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Monday
11 April 2016

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

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The Earl of Courtown

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11 April 2016

THE
PARLIAMENTARY DEBATES
(HANSARD)

IN THE FIRST SESSION OF THE FIFTY-SIXTH PARLIAMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
COMMENCING ON THE EIGHTEENTH DAY OF MAY IN THE
SIXTY-FOURTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

FIFTH SERIES **VOLUME DCCLXXI**

TENTH VOLUME OF SESSION 2015-16

House of Lords

Monday 11 April 2016

2.30 pm

Prayers—read by the Lord Bishop of Coventry.

Oaths and Affirmations

2.36 pm

Viscount Waverley took the oath, and signed an undertaking to abide by the Code of Conduct.

Retirements of Members
Announcement

2.36 pm

The Lord Speaker (Baroness D'Souza): My Lords, I should like to notify the House of the retirements, with effect from 24 March, of the noble Baroness, Lady Knight of Collingtree, with effect from 25 March, of the noble Lord, Lord Barber of Tewkesbury, and, with effect from 31 March, of the noble Earl, Lord Snowdon, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I should like to thank all noble Lords for their much-valued service to the House.

Refugees: Deaths in Mediterranean and Aegean Seas
Question

2.37 pm

Asked by ***Lord Ashdown of Norton-sub-Hamdon***

To ask Her Majesty's Government what is their best estimate of the number of refugees who have perished in the Mediterranean and the Aegean Seas since 1 January 2015.

The Earl of Courtown (Con): My Lords, according to UNHCR and IOM figures, 4,388 people tragically died between 1 January 2015 and 1 April 2016. In 2016, up to 1 April, the death toll was 617. Since the crisis began, UK ships have saved more than 17,500 lives. We continue our work to stop migrants falling victim to smuggling and putting their lives at risk.

Lord Ashdown of Norton-sub-Hamdon (LD): My Lords, the whole House knows that the Minister is a very decent man, but does he feel any shame at all for the fact that Britain offered no hope of refuge to any one of those who died seeking to escape death? Is it not the case that the figure of drowned and missing now amounts to some 7,000, of which about 60% are said to be women and children? The fig-leaf the Government use to hide their discreditable policy is that to offer hope of refuge to those who risk death in attempting to escape death is to tempt more to come. If 7,000 or so dying has not discouraged them so far, how many will?

The Earl of Courtown: My Lords, the noble Lord is quite right in so far as that the figures are shocking. I am sure that the whole House would agree with us on that. We feel that the best way to reduce the deaths is to stop the refugees making the risky journeys by sea. It is important to break the link between getting in a boat and getting to Europe. It is important to tackle the root causes of migration and not respond solely to the consequences.

Lord Soley (Lab): My Lords, has there been any assessment of the impact the Government's political and military changes will have on reducing the number of deaths? Will the Government assess how the changes that are proposed, and are now taking place, will impact on those figures?

The Earl of Courtown: My Lords, I think the noble Lord refers to the Turkey/EU deal. The initial signs are that the deal is having an effect. The average number of daily arrivals in Greece so far in April is almost half that in March.

Baroness Sheehan (LD): My Lords, the Syrian Observatory for Human Rights says that 16 refugees, three of them children, have been killed in the past

[Baroness Sheehan]
four months as they tried to cross the Turkish border. We know that this Government are ignoring human rights transgressions by trading partners, but are they also turning a blind eye to the killing of refugees by European and Turkish border forces?

The Earl of Courtown: My Lords, I am not exactly clear what the noble Baroness is referring to and I do not acknowledge what she is saying. Our response is to help Syrian refugees in host countries in the region by supporting full implementation of the EU/Turkey deal and the maritime operations in the Mediterranean and the Aegean. If there is anything more I can add, I will write to the noble Baroness.

Lord Trefgarne (Con): My Lords, although we are all very distressed and saddened at the number of people who have lost their lives, can we not be quietly proud of the number who have been rescued by British ships, mostly of the Royal Navy?

The Earl of Courtown: My Lords, my noble friend is quite right: the Royal Navy is providing coastguard services as well as intelligence on illegal people traffickers for FRONTEX and has deployed a vessel with helicopter support as well as three Border Force assets. It is also important that NATO and the EU work together.

Lord Anderson of Swansea (Lab): My Lords, are we prepared for a new focus on Libya, with the new chaos that may arise there as the Aegean route is blocked? What efforts are being made to publicise the new deal between the EU and Turkey as a possible means of deterring people who would risk their lives?

The Earl of Courtown: My Lords, the noble Lord mentioned the work relating to Libya. I think that we are in phase 2A of Operation Sophia, which involves conducting operations on the high seas against smuggling vessels operating outside Libyan territories. So far, 98 smuggling vessels have been destroyed, 61 suspected smugglers have been arrested and more than 11,500 people have been rescued.

Lord Collins of Highbury (Lab): My Lords, according to press reports last week, apparently the UK Government have sent eight people to Greece to assist in the arrangements with Turkey. Is that the case, and will the Government send more people? What steps are all departments—particularly the FCO, DfID and the Home Office—taking to ensure that we have a properly co-ordinated approach to this crisis?

