furthermore, they can increase operational effectiveness. My only concern is that perhaps the range of roles was increased merely to plug a recruiting gap that should have been dealt with by improving pay, terms and conditions of service, and accommodation. There are many roles in which women can perform better than men, including traditional male roles. However, they are excluded from roles that are primarily to close with the enemy and kill him.

The intention of my amendment is broadly to allow women to serve in the Royal Armoured Corps but not infantry regiments, but I accept that it may not actually achieve that. Subsection (3) is merely an exemption, a get-out provision, to allow posting and recruitment for very special roles including but not limited to Special Forces. I do not see any need for the Committee to debate this provision as it is merely to avoid any undesirable effects of the amendment.

My concern is that the roles that I seek to exclude require a very high level of strength as a prerequisite. My first question for the Minister is: what proportion of females does he think can meet the current fitness and strength requirements for the infantry? I ask because very few women are as strong as the average male soldier. Secondly, do the Government have a target for the percentage of our Armed Forces that should be female? I would be very interested to hear the views of the Committee on this issue. I beg to move.

Baroness Jolly: My Lords, I am sure the noble Earl, Lord Howe, will correct me if I have this wrong when he sums up but I understand that a Statement on this issue is expected in the near future, and that both the PM and the Secretary of State expect to lift this ban within a year.

Perhaps the noble Earl, Lord Attlee, could help me. I want to make sure that I understand what his amendment is trying to do, taking the three subsections together and weaving them into an argument. I understand the noble Earl to be saying that a female member of the Armed Forces can engage or destroy the enemy in close combat only if they are specially selected for being extraordinarily fit and having exceptional mental and other capacities. Is that right?

Earl Attlee: My Lords, I did touch on subsection (3), the purpose of which is to ensure that we do not prohibit females from being posted to Special Forces units. Perhaps that would not be suitable for the SAS or SBS but perhaps other roles could be caught by my amendment as drafted. It is merely to make sure that the Minister does not criticise me for causing unnecessary problems. I suggest to the Committee that females can serve in the Royal Armoured Corps, operating an armoured fighting vehicle, but they should not be able to be in the infantry, sticking the bayonet into the enemy.

4.30 pm

Baroness Jolly: I thank the noble Earl for that clarification. I rather suspected that that was what he was going to say. I was wondering about the words "extraordinarily fit" and,

"exceptional mental and other capacities".

I wondered how these would be determined, defined and measured. The noble Earl has helped me out to a certain extent there.

We know that women already serve as medics, intelligence officers, fighter pilots and submariners. They have been awarded medals for their bravery in battlefield situations. Should these criteria not be applied to anybody, men or women? They sound gender-neutral. I see what the noble Earl is trying to achieve but I am not sure he has achieved it. It seems that it could apply to either men or women. Whatever happens, whoever we send into battle, we need the people engaging for us to do so based on their abilities, not their gender.

Earl Attlee: My Lords, my worry is that, if the Government decide that, yes, we can have females serve in the infantry, the fitness and strength standards

[Earl Attlee]
for a combat infantryman would have to be lowered. That would mean that we lower the capability of the infantry—they would not be as fit and strong—in order to have a unisex standard.

Baroness Jolly: I understand what the noble Earl is trying to get at. Conversations I have had about this suggest that the number of women who are likely to fit the category will be very small indeed. I am sure that they will ensure that they have all the other characteristics that the noble Earl suggests they should have in order to engage.

Lord West of Spithead: My Lords, we know very well that women can be amazingly brave. We have always been willing in wars to let them die. Indeed, when I did my study into the employment of women at sea, it was quite clear that they could do all the jobs in ships at sea. Indeed, quite often they were better at some jobs than young men, particularly some of the computer work that was being done. However, there is a concern when it comes to hand-to-hand fighting and the like. With a volunteer force, we will have to allow women to become part of the infantry and the Royal Marines. What we must not do is lower the physical standards. There must be no lowering of them, so it will be a small number of women who can do that. Certainly, my judgment of women is that a lot of them are probably far better at killing people than men are, so I do not think that that is a problem, either.

However, I have a concern. One speaks in generalisations about training and other things. As I said, we must not lower that standard. When we talk in generalisations, women have 30% less upper body strength than men. That is across the whole population. Yes, in this volunteer service we will get away with this, but we must not let it affect operational capability or cause us too much of a problem administratively because too few women will be able to do it and therefore one makes special rules and it becomes administratively very difficult. Again, it comes to this business where, one day, we will have a war again, I fear—no one can predict it—and in the case of a general war, would we in this country conscript women as well as men into the infantry? That is an interesting question. That is all I have to say on this subject.

Lord Touhig: My Lords, more than 20 years ago, as a parliamentary candidate in Richmond in west London, I addressed a Labour Party women's group, telling them that as a country we wasted a small fortune on educating girls and women at all. Before they could leap from their seats and warmly shake me by the throat, I went on to say that as a man, I had a family and a career but all too often women were denied this and had to make a choice of having one or the other. We spend a fortune on their education and then put barriers in their way to having a career and a family. For me, that is plain wrong.

Thankfully, as time has passed, more and more opportunities exist for women to enjoy the same lifestyles as men and to have a family and a career, but we are still far from achieving true equality. Where we can take steps to achieve this, we should do so. I therefore welcome the Government's initial commitment to allowing women to serve in front-line roles in the Armed Forces. This amendment would prevent that and would deny a fit, well-trained, skilled and experienced woman combatant the same career progression as her male counterpart. This will always be a controversial and complex matter, as my noble friend Lord West pointed out, but if we are serious about the equality agenda we cannot deny women the same role that we offer men.

Throughout history womankind has played an exceptional and extraordinary role in our development, almost always against the odds and facing prejudice. Some would argue that in affording women this opportunity we are setting a precedent. Yes, we are—about time, too. I have no doubt that the first human who stood up straight and started walking on two legs was watched by those still on all fours, who tut-tutted and complained that this was setting a precedent. They were proved wrong, and I very much regret to say to the noble Earl, Lord Attlee, for whom I have the highest regard and respect, that I believe that his amendment is wrong, too. On Monday in the House we will debate a Motion to take note of the progress made in the United Kingdom in women's representation and empowerment, 150 years after the 1866 petition to the House of Commons for women's suffrage. It is about time we caught up—especially in the Armed Forces.

Earl Howe: My Lords, the amendment proposed by my noble friend would have the effect of excluding women from those roles in the Armed Forces, where the primary aim is to,

"close with and then engage or destroy the enemy in close combat".