The Earl of Courtown: My Lords, I think the noble Lord refers to the small team that has been sent to Athens. Basically, at the moment we are assessing where we can help most. I know that it is a small team but it is an expert one. As I said, it is looking to see where we can help most. As regards co-ordination in Whitehall, the Home Office, DfID, the Foreign and Commonwealth Office, the Ministry of Defence and the Cabinet Office hold regular meetings to co-ordinate efforts, and ministerial-level meetings take place regularly to provide strategic leadership. I should also add that my noble friend Lord Bates, who is now walking in South America, instigated meetings among all Ministers in this House associated with this area to look at how we could improve the ways that we keep the House informed.

Lord Roberts of Llandudno (LD): My Lords, a few weeks ago this House decided by 306 votes to 204 to accept 3,000 of these unaccompanied child refugees. Could we not take the immediate step of carrying that out and accepting these children, so that 3,000 fewer would be facing the dangers that are present in Europe?

The Earl of Courtown: I think the noble Lord refers to the amendment to the Immigration Bill in the name of the noble Lord, Lord Dubs. These matters are being considered.

Lord Cormack (Con): My Lords, should we not take this opportunity of congratulating my noble friend Lord Bates and thanking him for the exemplary way in which he conducted himself on the Front Bench?

The Earl of Courtown: My Lords, I could not agree more. He has been of great help to many of us on the Front Bench. I remember once sitting in this position with him whispering answers to me during Question Time. We must also be aware that he is bringing attention to this country's Walk for Truce, which is a very important thing.

Lord Dubs (Lab): The noble Lord just said that the amendment regarding 3,000 children was "being considered". That is news to us. Who is considering it and when will we know what the outcome is?

The Earl of Courtown: I am talking about the Commons consideration of Lords amendments.

Children: Drugs

Question

2.45 pm

Tabled by ***Baroness Meacher***

To ask Her Majesty's Government what plans they have to help local authorities fulfil their statutory obligation to safeguard children with respect to preventing the use of controlled drugs.

Lord Howarth of Newport (Lab): My Lords, on behalf of the noble Baroness, Lady Meacher, and at her request, I beg leave to ask the Question standing in her name on the Order Paper.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, nothing is more important than keeping children safe from harm, including from drugs. The Children Act 1989 places a duty on local authorities to safeguard and promote the welfare of children. Social workers assess children's needs and work with other agencies to provide help and support to meet those needs. Reducing drug misuse

is a key part of our evidence-based drug strategy. Education plays an important role in supporting children to make healthy choices.

Lord Howarth of Newport: My Lords, I welcome the sentiment uttered by the Minister. However, is he aware of the testimony of the charity Mentor to the Home Affairs Select Committee:

"We are spending the vast majority of the money we do spend on drug education on programmes that don't work"?

Given the very serious risks for young people exposed to unscrupulous drug dealers, should the Government not rise to their proper responsibility and ensure that the evidence-based and effective drug education programmes that do exist are provided for every child in every school?

Lord Nash: Drug education is a statutory part of the new curriculum for science at key stages 2 and 3. Teachers are best placed to understand the needs of their pupils and it is for them to develop their own PSHE programmes, drawing on resources and evidence-based tools such as ADEPIS, which provides accurate, up-to-date information and resource on what works. In March last year, we published a PSHE review of what works best in drug education and the PSHE Association has an excellent programme of study on drugs.

Baroness Walmsley (LD): My Lords, does the PSHE curriculum include comparisons of the health harms of drugs such as alcohol, tobacco, heroin, cocaine and cannabis, including the numbers of people who die every year from their use? If the Minister does not have the figures to hand, I would be grateful if he wrote to me.

Lord Nash: My understanding is that this programme of study is very comprehensive, but I will write specifically to the noble Baroness on this.

Baroness Howarth of Breckland (CB): My Lords, the Minister will be well aware of the importance of work with families, and that there has been a substantial increase in respect of Section 47—child protection—and Section 17, which concerns children in need. I quote the sections to underline the statutory nature of the work for local authorities. We understand that, because of this increase, Section 17 work—the preventive work—is being reduced by local authorities. Is that not just the work that is needed for children living with families where drug abuse is high?

Lord Nash: I agree entirely with the noble Baroness's sentiments. I will look at what she says about Section 17 and talk to her further about it.

Lord Hunt of Kings Heath (Lab): My Lords, the Minister has said that teachers are best placed to take this work forward and to use the resources available. The point being put to him is that those resources are simply not available. What are the Government going to do about it?

Lord Nash: I do not agree with the noble Lord. A massive number of programmes are available. The FRANK website receives millions of hits, and Public Health England is about to launch its new online resource for young people, Rise Above. I have already referred to ADEPIS and the PSHE Association, and we have many other resources available for teachers.

Baroness McIntosh of Hudnall (Lab): My Lords, given that, as the Minister has just said, teachers are best placed to know the needs of their pupils, what are the Government doing to ensure that teachers are properly informed and supported in helping pupils to deal with such issues?

Lord Nash: We constantly point teachers, through our online resources, to all these resources. Of course, a very important part of our initial teacher training—ITT—is safeguarding, which I think is point seven in *Teachers' Standards*.

Lord Ramsbotham (CB): My Lords, on the point that has just been made, a former American drug chief, General McCaffrey, coined the phrase "Prevent tomorrow's market" as the theme of all the education that should be given in schools, but he found that unfortunately there was a lack of skilled teachers who were able to make the point. Therefore, it is very important that any programme is accompanied by the resources; namely, the people who can actually get the point across. Is the Minister satisfied that there are sufficient people with the knowledge and ability to carry out that task in our schools?

Lord Nash: The noble Lord makes a very good point. In view of the fact that this point has been made by a number of people, I will look at it in detail and write to him about it.

Baroness Pitkeathley (Lab): My Lords, does the Minister agree that children who live in households where there is much drug use are at risk not only from the drugs but of becoming young carers for their parents, who are addicted? What is the Government's policy on helping those young carers?

Lord Nash: The noble Baroness makes an extremely good point. Certainly, this is something I have seen on a number of occasions. Last month we launched a new campaign—"Together, we can tackle child abuse"—to encourage members of the public to report child abuse and neglect and just this kind of situation. I hope this has some effect on the point the noble Baroness makes.

Lord Howarth of Newport: My Lords, will the Minister enlarge on the obligations on teachers in schools that are not required to deliver the national curriculum, and the Government's expectations of them?

Lord Nash: All teachers are required to keep their children safe. Our expectations are just the same across all schools.

Warships

Question

2.52 pm

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government what is the optimum build rate of surface warships in the United Kingdom to ensure viability of a national complex warship building capacity and the best cost per ship; and what assessment they have made of how many yards are necessary to ensure resilience in case of national emergency.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, the new national shipbuilding strategy led by the independent chair, Sir John Parker, will consider the optimum build rate, the cost per ship and number of yards required to ensure a modern and efficient national warship sector capable of meeting the country's future defence and security needs. Work on the strategy is ongoing and Sir John Parker will make recommendations to the Government later this year.

Lord West of Spithead (Lab): My Lords, I thank the Minister for his Answer. It is rather "jam tomorrow". He will be aware of the direct link between build rate, actual length of time that a ship has to survive, and overall numbers. Since 2010 we have not ordered a single highly complex major warship. If we do not have a constant flow of ships being built in this industry, we will have another fiasco like the steel industry. I ask the Minister, first, why, when the Prime Minister and the Secretary of State for Defence said at the time of the 2015 SDSR that we would have a larger number of warships in the Navy by 2025 than today, in fact we are going to have fewer? Secondly, does he not agree that it is a disgrace that we have so few ships that for the first time in living memory we do not have a destroyer or frigate deployed in the north Atlantic outside home waters, in the West Indies or in the south Atlantic?

Earl Howe: My Lords, I do not accept that by 2025 we will have fewer ships. The strategic defence and security review published last year set out the Government's plans for surface warship building, in particular the Type 26. We committed to precede that programme with two additional offshore patrol vessels. The work to develop a new baseline for Type 26 is proceeding, as is the work preceding the concept study for the design and build of a new light general purpose frigate. The key aim of the national shipbuilding strategy is to have a sustainable long-term shipbuilding capacity in the UK. The point on which I particularly agreed with the noble Lord is that what many people call a regular drumbeat of production is what is required, rather than peaks and troughs.

Lord Robathan (Con): My Lords, is it not the case that the regrettable reduction in the surface fleet of the Royal Navy has, to a large extent, been caused by the disproportionate amount of the defence budget—particularly the naval part of that budget—for these two magnificent aircraft carriers? While we all look forward to seeing these magnificent ships in service, is it not the case that those who lobbied for them wanted to build the two biggest ships that the Royal Navy has ever had?

Earl Howe: My noble friend is quite right. We can look forward with some eager anticipation to the arrival of the "Queen Elizabeth"-class aircraft carriers, which will indeed be the two largest ships that the Royal Navy has ever had. It will be a proud achievement for this country and will extend our reach, as the Navy and the Government wish to see.

Lord Palmer of Childs Hill (LD): My Lords, on the same theme of the aircraft carriers, can the noble Earl give the House an indication of when those two wonderful ships will actually be operating in service? At the same time, can he tell your Lordships whether the F35B flight aircraft, which is to be launched off the aircraft carriers, has any chance of being in service before 2020?

Earl Howe: My Lords, the programme has already been announced in the SDSR but, broadly, the "Queen Elizabeth" aircraft carrier itself will be in service by the early 2020s and we will have a number of F35s deployed on that ship. Indeed, we have accelerated the procurement programme for those aircraft.

Lord Reid of Cardowan (Lab): My Lords, what strategic assessment has been made of the UK's capacity for warship building with the potential closure of Port Talbot steel? If no such assessment has been made, does that mean that we intend to rely on other, friendly nations such as China to supply the steel for British warships?

Earl Howe: My Lords, the capacity of British industry to service our warship building requirements will be very much centre stage in Sir John Parker's work on the shipbuilding strategy. As regards Port Talbot, I am sure that the noble Lord will know that the Government are committed to doing all they can to work with Tata to explore how we can support the company to secure a buyer for the plant and put in train a turnaround plan. We are working with the Welsh Government to do that. There is good news today on Tata's plant in Scunthorpe, where a deal has been secured, but I assure the noble Lord that we regard British steel manufacturing as of vital importance to this programme.