As I know my noble friend agrees, women play a vital role in the Armed Forces, with 70% of all posts being open to women. Women have made and continue to make a valuable contribution to current and recent operations, including Afghanistan. They are fundamental to the operational effectiveness of the UK's Armed Forces, bringing talent and skills across the board.

My noble friend asked whether there was a target for the percentage of the Armed Forces who should be female. The answer is: yes, the Ministry of Defence has a target for recruitment of women into the Armed Forces of 15%. As at 1 October 2015, 10.1% of the Regular Forces were female, and that has remained stable since 1 October 2014. So we have a way to go in this area.

Women already serve in a variety of support roles with front-line units, including as medics, fire support team commanders, military intelligence operators, counter-improvised explosive device operators and dog handlers. Under the Equality Act 2010, the Armed Forces are permitted to exclude women and transsexuals from employment in some areas where it is necessary and appropriate to ensure that the combat effectiveness of the Armed Forces is maintained. However, under the equal treatment directive, the UK Government are obliged to review this exclusion every eight years. To that end, studies were conducted in 2002 and 2010. Women are currently excluded from 30% of posts in the Army, 21% in the Royal Navy and 6% in the Royal Air Force. The units of the Armed Forces that are

affected by this are the Royal Marines general service of the Royal Navy, the infantry and the Royal Armoured Corps of the Army, and the Royal Air Force Regiment.

In May 2014, the then Secretary of State for Defence announced a review of the exclusion of women from ground close combat roles. The review was led by the Army and it was completed that year. The review achieved a considerably better understanding of the physiological considerations than existed previously, due to significant improvements in the accuracy of data available and the fact that the military female cohort is both larger and more representative than that available to previous studies.

While defence welcomes the prospect of opening further military roles to women, the findings of the 2014 review identified that further physiological research is required into the high physical demands inherent in ground close combat roles and the associated potential impact on women's health. To lift the exclusion without doing this research could place women at risk of personal injury. The physiological research programme is now examining the challenges and risks of including women in ground close combat roles in order to inform a final decision.

I need to make it clear to my noble friend that the women in ground close combat roles review follows the principle that all roles should be open to women unless it can be demonstrated that the exclusion was necessary to maintain combat effectiveness. Therefore, in the event that the exclusion is lifted, any woman serving in a combat role will have passed the physical tests and training to be there in her own right. I can reassure my noble friend on one important point. The requirement to maintain combat effectiveness remains the paramount consideration. Training standards will not be lowered in order to accommodate women and this, in turn, will ensure that the combat effectiveness of ground close combat units is maintained.

The Prime Minister and the Defence Secretary are united in wanting to see all roles in the Armed Forces opened up to women. In answer to the noble Baroness, Lady Jolly, I cannot be precise on dates, but the decision on whether or not women should be allowed to serve in ground close combat roles is expected by the middle of this year. I hope that this explains our position and, in view of what I have said, I hope that my noble friend will agree to withdraw this amendment.

Earl Attlee: My Lords, I am grateful to all noble Lords who have contributed to the debate. I am not surprised that the noble Lord, Lord Touhig, had a go at me. I went part of the way: I said that we could have women in the Royal Armoured Corps because there is no logic for why a woman should not be able to operate a tank or an armoured fighting vehicle. In fact, there is a possibility that women may be better in certain roles.

The noble Lord, Lord West, was very cruel to me because he took away one of my killer questions to the Minister, which is: if we were in general war and had to conscript people, would we be happy to conscript women into the infantry? I do not think the Minister needs to answer that because it is far too tough a question.

I would like an assurance from the Minister that he will not authorise the fitness and strength standards in the infantry to be lowered. Can we have an assurance that that will not happen? If there are one or two superhuman women who can do it, fine. But as soon as we lower those training and fitness standards, we will have reduced the combat effectiveness of the infantry.

Earl Howe: My Lords, I endeavour to give my noble friend that absolute assurance. We are clear that physical training standards must be maintained to ensure that combat effectiveness is not degraded or diluted.

Earl Attlee: My Lords, my position is that the solution outlined in my amendment is the right one. In other words, yes to women in the Royal Armoured Corps but no to the infantry and the Royal Marines. We will have to see what happens. In the mean time, I beg leave to withdraw my amendment.

Amendment 20A withdrawn.

Clause 15 agreed.

4.45 pm

Amendment 21

Moved by ***Lord West of Spithead***

21: After Clause 15, insert the following new Clause—

"Compensation for veterans with mesothelioma

(1) The Secretary of State must, within two months of the passing of this Act, put in place an armed and reserve forces compensation scheme, through which a person who has served in the armed or reserved forces can claim a lump sum of at least £140,000 in respect of a diffuse mesothelioma diagnosis.

(2) The scheme must provide that all persons who have worked in the armed forces and have been diagnosed with diffuse mesothelioma as a result of that employment are eligible to claim the lump sum specified in subsection (1) irrespective of —

(a) the date on which they were diagnosed; and

(b) whether they are in receipt of a war pension under a separate scheme.

(3) In this section, "armed and reserve forces compensation scheme" has the same meaning as in section 1 of the Armed Forces (Pensions and Compensation) Act 2004 (pension and compensation schemes: armed and reserve forces)."

Lord West of Spithead: My Lords, mesothelioma is a most dreadful disease, as we all know—and very difficult to pronounce, if I may say. It is bad enough for a veteran to have it, let alone having to suffer the unfairness of limited compensation compared to his civilian counterpart. What of the armed services covenant?

A campaign has been run by many, not least by my fellow Labour colleagues and the noble Lord, Lord Alton, who I see is sitting in his place. It seems now to have borne fruit: parity of payment for all veteran sufferers now seems to have been agreed. Perhaps the Minister could confirm that this is the case, as no Statement has been made to this effect in the House.

[Lord West of Spithead]
The proposals set out in the amendment in the name of the noble Lord, Lord Empey, make sense unless these things are being done by some other means, and I am not sure whether they are.

My last few words relate to the need for much more research into this killer disease and much more emphasis on that. More needs to be done, but, crucially, there needs to be a co-ordination of the results of research, particularly between the four big teaching hospitals that are working in this arena. I am led to understand that some sort of central analysis unit, funded by LIBOR money, is being set up to do this work. Will the noble Earl let me know if this is the case?