Lord Jones of Birmingham (CB): Can the Minister please answer two points on the same issue? First, will the strategy review that Sir John Parker undertakes cover the question of productivity? Every country builds warships more cheaply for the taxpayer if there is a regular drumbeat on the strength of which you can invest your money, skill your people and buy your capital equipment. If you have peaks and troughs at the political whim of any part of the nation, people will tend not to invest in the industry or train the people. Secondly, will the strategy that Sir John Parker is to develop cover the fact that the UK's steel industry can supply an awful lot with the brilliant speciality steels that it makes? It is not just about commodity steel.

Earl Howe: The strategy will cover all those topics. It is very much about looking at how many ships we wish to build and in what order; looking at the question from the industry perspective as well as the customer perspective; how many we can afford; and what the productivity rate should be. As the noble Lord rightly said, this regular drumbeat of production is the way that we can maintain not only the manufacturing flow but the skills as well.

Lord Hamilton of Epsom (Con): My Lords, will my noble friend—

Lord Touhig (Lab): My Lords, following on from my noble friend—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): I am so sorry to interrupt the noble Lord but it is the turn of the Conservative Benches. We will then have time to come through to the Labour Front Bench.

Lord Hamilton of Epsom: Does my noble friend agree that however wonderful the two new aircraft carriers are, they are too big for the jump jets that we are putting on them?

Earl Howe: No, I would not. The F35 has been very carefully selected in order to be able to work from the carriers, and it will do so very effectively, as has been proved in the United States on its carriers.

Lord Touhig: I apologise to the noble Lord—I was distracted and did not see him rise to his feet. *[Laughter.]* I know I am not quite as vertically challenged as he is, but I am a bit short-sighted at times.

Following on from the point made by my noble friend Lord Reid of Cardowan, I am sure the Minister and I would agree that Britain needs a secure supply of steel for the construction of warships and other defence platforms. But in the event that we no longer have a British steel industry, and our country becomes involved in a conflict which makes it all but impossible to protect the seas around our island, thus cutting off the supply of imported steel, what is plan B?

Earl Howe: There are an awful lot of ifs there, and I do not necessarily subscribe to any of them. Indeed, as I have said, the Government are working very hard to ensure that we have a viable heavy steel industry. We have issued new policy guidance in the MoD to ensure we are addressing the barriers that prevent UK steel suppliers from competing on a level playing field with international suppliers. That emphasises the importance of increased pre-market engagement in particular, which in turn will feed into the national shipbuilding strategy, so I do not share the noble Lord's pessimism.

Banks: Unbanked and Underbanked

Question

3.01 pm

Asked by ***Lord Holmes of Richmond***

To ask Her Majesty's Government what steps they are intending to take to address the issue of the unbanked and underbanked in the United Kingdom.

Lord Ashton of Hyde (Con): My Lords, improving access to banking services is central to the Government's agenda. This is why the nine largest personal current account providers in the UK already offer basic bank accounts that are truly fee-free. Basic bank accounts help people who are unbanked or who may be ineligible for a standard current account to access basic banking services. In addition, the nine banks will be legally required to offer basic bank accounts from September 2016.

Lord Holmes of Richmond (Con): My Lords, on an individual basis this is about empowerment; on a business basis, this is about unleashing currently frustrated economic growth. What will the Government do to ensure that the unbanked and underbanked are a priority across Whitehall, and will they do everything they can to benefit from all that digital and FinTech offer?

Lord Ashton of Hyde: My Lords, the Government committed in the Budget this year to publish basic bank account market share data for the first time this autumn, which will show how the banks are meeting their commitments. This will enable government departments to look at how this is progressing and what more they can do. My noble friend is also right to highlight FinTech and the digital sector, as there are many opportunities for technology to support inclusion. I am pleased to say that my honourable friend the Economic Secretary to the Treasury today announced a package of measures to further support UK FinTech, and we will announce further measures in the not-too-distant future.

Lord Foulkes of Cumnock (Lab): My Lords, as well as the unbanked and underbanked, could the Minister deal with the overbanked, where those extra banks are located in tax havens? When my noble friend Lord Dubs and I looked into this over 30 years ago, we found that the reason these banks are set up by individuals is because they have something to hide. It is all a question of secrecy. Will the Minister indicate what the Government now intend to do in relation to accounts in our overseas territories, and our home territories, which are not as transparent as they ought to be?

Lord Ashton of Hyde: My Lords, I would be very happy to do that but do not want to steal my noble friend the Leader's thunder at 6 pm or thereabouts. The fact is the Government are doing an awful lot on overseas territories and Crown dependencies. The noble Lord may shake his head, but I will leave it there because it is not the subject of the Question.

Lord Geddes (Con): My Lords, as I am a bear of very little brain, could my noble friend explain to me what underbanked means?

Lord Ashton of Hyde: My Lords, underbanked means those who do not have access to the full range of services: people who are unable to access bank accounts in the way that most of your Lordships can.

Lord Tunnicliffe (Lab): My Lords, this is an ongoing example of how the rich get richer and the poor get poorer. I am pleased that the question of what it

[Lord Tunnicliffe]
means has been asked. The Financial Inclusion Commission found that the poverty premium—what it costs if you do not have a proper bank account—is something like £1,300 a year; that an estimated 2 million people took out high-cost loans in 2012 because, unlike us, they were unable to access any other form of credit; and that there is significant indebtedness among people who do not have adequate banking facilities. Can the Minister tell us how many people who have accessed these new, free accounts since they were launched in January will be eligible for universal credit, how many people who are entitled to universal credit still do not have an account and what steps the Government intend to take to ensure that all those who need an account to access funds will have one in time?

Lord Ashton of Hyde: My Lords, I tried to say that the whole point is to ensure that everyone who needs access to a bank account can have one. As the noble Lord will know, in the Budget this year the Chancellor designated nine banks under the payment accounts regulations to ensure that they provide access to bank accounts. I do not have all the precise numbers that the noble Lord asked for, but the policy commands support around the House for the view that whether or not you are on universal credit, everyone should have access to the banking system. That is exactly what this has achieved.

The Lord Bishop of Durham: My Lords, will the Minister comment on the place and role of credit unions in this whole purpose? The churches and many others see them as a vital part of bringing people into financial services. For me, in the north-east, I see that many people will still not go near a bank, but they will go to local community credit unions. Will the Government commit to further supporting that work?

Lord Ashton of Hyde: The right reverend Prelate puts his finger on an important issue. The Government are improving access to credit, most notably by supporting the credit union sector. We have invested £38 million in that sector through the credit union expansion project. We have provided half a million pounds to help Armed Forces personnel access credit union services. We have raised the maximum interest rate that credit unions can charge, so that they can operate more sustainably, and we have provided £650,000 to fund the Archbishop of Canterbury's Task Group on Affordable Credit and Savings.

Baroness McIntosh of Hudnall (Lab): My Lords, will the Minister include among those who are deemed to be underbanked Members of your Lordships' House and, no doubt, of the other place, other elected representatives and their families, who are now subject to a great deal of scrutiny and, to some extent, restricted banking services as a result of being designated what I believe is called politically exposed persons?

Lord Ashton of Hyde: There are good reasons why politicians come under scrutiny in their financial arrangements, but I do not know of any cases where Members of this House are unable to get a bank account, and they would certainly be eligible for a basic bank account.

Housing and Planning Bill

Order of Consideration Motion

3.08 pm

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

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

Clauses 1 to 22, Schedule 1, Clauses 23 and 24, Schedule 2, Clause 25, Schedule 3, Clauses 26 to 90, Schedule 4, Clauses 91 to 97, Schedule 5, Clauses 98 to 110, Schedule 6, Clauses 111 to 113, Schedule 7, Clause 114, Schedule 8, Clauses 115 to 117, Schedule 9, Clauses 118 to 122, Schedule 10, Clauses 123 to 133, Schedule 11, Clauses 134 to 136, Schedule 12, Clauses 137 to 142, Schedule 13, Clauses 143 to 159, Schedule 14, Clauses 160 to 163, Schedule 15, Clauses 164 to 169, Schedule 16, Clauses 170 to 176, Schedules 17 and 18, Clauses 177 to 182, Schedule 19, Clauses 183 to 186, Schedule 20, Clauses 187 to 193, Title.

Motion agreed.

Housing and Planning Bill

Report (1st Day)

3.08 pm

Clause 2: What is a starter home?

Amendment 1

Moved by ***Lord Best***

1: Clause 2, page 1, line 13, at end insert—

"( ) is subject to a restriction requiring repayment of the 20% discount, reduced by 1/20th for each year of occupation by the purchaser, for a period of 20 years,"

Lord Best (CB): My Lords, in moving my amendment, I am grateful for the support of the noble Lord, Lord Beecham, and the noble Baroness, Lady Bakewell of Hardington Mandeville. I draw attention to my housing and planning interests in the register.

This may look like a dull, technical amendment, too dull to be the first for consideration on Report, but it gets to the heart of the fundamental problem with the Bill—namely, the introduction of measures to generously subsidise home ownership schemes, in this case the new starter homes initiative and, later, the extension of the right to buy, with the subsidies being found by a transfer of public resources away from low-cost rented homes for less affluent households. Most of us in this House are very supportive of the Government's ambitions to ease acute housing shortages by getting more homes built and to assist more of the next generation to become owner-occupiers. Very few of us, however, want to see more homes for better-off potential buyers at the expense of significantly fewer homes for those on lower incomes who struggle to find rented housing that they can afford.

The starter homes initiative, in the format set out in the Bill, was a manifesto commitment at the last election, and this amendment does not seek to undermine

the concept or to diminish the number of first-time buyers whom starter homes can help. But the amendment tries to ensure that this new initiative is not so generous that it displaces, by the end of this Parliament, a very high proportion of all new homes for those who, with the best will in the world, are not going to buy a property in the near future. As with so much of the Bill, we may or may not be unnecessarily anxious about the Government's intentions, because so much of the detail remains for later regulations. We have all been entirely sympathetic to the Minister, who has had to tell us so many times that our questions cannot yet be answered. The only way to resolve key concerns is with changes to the Bill, as with Amendment 1.