Earl Howe: My Lords, without wishing to preclude further debate on this amendment, it may be for the benefit of the Committee if I confirm the announcement made by my ministerial colleague in another place on 29 February. This was that the option of receiving a lump sum of £140,000 will be extended to veterans in receipt of a war pension for diffuse mesothelioma who were diagnosed before 16 December 2015 and also to those who have yet to have a claim accepted. We listened to the views of parliamentarians and ex-service organisations, particularly the Royal British Legion, which commented that the Government had "done the right thing" in announcing these changes to the compensation pay-out.

Lord Alton of Liverpool (CB): My Lords, I support the amendment moved by the noble Lord today in Committee. I apologise to the Committee, as, although I attended some of the Second Reading debate, duties elsewhere in the House prevented me from being able to be present for the Minister's reply. I therefore did not speak at that stage and I crave the indulgence of the Committee in speaking today.

Noble Lords might know that I currently have before the House a Private Member's Bill which has received a Second Reading. It enjoyed all-party support and would provide funding for research—to which the noble and gallant Lord just referred—into the causes of mesothelioma, a disease which the Government themselves predict will take a further 60,000 British lives. We have the highest incidence of mesothelioma anywhere in the world. No effective treatment exists; there is no cure and once diagnosed, the average patient dies within a few months.

On introducing that Bill, and in relation to our Armed Forces, I said that,

"the failure of the 2014 Act to include provision for compensation for our servicemen who die of mesothelioma is a glaring anomaly. The British Legion, the Royal Navy & Royal Marines Charity, the Royal Navy Royal Marines Widows' Association, the Royal Naval Association and others all support calls for change".—[*Official Report*, 20/11/15; col. 385.]

I contrasted at the time the position of a 63 year-old civilian, who might expect to receive around £180,000 in compensation, compared with a veteran's entitlement to a year's worth of war pension which, paid at the maximum rate for a non-married naval veteran, amounts to just £31,000. I argued then that veterans should be offered compensation at least equal to that which the courts and the Government have decided that civilians deserve. The unequal treatment of our servicemen and servicewomen amounts to a serious breach of the Armed Forces covenant, which is supposed to ensure that veterans are not disadvantaged because of their service.

I am particularly grateful, therefore, that the department has recognised that this is an anomaly that needs to be rectified, and I strongly welcome what the noble Earl, Lord Howe, said to the Committee a few moments ago. Of course, this echoes what his honourable friend in another place, the Parliamentary Undersecretary, recently told the House of Commons. He will also know that there was not just that anomaly: there was an anomaly within the anomaly in that a very small group of people—some 60—had been excluded from the scheme because of the way in which the timeline in the announcement fell. It is particularly good that the noble Earl has been able to say today that that will be removed—that the effect of the amendment that the noble Lord, Lord West, has put before the Committee will be realised.

The noble Earl will also know, especially given his previous duties at the Department of Health, that this is a disease that does not have a cure and needs much more basic research. He will also know that until the mid-1960s, blue asbestos—crocidolite—was widely used in the insulation of Royal Navy vessels. In consequence, many Royal Navy personnel have died of mesothelioma, particularly those working in boiler rooms and in engineering trades but also those on board ships during refits.

Professor Julian Peto, in an analysis for the Royal British Legion, estimates that a further 2,500 Royal Navy personnel will die of mesothelioma between now and 2047. On 8 December 2015 I asked the noble Earl in a Parliamentary Question how the Government intend,

"to assist members of the armed forces who are diagnosed with mesothelioma in the future; and what assessment they have made of whether those individuals should receive financial support at least equivalent to that of civilians diagnosed with the disease".

The noble Earl replied that this was "a complex matter" and that:

"The Department commissioned advice from the Independent Medical Expert Group to look at mesothelioma and the awards paid through the WPS".

The noble Earl promised an announcement and we have now received that.

However, if I may say so, there were also written into this and other Questions tabled at the time questions about the levels of research and indeed the data collection by the Government. I refer particularly to the comments of Commodore Rhod Palmer, who is a third-generation Royal Navy sailor diagnosed with mesothelioma in April 2015. Incidentally, he is one of those who would have been excluded from the new compensation scheme—the anomaly within the anomaly. He said:

"No amount of money will ever compensate sufferers and their families for a preventable death. However, it is a real breakthrough that the Government will treat all current and future sufferers of mesothelioma exposed to asbestos during their Service under comparable terms as civilians. This payment allows patients with mesothelioma to make arrangements to maximise their quality of life during this terminal illness and to support the family that they leave behind".

He went on to say:

"Looking to the future, I strongly encourage further funding of research into advancing the treatment of this devastating condition".

The noble Earl will recall that when he was at the Department of Health I moved an amendment to the Mesothelioma Act to provide financial support from the levy on the insurance industry, which was defeated by a handful of votes. At the time four insurance companies were voluntarily supporting research and the noble Earl believed that many of the other 120 insurance companies covered by the levy would voluntarily join the other four in supporting research into this killer disease. Sadly, I have to inform the noble Earl and the Committee that the opposite has happened, with only two companies now voluntarily supporting research. In supporting this amendment and welcoming this week's announcement, I ask the noble Earl to study the correspondence that I have sent him today, which includes a letter sent on 18 February to Mr George Osborne, the Chancellor, by Professor Sir Anthony Newman Taylor CBE of Imperial College, urging him to release LIBOR funds—referred to by the noble Lord, Lord West—to help fund a national mesothelioma research centre, which Imperial wishes to create with the National Heart and Lung Institute, the Royal Brompton Hospital, the Institute of Cancer Research and the Royal Marsden Hospital. Incidentally, in that letter Sir Anthony says that the current rate of death is around 3,000 a year. He says:

"There is an urgent need to find curative treatment for this awful disease".

He says that modern genetics hold great promise but that,

"sadly, to date, mesothelioma has not been the focus to achieve this at any research centre in the UK, or, as far as I am aware, at any centre worldwide".

The Committee will recall the decision of the Chancellor to transfer some £35 million from the fines levied on the banks for attempting to manipulate the LIBOR interest rate. That money was transferred to the MoD for use in supporting the Armed Forces community. The proposal from Imperial College would be an imaginative use of some of those funds to help to find cures for a disease which has claimed too many lives among members of our Armed Forces. Following our debate today, therefore, I would be grateful if the noble Earl would write to me with a considered response to Sir Anthony's initiative.

I shall conclude with a word about data collection within the Armed Forces. In February 2014, I asked the Government,

"how many of the annual fatalities caused by mesothelioma involve former members of the armed forces; what data are kept on the cause of death of former servicemen; and what research they plan to commission into the incidence of mesothelioma amongst former servicemen".

The then Parliamentary Under-Secretary, the noble Lord, Lord Astor of Hever, replied:

"Data on the number of annual fatalities caused by mesothelioma does not identify those who were former members of the Armed Forces … The MOD has no plans to commission research into the incidence of mesothelioma amongst former Service Personnel".—[*Official Report*, 11/2/14; col. *WA 125-6*.]

It is the duty of the department to do that, and it should have such plans. I encourage the noble Earl to revisit this issue. This should not be a case of don't ask, don't say. This is about people's lives and our duty of care towards them. Anecdotes and speculative figures are no substitute for hard-edged data and empirical research, and today I again ask that data collection be instigated.

The noble Lord pursued this argument in June last year when he asked Her Majesty's Government:

"What data is collected about the incidence of mesothelioma among members of the armed forces; what studies of this issue have been conducted; what estimates they have made of the future incidence of mesothelioma among service men and women and of connected fatalities".

Those questions still have to be answered, and I hope today's debate will help us to attend to that. In reply the Minister said:

"The MOD has not conducted studies or research about mesothelioma".

Surely it is high time it did.

The London School of Hygiene & Tropical Medicine produced an estimate in 2009 that about 2,500 Royal Navy veterans will die from mesothelioma between 2013 and 2047. Surely, we should be commissioning research across the services to establish what the likely incidence will be and, more importantly, what we can do to avert this suffering and these deaths. Surely we should be supporting the work of our scientific community and offering hope to those who have been diagnosed with this horrible disease.

Lord Empey: My Lords, I support the amendments and welcome the statement from the Minister. It was sobering when the noble Lord, Lord West, said at an earlier stage that he and others played snowballs with this material in vessels. Sadly, anybody who comes from an industrial city such as mine with shipyards and other related businesses knows that that was common practice. Dust and fibres were brought into homes on clothing, and that transferred the disease to families, which is why in 2001, when I was Enterprise Minister, I set aside £180 million to cover what we considered to be the compensation required for people who had previously worked for shipyards, which were a nationalised business at the time, to cover deaths to 2050. The noble Lord, Lord Alton, who has done enormous work on this issue over recent years, says the same thing—that that is the sort of timescale.

What is not mentioned is that while some people think this disease is literally dying out, it may be in this country, but it is not dying out in the world. I am sure we have all seen the horrifying photographs of women in the Indian subcontinent surrounded by mountains of this material which is coming off ships that are being scrapped on beaches in Bangladesh, India and Pakistan. They are being dismantled, and these women are sorting this stuff out. It is horrifying to think of the downstream consequences that will produce. Therefore, anybody who thinks this matter is going to be settled in a few years is wrong.

In the amendments in my name in this group I want to draw attention and attempt to raise awareness through publicity among former members of the armed

[LORD EMPEY]
services who may be at risk or who may be susceptible to this disease. It is important that ex-service personnel and their families are made aware of the changes that are now taking place. I was also hoping for a monitoring process to ensure that the comprehensive and prompt detection of cases is also part of it. If people have been exposed, while it may not be currently curable the management of the disease can be handled. I had two neighbours who got this disease; it was a terrible death that they suffered. One of those individuals spent just one year of his entire career in the shipyard, where he, from time to time, went through an area where the electrical materials were being covered in asbestos. One exposure to one fibre, if you are susceptible, can be enough. That was 40 years earlier. It does not discriminate between a person's normal health, class or physical condition. It is just one of those things: some people are susceptible and others are not. It does not matter whether you are exposed to it for one day or for 20 years. If you are susceptible, you are susceptible.

5 pm

I hope that the Minister's statement covers everybody because the thing that struck a number of us when the discussion took place on the Bill was that, yet again, we were going to leave a small number of people out. In the overall cost, moral obligation and everything else, the one thing we must not do with this is leave somebody out. I hope that the department will pursue the matter and contact those it believes may be affected or hold a campaign to raise awareness so that every possible attempt is made to find and monitor. I strongly support the view of the noble Lord, Lord Alton, that we have to have some statistics on this. How else are we to measure what progress is being made? I strongly support the amendments and welcome the Minister's statement. I hope that every single person will be covered and that we will not be coming back to find another anomaly within an anomaly within an anomaly.

Lord Brown of Eaton-under-Heywood: My Lords, I, too, welcome the Government's announcement proposing compensation for service personnel who have contracted mesothelioma. It perhaps does not matter, but I am rather concerned about the wording of Amendment 21, particularly proposed new subsection (2). In the second line of that proposed new subsection, the requirement on the scheme is to compensate those who,

"have been diagnosed with diffuse mesothelioma as a result of",

working for the Armed Forces. The words "result of" create all sorts of problems because, as has already been explained—it is well known to all of us who have had to deal with this ghastly disease down the years—it is very difficult to know how one came by what may have been just a single brief exposure and thus how one came to suffer the disease.

I ask for some clarification: what is to be the scope of this proposed new scheme for compensation? Plainly, it will not be necessary to establish ordinary liability in the way of negligence or breach of some statutory duty. Will it be necessary to prove even that one has been exposed to asbestos in the course of one's service? I did national service more than 60 years ago. If, say, after the 40-year period in which this can develop—it can actually probably be even longer than that, so say after 40, 50 or 60 years—suddenly one receives this terrible diagnosis, does the mere fact of having done national service or whatever 40 years or more earlier entitle one at that point, without more, to compensation? Will it be necessary to prove even exposure to asbestos?

I point out that in the non-military context the courts have been grappling with this problem for years. There was a case called Fairchild, then one called Barker, and then in 2011 I was in the Supreme Court for the last case on it: Sienkiewicz v Greif. We have pretty much arrived at the situation now where anybody can get compensation where they have this diagnosis and can show that they were exposed to asbestos during any earlier period—wherever it may have been, in schooling or employment—and assuming that there is money there, the employers were insured and all the rest of it. True, the claimant must establish liability, but that is not generally much of a problem. If they were exposed to asbestos the likelihood is that they will be able to show negligence or breach of some protective duty under some statute.

All I ask is that there be clarification: is this intended to apply—one hopes that it is—to literally anybody who served in the Armed Forces and later contracted mesothelioma, or will it be necessary to prove at any rate some exposure to asbestos? That may create difficulties if service was 30 or 40 years ago.