The starter homes scheme of 20% discounts for 200,000 first-time buyers is the flagship policy in the Bill. Those buying in London could get help to the tune of £112,000, while those outside London could get more than £60,000. Without Amendment 1, those discounts would take the form of grants that the purchaser can keep when they sell after a period initially set at five years, but with the Government now suggesting eight years. A 20% discount on the average value of property acquired by first-time buyers last year would be £43,000, so 200,000 starter homes will cost the country some £8.6 billion, assuming no further increases in house prices over the life of this Parliament. The resources to pay for this generous subsidy are to be found partially by switching government grants away from affordable rented housing and, most prominently, by switching the present requirement on housebuilders to include affordable rented homes in their new developments to, instead, including a proportion of starter homes. In relation to grants for social housing by 2021, virtually no grant aid will be available to housing associations or councils for affordable rented homes, which will mean the lowest level of support for those who cannot be home buyers since 1919—that is, for a full 100 years. Switching the gains from granting planning consent, or Section 106 agreements, as they are called, away from helping poorer families and single people to instead supplying starter homes, will hugely diminish this highly successful method of achieving affordable housing for rent.

Amendment 1 would still offer the same level of support for the first-time buyer on day one, greatly reducing the level of the deposit as well as mortgage repayments. But it would mean the funds being returned proportionately if and when the purchasers sold up, as they almost certainly will, within the next 20 years. Since most first-time buyers move on after five to eight years, the amendment would recycle up to three-quarters of the initial support. The billions saved by this measure would make it possible for the starter homes initiative to be in good measure an addition to, not instead of, desperately needed new homes for less affluent households.

As well as the social arguments for moderating the generosity of the starter home subsidies, there are powerful economic and financial arguments. First, a subsidy available to an entire group in a particular category—in this case, to hundreds of thousands of first-time buyers—runs the risk of simply being absorbed into a higher price for the purchasers. Everyone is entitled to the same subsidy, so everyone can pay that much more for the same product. This means the starter home subvention could prove inflationary, pushing up prices without increasing supply. The position becomes even more problematic if the 20% starter home discount is combined with 20% interest-free Help to Buy loans enabling people to purchase at 40% less than the market price. The position gets quite out of hand in London, where Help to Buy can cut the initial price by 40%, meaning the combination with the starter-home subsidy could enable purchasers to get a 60% reduction in the initial price, which would have obvious inflationary consequences. I can hardly believe it is a serious proposition that a buyer of a property costing £500,000 in London would actually pay only £200,000, getting the other £300,000 from government schemes.

3.15 pm

Secondly, there will be a lot of dead weight in the starter-homes proposition if those who are already willing and able to buy without a subsidy are given the same 20% discount, which is worth £43,000 on average. This will be an unnecessary extravagance, ultimately at taxpayers' expense.

Thirdly, a subsidy for just one product in the market will squeeze out demand for other valuable products. As well as replacing low-cost housing for rent in terms of government funding and use of planning requirements, subsidised starter homes are likely to crowd out the new, unsubsidised, build-to-rent sector, as the British Property Federation has suggested. Melanie Leech, the BPF chief executive says:

"Government must not marginalise this important sector in its race to deliver Starter Homes".

Fourthly, in the case against the Government putting so many eggs in the one basket of starter homes, there is obvious unfairness, not just in respect of those not earning enough to benefit or not able to find a deposit of 5%, which could be more than £20,000 in London, but in respect of all those who would like a starter home but who will not find one available. There are likely to be around 400,000 first-time buyers every year, but no more than 50,000 starter homes, so seven out of eight new buyers each year will not benefit from the average £43,000 grant. Those buying second-hand properties or buying in an area where starter homes are not built will get nothing, and they are the great majority of first-time buyers. Those who are aged under 23 or who do not manage to purchase before they are 40 will get nothing. Those on the edge of London will get only half as much as those within the GLA area, and there will be no help for the many young couples who bought a tiny flat and now need more space for a family but cannot move because they cannot afford a bigger mortgage. The potential resentment of the majority of new buyers who will get no benefit from the billions involved in this initiative would be much reduced if the starter home subsidy—those grants averaging £43,000 nationally but up to £120,000 in London—were repayable, albeit on a gently reducing basis over 20 years, if the purchaser left.

Finally, in Committee we heard the concerns of mortgage lenders and housebuilders who are worried about distortions in the marketplace if the subsidy is too generous. Housebuilders see the problem that big subsidies may initially push up prices for properties sold as starter homes but with a depressing effect on

[LORD BEST]
adjacent new homes not available with big discounts and on the second-hand market where no bonus is available. Housebuilders worry about the depressing effect on homes they build later when starter homes come back on the market with no discount. If builders feel they must move away from building anything other than starter homes for the first-time market, since no one will want to pay 100% when by waiting they could get a new home for 80% of its value, that might mean a decline in the overall output of new housing.