Baroness Jolly: My Lords, I add my congratulation to those of other noble Lords to everyone who campaigned for this so hard and for so long. It seems that these last few sufferers were almost proving elusive. I am delighted that the Government announced that they will bring them into the scheme. The British Legion has also been hugely active in this regard and deserves congratulation, too.

The noble Lord, Lord Alton of Liverpool, showed remarkable tenacity in all this, particularly today, and in his quest for research funding. As noble Lords said, research is critical. On that point, it is worth mentioning for the Committee—and the noble Lord, Lord Alton—that the NHS does not record employment. A veteran goes to sign up the day after he or she leaves the services and the NHS takes their name, address, number and whatever. That is something else he might need to think about. It is not just in this area that the NHS recording employment would be really useful. It would help with research, treatment and, in some cases, diagnosis. There is work still to be done there.

Although I welcome this amendment, the devil is of course in the detail. Tough decisions always have to be made about the lump sum balanced against the annual income from war pensions and anything supplementary, multiplied by the life expectancy of a partner. I would like to quiz the Minister slightly on how this will be managed. Will people be given advice and support? If that comes from within the Veterans Welfare Service, which is part of MoD, how can that advice and support be seen to be independent?

Lord Touhig: My Lords, I do not intend to repeat the very important questions put by other noble Lords. I just add one brief reflection. I spent a great many years when I served in the other place helping to deal

with compensation claims from former miners for illnesses they suffered as a result of working underground. For several years, I chaired a committee set up by my noble friend Lord Murphy of Torfaen when he was Welsh Secretary and I was his deputy. We sought ways to speed up the system of payments. I had more than 500 cases in my own constituency of Islwyn and more than £50 million was paid out in compensation. We had to overcome all sorts of difficulties, but we worked at it and did it. However, that job was unfinished. Try as we did, we could not persuade the Government to compensate workers on the surface who were often exposed to more dust than those working underground.

I was moved at Second Reading when my noble friend Lord West of Spithead spoke for the small number of mesothelioma sufferers who did not meet the qualifying date to be included in the compensation scheme. It would now appear that that has been corrected, and I pay tribute to him and the noble Lord, Lord Alton, for the work they have done on this. The Government have listened. That is not a bad thing. I am the first in line to congratulate them on listening and acting.

Earl Attlee: My Lords, I am grateful for the progress that has been made by the Government in expanding the scheme. When I supported my noble friend Lord Freud with the Mesothelioma Act, I could not understand why it was not extended to MoD personnel. My question to the Minister is about research. Many noble Lords raised the issue of research, which could have very great benefits. What lines of research are available? When I was with my noble friend Lord Freud, I understood that there were not that many good avenues for research. I have not found any areas of research that might provide some benefits.

Lord Alton of Liverpool: Perhaps I can help the noble Earl because his noble friend Lord Prior of Brampton has been extraordinarily helpful on this subject and, as recently as two weeks ago, convened a meeting at the Department of Health which I attended. Many of the people involved in current research into mesothelioma were present. The big issue they all raised was sustained funding. The noble Earl, Lord Howe, knows far more about this than me so I am sure he will deal with it in his reply. The noble Earl, Lord Attlee, can be reassured that there is a lot of interest within the research community but it comes down to funding.

Earl Howe: My Lords, I thank the noble Lord, Lord West of Spithead, for raising this critical issue. Mesothelioma—as the noble Lord, Lord Alton, outlined—is a devastating disease that changes the lives of not only the people diagnosed with it but also those who care about them: their families and loved ones. The fact that life expectancy after diagnosis can be so tragically short is why it is so important to ensure that we get the support right for those affected by the disease.

The arrangements we announced will give veterans and their families greater control over their finances and choices to suit their individual needs. So, subject to finalising the necessary legislative changes, lump sums of £140,000 will be able to be paid from 11 April 2016. The lump sum will be provided through the well-established war pensions scheme, administered by Defence Business Services Veterans UK. Veterans UK currently prioritises claims for mesothelioma and will continue to do so. Claimants will be given a choice of either the new lump sum or the existing war pension payments. The noble Lord, Lord Empey, spoke about the need to raise awareness and I fully understand that concern. Defence Business Services Veterans UK will write to existing and new war pensions scheme claimants diagnosed with diffuse mesothelioma to explain that they have the option of the current payment arrangements or the new lump sum. The Veterans Welfare Service will be on hand to help claimants understand the lump sum option.

Defence Business Services cannot offer independent financial advice, so claimants will be advised to seek independent financial advice and to discuss their decision with their families. In addition to the announcements we made and to raise awareness of the lump sum option, details were given on the same day to ex-service organisations for them to publicise to their members.

On detection and treatment of mesothelioma, when individuals leave the Armed Forces their healthcare needs become the responsibility of the National Health Service. Most people with mesothelioma will therefore see their GP first if they are worried about symptoms. Regrettably, there is no reliable screening test for mesothelioma. The aim of screening is to pick up cancers at an early stage of the disease before symptoms develop. At the moment it can be difficult to diagnose mesothelioma since the usual tests for lung diseases often appear to be negative. Additional monitoring—as proposed in Amendment 22—outside of encouraging those worried about symptoms to contact their GP as early as possible would therefore not help detect cases any earlier.

We are, however, engaging with NHS bodies on disseminating information to GPs, respiratory clinics and other healthcare professionals so that when they treat a veteran with mesothelioma caused by military service they can also direct them to the GOV.UK website and the Veterans UK helpline. They have details of how to make a claim under the war pensions scheme and the new lump sum option. I hope that the Committee will agree that this shows that we are absolutely committed to supporting veterans with mesothelioma, and the wider Armed Forces community.

5.15 pm

I can tell the noble and learned Lord, Lord Brown of Eaton-under-Heywood, that the standard of proof in such cases is low. If the claimant served during the relevant time, we will respect the claim.

On the point raised by the noble Lord, Lord Alton, our records show that there are around 30 new claims each year. He asked about the data related to the incidents. However, I will reflect on the points that he and other noble Lords raised on this. I shall, of course, read and respond to the letter that the noble Lord, Lord Alton, sent me. As regards his criticism of my department, I am sure he will know that medical research is the responsibility of the Department of

[Earl Howe]
Health and the National Institute for Health Research, led very ably by Professor Dame Sally Davies. It is not part of the remit of the Ministry of Defence. My answer to the noble Lord was merely intended to reflect that fact, although we are co-operating fully with my colleagues in the Department of Health and will continue to.

I hope, on that basis, that the noble Lord, Lord West, will feel able to withdraw his amendment.

Lord Tunnicliffe: The Minister mentioned necessary legislative changes. Is it the Government's intention to use the Bill as a vehicle?

Earl Howe: My Lords, my understanding is that this can be done by secondary legislation.

Lord West of Spithead: My Lords, I thank all those who have spoken. It shows the concern that we all have about this dreadful disease. There has been a lack of understanding about it. The efforts of so many are beginning to make people more aware. I would very much like to be included in the letter of response about the central analysis of research, which the Minister was going to send to the noble Lord, Lord Alton. I am sure he will send it to all Members here, because it would be interesting to know whether that LIBOR funding is available and whether it is going ahead. That would be very useful.

In among all this, this is a most happy outcome for the 60 people who have fallen through the cracks. This is good news and it is so lovely to have unadulterated good news. That so seldom happens. It was urgent, because between four and five of these men die every month. I am glad that this change is happening quickly. It will therefore have an impact and make a real difference. It is in the spirit of the Armed Forces covenant as well. I know that the Minister personally really understands that issue and how important it is. I thank him for that. It is the right result and I congratulate the Government on recognising the justice of the claim and for taking this action. I know that there is still a lot more to be done in other ways, but that is all very good news and I beg leave to withdraw my amendment.

Amendment 21 withdrawn.

Amendment 22 not moved.

Clauses 16 and 17 agreed.

Amendment 22A

Moved by ***Lord Hodgson of Astley Abbotts***

22A: After Clause 17, insert the following new Clause—

"Reporting obligation on overseas deployments (civilian casualties)

(1) The Royal Air Force Commander responsible for review of reports on civilian non-combatant casualties submitted to the Ministry of Defence in connection with UK deployments overseas shall report to the Minister for the Armed Forces, at least once every quarter or at any more frequent intervals as the Secretary of State may specify, on—

(a) the number of reports on civilian non-combatant casualties submitted by independent bodies during the period since his or her last report;

(b) the number of reports on civilian non-combatant casualties submitted by the civilian casualties tracking unit in that period;

(c) the number of reviews on civilian non-combatant casualties carried out in that period;

(d) the outcome of such reviews; and

(e) the sum and allocation of funding for any awards made as a result of the civilian casualty review procedure in that period.

(2) A report under subsection (1) shall include—

(a) a copy of the relevant civilian casualty review procedure;

(b) working definitions of the terms "civilian" and "combatant"; and

(c) the standard operating procedures in place to enable the review of reports of civilian non-combatant casualties.

(3) In this section "UK deployment" includes any airstrikes carried out by UK personnel operating manned or unmanned aircraft remotely from the United Kingdom or United States.

(4) On receipt of any report under subsection (1), the Minister for the Armed Forces shall—

(a) lay a copy of the report before Parliament, and

(b) lay a copy of the Government's response to the report before Parliament, making particular reference to the operation of the civilian casualty review procedure, and any relative increase in reports, reviews or awards."

Lord Hodgson of Astley Abbotts (Con): My Lords, I sense that the horse is heading for the stable, and at an increasing rate, so I will be as brief as I can. I apologise to the Committee for not having taken part in proceedings before, but I have a particular interest in this area. The Committee should be aware of my involvement with the All-Party Group on Extraordinary Rendition and the All-Party Group on Drones.

In that connection, I ask my noble friend to thank his colleagues in the Ministry of Defence for arranging for us to go to RAF Waddington to see the operation of the drones there. It was exceptionally impressive. I took away three important things. One was the care being taken, with the forces on the ground calling in the strikes being balanced by people in the cooler atmosphere of RAF Waddington, who were able to provide the right balance.

Another was the stress on personnel, in the sense that personnel left their homes on the base, where the children were not doing their homework and the dog had to go to the vet, and went to the place they operated the drone from. They might, over the course of the next six or eight hours, have had to do some exceptionally unpleasant things that might result in the death of a fellow human being, then drive home again and, 10 minutes later, be back with the dog still needing to go to the vet and the kids' homework still not being done. It is a very stressful situation, and the care that the ministry was taking to make sure that everyone's mental health and well-being were being properly looked after was impressive. Last of all was the international nature of the operation in the sense that the operations at RAF Waddington are then

passed to the Creech Air Force Base in Nevada. As the RAF officer explained to us, if you are being asked to get up at 2.30 am to sit in a hut and make these sorts of decisions, it is quite destructive for your mental health: it is much better if it can be passed to somebody in another part of the world. It means that there is this rotating situation which has its own issues, stresses and strains.

With that background, I turn to my amendment and the reasons for it. It is, of course, a probing amendment. Casualties are an inevitable and ghastly by-product of war. Every casualty is a tragedy, but civilian, non-combatant casualties are probably doubly so. I say that for two reasons. First, the long-term damage to the fabric of society if women and children are traumatised takes generations to recover from. Therefore, we need to be particularly careful of the damage that we might be doing to those groups. Secondly, and no less importantly, mistakes—casualties among civilians—are one of the best, possibly the best, recruiting sergeants for the extremists. People who have seen their village wrecked, their families or communities blown apart, are unlikely to be sympathetic to the cause that has resulted in this unfortunate episode.

We have now reached the three-month anniversary of the commencement of Parliament's authorisation of military activity in Syria. We were promised a quarterly progress report to update both Houses, as a way of providing some form of parliamentary oversight of the mission against Daesh. I am not sure that that has yet been provided, but no doubt my noble friend could tell me when he comes to wind up.

Accountability and transparency are important aspects of this country's military activities in the Middle East. They play a critical role in ensuring continuing public support at home for a policy that is bound to have its controversial aspects, particularly in the maintenance of popular support in our minority communities. However, accountability and transparency are also important for the maintenance of this country's reputation abroad. We should be giving an example by setting standards that our allies will emulate, that will shame our enemies and that will give third parties caught up in the crossfire some confidence that these terrible events—which have, in many cases, shattered their lives—have not been undertaken capriciously or without due thought.

This amendment seeks to build on the commitment made by Penny Mordaunt in the other place on when she said that Airwars, the NGO that provides surveillance or information about civilian casualties,

"has been proactive in submitting written reports of civilian casualties and we are grateful for its efforts and for the value that they add. Each case has been individually reviewed and it has been demonstrated that the civilian casualties were not caused by UK activity. Our targeting processes are extremely robust in this respect and in others, but I would welcome any further ideas about how value may be added. I have committed to review any reports of civilian casualties and I have oversight of the whole process, including compensation".—[*Official Report,* Commons, 29/2/15; col. 672.]