Amendment 1 would take the pressure off the wider market by moderating the generosity of the starter homes package. A powerful argument against reliance on starter homes with lavish subsidies to solve the UK's housing problems is that the switch away from the current flow of affordable rented homes through housing associations and councils will mean lower total housing production. To reach the admirable goal of 1 million homes over the life of this Parliament, most observers agree that a combination of homes to rent, not dependent on the speed of the sales market, and new building for sale is vital. The robbing of Peter to pay Paul—the shift from affordable housing to starter homes—places disproportionate emphasis on the tenure that is restrained by the speed of the market, almost inevitably undermining the Government's chances of addressing overall shortages while disadvantaging those households in the toughest circumstances.

This amendment would allow those starter homes to proceed but in the knowledge that a high proportion of the initial subsidy—the £8.6 billion in today's money—would flow back again as people moved on, and could finance a continuation of the affordable rented programme, thereby increasing overall housing numbers, which I think we all agree should be the goal of the Bill. I beg to move.

Lord Shipley (LD): My Lords, I shall speak to Amendment 5. I declare my vice-presidency of the Local Government Association, since we are starting Report. In Committee we had a very lengthy discussion on starter homes; on whether the 20% discount should exist in perpetuity rather than for five years; on whether cash sales should be permitted; and on the impact of Section 106 agreements and the consequent adverse impact on the number of affordable homes for rent. We argued that starter homes should not be the central policy proposal in the Bill since homes of all tenures are needed, particularly for rent. Since then, the Government have conceded that an age limit of 23 and above should be imposed to prevent richer parents buying starter homes for students. They have also conceded that the five-year limit on resale should be extended to eight years with a taper.

Amendment 5, to which my name is attached, proposes that the 20% discount should apply in perpetuity. The other amendment in this group, Amendment 1, which has just been moved by the noble Lord, Lord Best, would increase the length of time for which a starter home should be held from five to 20 years, again with a taper. Either is much preferable to the Government's current position. Amendment 5 seeks to keep a starter home as a starter home in perpetuity. Amendment 1 would deliver a similar outcome in practice, since a starter home would remain a starter home for very much longer than the Government propose. It would also be potentially easier to implement in administrative terms. We should note that the Government's two changes will not stop cash sales for those who are over 23. Nor will they prevent rich parents buying homes on behalf of children and then securing a cash bonus when the home is sold.

The context today is important. People expect fairness from our legislation, and that fairness dictates that housing policy should not be about only the 200,000 owner-occupiers who could gain from a cash windfall; it should also be about people on low and middle incomes who cannot afford to buy a home even with a 20% discount, who should be helped to secure a home for rent—and not just in the private sector.

There are two amendments in this group, Amendments 1 and 5—but if the noble Lord, Lord Best, wishes to test the opinion of the House, I believe that he should be supported.

Lord Beecham (Lab): My Lords, I shall also speak to both amendments, having signed both—which I suppose is by way of an each-way bet. I hope that the odds turn out to be favourable.

Many noble Lords will have received a letter from the Minister of 7 April in relation to starter homes, and I shall return to that later. But I also wrote to her on 4 April with a number of queries and I received a reply some four days later. That reply raises some interesting further questions. I asked about the Government's definition of affordability in this context and whether it would be determined in relation to average house prices in a given area, subject to the proposed caps, or whether, and in what way, the definition would be linked to income. The reply was that since starter homes would be purchased by first-time buyers under 40, the Government would expect them to be below the average house price for the area and to be offered at a genuine minimum 20% discount, but that,

"the discount may be greater in some locations".

I do not recall that this latter possibility has been raised before. Can the Minister exemplify the locations in which a greater discount might be offered and indicate who will determine it and upon what criteria?

The Government are apparently working with the industry and valuation professionals,

"to ensure an agreed, transparent valuation process is agreed",

to demonstrate that the discounted sale price is indeed at least 20% less than the market value. In her letter to Members in general, the Minister quoted the Office for National Statistics price statistics, showing that the new-build average was £291,000 in England—slightly more than the average for all dwellings—while for first-time buyers it was £181,000 excluding London. She expects that the actual starter prices will be lower than the average, even before the 20% discount.

But this of course assumes that developers will not take advantage of the scheme to increase the cost of new homes to buyers, who will be cushioned by the scheme from such increases by the operation of the discount. This is not an industry noted for its philanthropic

propensities. At the very least, we must expect developers to build at prices which will, after the discount, meet the current level of new-home prices—that is, at 25% more than the discounted price. What, after all, will be the vaunted "local open market value"? It surely cannot be a simple average, which is what the Minister appears to assume.

I also asked about the size of the deposit that buyers will have to find, to which the enlightening response was that,

"this will be determined by individual lenders",

with whom the Government are apparently in discussion. As with so many of the concerns about this Bill, Parliament is being asked to establish this scheme with absolutely minimal or indeed no information about how it will work in practice.

Similar concerns apply to my third question about the reviewing of price caps and the geographical areas to which they will apply. This will, like so much else, be kept under review, with local authorities being consulted and with a power to prescribe different rates for different areas—but with no advance timetable.

I asked what standards in relation to building density, space, energy efficiency and special needs—for example, for disabled people—would be required and by whom they will be determined. The opaque answer was that starter homes,

"will be subject to the normal planning considerations and building regulations",

to be agreed—an interesting word—at local level. So, despite the significant public contribution and the tax-free gains to be made by the first-time buyers, the Government are doing nothing to address these concerns. In fairness, they refer to councils' ability to require higher levels of accessibility and to apply the nationally described space standards, and they have published,

"an initial set of design exemplars"—

but these will be optional.