She gave further reassurance in reply to a Written Question on 2 February this year when she said:

"Any credible concerns or evidence relating to the possibility of civilian casualties caused by air strikes may be submitted to the Ministry of Defence Ministerial Correspondence Unit",

and gave an address and email address.

This need to clarify and commit to a UK standard is particularly important as it appears that yet another remote engagement—in Libya—is getting under way. Further, there are also indications of new collaborative working with partners, in particular the United States, which have emerged in recent weeks. Most recently, as has been reported in the press, the Secretary of State has authorised the use of RAF Lakenheath for US air strikes in Libya on the—I have to say uncertain—legal basis that "it makes us all safer".

The UK can and should lead here in forging a model civilian casualty review procedure and a model procedure for dealing with compensation claims as well as in standards of transparency to show how this is working in practice. This might act as a model for Russia or, more likely, for other EU states and the United States in and outside the traditional battlefield.

The UK has carried out 600 air strikes in Syria and Iraq and flown more than 2,100 combat missions against Daesh. The Defence Secretary has stated that the UK is probably the second most important part of coalition air activity in strikes as well as in surveillance and intelligence activity. According to the NGO Airwars, there are credible reports that up to 952 civilian casualties have been caused by coalition air strikes, excluding Russia. The NGO puts that figure at between 3,200 and 3,800. Eleven out of 12 coalition members, including the United Kingdom, deny any civilian casualties. This is unprecedented in a major military engagement and naturally invites questions about how civilians are being classified, what the onus of proof is, how battle damage assessments are being undertaken in the absence of ground troops, what sort of procedures are in place to make sure that credible allegations of civilian casualties are reviewed rigorously with sufficient independence, what discussions and agreements there have been about these matters with coalition partners, whether there is a realistic chance of a co-ordinated or collective response, what are the implications of joint operations and whether the UK has a non-combatant casualty cut-off value like the US.

As far as the UK is concerned, we have a good record on civilian casualties and the disclosure of relevant information. The UK has second place in Airwars' transparency table, which is a matter on which the MoD deserves congratulation. However, I am not sure that it is enough to announce that there have been no civilian casualties caused by 600 air strikes for which we have been directly responsible—and there will be many more which we have supported—without additional information and disclosure of relevant policies and procedures.

Subsection (1) of the proposed new clause would impose a new quarterly reporting obligation on the responsible commander to report to the Minister in order that she can report to Parliament. The report need not be long—it can be quite short—but it must include the basic statistics outlined in the amendment.

Proposed new subsection (2) goes a little further. So that we can make sense of the report in proposed new subsection (1) and to promote the principles of transparency and accountability to which, no doubt, the MoD is committed, the report must include three key sets of documents: a copy of the relevant civilian casualty review procedure; working definitions of the

[Lord Hodgson of Astley Abbotts]
terms "casualty" and "combatant" and the standard operating procedures in place to enable the review of reports of civilian casualties. Most of these terms are drawn from the ISAF model used in Afghanistan and do not come from the MoD commitment in relation to the mission against Daesh.

Several parliamentary Questions have been tabled in the House of Commons which suggest that a policy or procedure is under way, or at least is at an advanced stage of development. For example, the Minister for the Armed Forces has said that the Ministry will "analyse the risks" in any potential air strike in advance and,

"every strike is subject to careful post-mission scrutiny".

However, it seems likely that the information I am seeking already exists, although possibly under a different or updated name. I would welcome my noble friend's clarification on this point.

5.30 pm

Proposed new subsection (3) makes it clear that the air strikes carried out by UK personnel in the UK Reaper Squadrons 13 and 3, those at RAF Waddington and at Creech Air Force Base in Nevada are caught by the term "UK deployment". This should reflect an up-to-date interpretation of the parliamentary convention requiring a debate in circumstances when we become involved in a conflict or potential conflict situation. The term "deployment" should not overlook RAF drone operators in Lincolnshire or elsewhere.

To conclude, the evolving nature of modern remote warfare puts new temptations and demands on us. Remote warfare makes our obligations to civilian casualties harder and, perhaps, more important to honour. The UN Special Rapporteur Ben Emmerson has said that,

"in any case in which civilians have been, or appear to have been, killed, there is an obligation on the State responsible to conduct a prompt, independent and impartial fact-finding inquiry and to provide a detailed public explanation".

General McChrystal, the US commander in Afghanistan, told a conference on 25 November last year that the advanced capabilities inherent in drones operated remotely could cause decision-makers to lower the threshold for intervention and make it less likely that the second or third order effects are considered properly. A clear and transparent casualty review procedure reflecting the highest standards of British practice and international law may be one way to understand and counter the second and third order dangers referred to by General McChrystal. I suggest that these issues deserve careful consideration about how we implement this obligation in current and future remote wars and how we might best encourage our partner states to do the same. I look forward to my noble friend's response and I beg to move Amendment 22A.

Baroness Smith of Newnham: My Lords, I welcome the probing amendment from the noble Lord, Lord Hodgson. He is absolutely right to raise one of the issues that upsets huge numbers of the British population in any military intervention—the danger of civilian casualties. The idea that that should be added to the report that is brought quarterly is clearly welcome. I very much hope that the Minister will be willing to look into that. One advantage of the United Kingdom entering into the war in Iraq and over Syria was precisely that we have precision weapons. The suggestion that we have not caused any civilian casualties in the past three months is clearly welcome.

I realise that this is only a probing amendment, but I am slightly concerned that the noble Lord suggested that for the quarterly report there should be working definitions of the terms "civilian" and "combatant". How do the UK Government define those terms? I would hope that it would be something in the glossary, not something that would be redefined every three months. There is a suggestion that perhaps the United States has a rather more generous definition of combatant that we would in the United Kingdom, and that males over the age of 15 are seen as combatants if they are in certain areas. I would very much hope that that is not a definition we would ever consider.

This is a welcome probing amendment, and we would very much like the definitions. My noble friend Lady Jolly has also asked whether the Minister could tell us what work has been done to assemble figures so far.

Lord Thomas of Gresford: The Minister will recall that I asked a Question on this topic two or three weeks ago. I support the amendment proposed by the noble Lord, Lord Hodgson. There is a danger, when we are concerned with a definition of UK deployment that includes,

"any airstrikes carried out by UK personnel operating manned or unmanned aircraft",

that we may forget that we are part of a coalition under joint command. It is a joint operation and, in such a situation, we cannot say that we are responsible only for these bombs but not for other bombs dropped by other countries under the same command as ourselves. This country is bound legally and morally by the activities of all those operating in the coalition. We carry that responsibility for the deaths and maiming of civilians, whoever's bomb it is. Civilians do not care whose bomb it is if they are maimed. If it is under joint command, we have a responsibility.

Lord Touhig: My Lords, living as we do in a time when news reporting is constant, continuous and around the clock, the public rightly expect Governments to be the same, especially when reporting on conflicts in which our Armed Forces are engaged. Parliament and the British people have the right to be kept informed about not only what happens to our forces but also the impact our actions might have on civilians in the conflict zone. The Government currently report on civilian casualties in a number of different conflicts that we are involved in, including Iraq, Syria, west Africa—the Ebola response—and Afghanistan. That is the right thing to do. It demonstrates openness, transparency and proper regard for the loss of life that inevitably occurs in conflict, whether military or civilian deaths.

None of us who supported the Government's decision to use air strikes against ISIL in Syria did so lightly. I have not spoken to a single person who did not have

concerns that there would be casualties among the civilian population. To date, the Government have stated that there have been no reports of civilian casualties as a result of our air strikes. Having said that, I look forward to hearing from the Minister what guidelines the Government set themselves for collecting data and reporting on casualties, whether military or civilian, in any conflict in which we are currently engaged.

On this side, we certainly welcome the aspirations that motivated this amendment but we have doubts that it is the best way to deal with the issue of reporting on civilian casualties—I am grateful for the excellent briefing on this that I was given earlier today. For example, the amendment addresses the matter of reporting civilian casualties caused by air strikes but says nothing about reporting civilian casualties caused by ground forces. Often, ground operations are in play as well as air strikes. More than that, if we are to enshrine in primary legislation the reporting of civilian casualties in conflict, this is not the right vehicle to do so. Some might argue that reporting on civilian casualties is not simply an Armed Forces issue alone but has wider foreign affairs and international development implications. If that argument were accepted, we would need a cross-government input and approach to legislation to achieve the objectives that would be set out.

We certainly welcome the opportunity that this amendment gives us for debate and we have had some important and useful contributions. I look forward to the Minister's reply and hope that we will have regular reports to Parliament on the conflicts, especially details of the number of casualties—even where there are none. That is very important. We welcome the opportunity for debate that the amendment affords but in its present form we would not support it.

Earl Howe: My Lords, I am grateful to my noble friend Lord Hodgson for introducing his amendment, which would, as he explained, create a legislative obligation on the department to report civilian casualties following RAF operations, including sharing the details of investigations with Parliament. I recognise that this is a probing amendment but I hope to show my noble friend that his concerns are recognised and being properly addressed.

I make it clear at the outset that the MoD takes very seriously—and always will—any allegations of civilian casualties. The Defence Secretary committed to review all claims of this nature. We have robust processes in place to review reports of civilian casualties and to launch investigations where appropriate, and we will continue to consider all available credible evidence to support such assessments.

It is important for me to emphasise that the Ministry of Defence takes all feasible precautions to avoid civilian casualties when conducting any form of military operation. All missions are meticulously planned to ensure that every care is taken to avoid or minimise civilian casualties, and our use of extremely accurate precision-guided munitions supports this.

We have a robust process in place to authorise air strikes that is tried and tested. All military targeting is governed by strict rules of engagement in accordance with both UK and international humanitarian law. Of course, the men and women of our Armed Forces are highly trained, including in the law of armed conflict. I should also make it clear that we will not use force unless we are satisfied that the use of force is both necessary and lawful. When we carry out a strike, we carry out a full assessment to determine the damage that has been caused, specifically checking very carefully whether there are likely to have been civilian casualties.

I can assure the Committee, lest there is any doubt, that the Ministry of Defence is committed to transparency as far as possible. We have been very open and transparent about the strikes conducted in Iraq and Syria. They are reported regularly online two or three times a week. These reports explain where the action has taken place and what effect has been achieved in the fight against Daesh. However, I hope that the Committee will agree that it is also paramount that we maintain personnel and operational security. This can include not revealing details about our targeting process, which may endanger personnel and our ability to operate.

Furthermore, while a requirement in primary legislation to publish data on a regular basis may be seen as a means of holding the current Government to account—and, for that matter, future Governments—it may also on occasions be a very inflexible tool which is soon out of date and redundant. As I have made clear, the MoD has clear processes and procedures to limit civilian casualties, and the principle of openness and transparency on this issue is something which the MoD and I strongly support. Where information is not disclosed, it is for very good operational reasons.

The noble Lord, Lord Touhig, asked about regular reports on Operation Shader, which, as he knows, is the counter-Daesh operation in Iraq and Syria. The Government's first quarterly report on Syria was provided to the House of Commons by the Secretary of State for Foreign and Commonwealth Affairs on 16 December last year. The Secretary of State of DfID, my right honourable friend Justine Greening, provided a second quarterly report on 8 February this year. I cannot be specific about the date of the next report but it will be issued in due course.

I will write to the noble Baroness, Lady Smith, on the particular question she raised and to my noble friend in respect of those of his questions that I have not covered. In the light of what I have said on this matter, I hope my noble friend will agree to withdraw his amendment at this stage.

Lord Hodgson of Astley Abbotts: My Lords, I am grateful to all who have participated in this short debate—the noble Baroness and the noble Lord, Lord Thomas of Gresford. Apropos of his comment, I of course understand that this is a coalition, but I am thinking, "Physician, heal thyself". We start by trying to make sure that the unpleasant things that our personnel are doing on our behalf are properly corrected first, and then, by setting standards, maybe our allies will follow.

I thank my noble friend very much for his full reply and his promise to follow up on the points that he has been unable to answer now. I hope that I made it clear that from our visit to RAF Waddington we were well

[Lord Hodgson of Astley Abbotts]
aware of the very considerable care that has been taken to make sure that those on the ground are balanced by the cooler heads further away from the point of action. I understand the question of inflexibility. This is a probing amendment, but it was helpful for us to have a debate this afternoon, and I look forward to hearing the follow up in due course. In the mean time, I beg leave to withdraw the amendment.

Amendment 22A withdrawn.

Clause 18 agreed.

Clause 19: Commencement and transitional provision

Amendment 23 not moved.

Clause 19 agreed.

Clauses 20 to 22 agreed.

Bill reported without amendment.

Committee adjourned at 5.44 pm.

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