In reply to a question about enforcing the prohibition on lettings, the Minister indicated that discussions are in train with the industry, lenders and local government which might involve a requirement on a starter-home owner to provide evidence of personal occupation—for example, in the form of council tax or utility bills. I should have thought that this would not be too difficult to evade and very difficult and costly to oversee effectively.

On tenure, I asked what consideration would be given to the provision of a mix, including affordable social rented housing, for which there is huge demand, as the noble Lords, Lord Best and Lord Shipley, have already said. The reply was less than comforting, stating that planning authorities will,

"need to apply their plan policies, including those on affordable housing, in light of the legal starter homes requirement".

It went on to affirm:

"We would expect them to seek other forms of affordable housing, like social rented housing, where it would be viable".

But this formulation begs the questions of what "seeking" means in terms of any power to require such a provision and what is meant by "viability".

Some other questions are responded to after a fashion in the Minister's more general letter. Thus, in response to questions raised by me and my noble friend Lord Campbell-Savours, she stated that an individual who had inherited property might still be considered a first-time buyer—a very convenient provision for the fortunate few. And yet another consultation is to take place on how to enforce the requirement to occupy the starter home—a question raised by the noble Lord, Lord Greaves.

It is impossible not to conclude in relation to these and other matters that we are being invited to buy not just a legislative pig in a poke but a veritable herd of such animals. This makes it all the more necessary to improve the Bill, as most of the amendments in the relevant groups that we shall discuss today seek to do. In particular, there is the major question which is the subject of Amendments 1 and 5, which would require a tapered repayment of the discount on sale, in the case of Amendment 1, or, as in Amendment 5, that the discount should last in perpetuity, thus avoiding a double bonus to first-time buyers by way of tax-free gains from both the discount and the inevitable rise in value over time—without even the need for offshore financial organisations to be involved.

3.30 pm

The Minister's letter of 23 March referred to the consultation document's request for views on a taper, indicating a maximum period of eight years and accepting buy-to-let restrictions during the restricted period—but not, of course, after the restricted period. But why not? Properties could after all be sold on a leasehold basis with such restrictions being made for longer periods, thereby ensuring that they will remain available for first-time buyers.

The consultation includes a proposed national starter-home requirement of 20% on most—whatever that signifies—housing developments. Characteristically and worryingly, no such proposition is to be found in relation to affordable rented homes in the social housing sector or elsewhere. We are therefore being asked to endorse a costly approach to a massive housing problem for the benefit of only one section of the population, to a greater or lesser degree at the expense of people whose own needs and aspirations will continue to be unmet.

I need to refer to my local government interests as vice-president of the Local Government Association and a councillor in Newcastle—where, incidentally, a very small and well-designed street of bungalows for elderly people the local residents were kind enough to name after me. I hope that the House will support this and other amendments. I am quite happy to join the noble Lord, Lord Shipley, in supporting Amendment 1 if he chooses to test the opinion of the House.

We are in a position to encourage the Government not only to think through properly the implications of their policies but to ensure that the outcome of this Bill is fair to those seeking new homes to buy, to the taxpayer in general and to those who are in great housing need. The amendment goes some way to helping us ensure that and I hope that the House will support it.

Lord Taylor of Goss Moor (LD): My Lords, I should draw the attention of the House to various interests that I have around development and with

[Lord Taylor of Goss Moor]
local councils, and in other respects in this area, as set out in the register of interests.

I want to start by saying something which I do not think has yet been clearly articulated, which is that I welcome the Government's emphasis on the need to provide new homes and to address the issues of affordability. There has been a big change in government understanding around housing need; the issue has risen rapidly up the list of the priorities of the public, as is shown directly in opinion polls, and not only the Government but all parties have sought to respond to it. We should therefore debate this matter in the context of understanding that the Government are attempting to address some very real issues, not least the fact that the group of people most excluded from the housing market—or at least the ability to buy into it—are those without substantial capital. The key thing about first-time buyers is that, having not been part of a housing market that has seen rapid capital increases, they struggle to put together a deposit. Indeed, when I stood down as a Member of Parliament, my wife and I with young children looked at living in London, which was an obvious place in terms of the way in which my career would go, but the sale of a home in Cornwall would not provide the capital to buy a family home in London. That illustrates the scale of the problem. However, I have strong concerns about the way in which the Government have designed their starter home initiative as part of the work they are doing to address it.

First, we need to understand that the need for this measure arises only from a massive undersupply of homes. The starter homes initiative does not address undersupply: it only changes who has access to the limited supply coming forward. We can perhaps take some potentially affordable homes for rent away and turn them into starter homes with a discount for first-time buyers but, in doing so, second-time buyers who are perhaps moving from a flat to a two or three-bedroom house because they are having children do not get the benefit.

I am afraid that housebuilders may well react to this part of the market being addressed through starter homes by shifting other parts of their mix higher up the market to return the discounts. More importantly, they will not look to sell into the low-cost sector because they know that that is being eaten away by starter homes. Why would anyone buy those products if they could buy a starter home otherwise?

I emphasise that the big issue is to provide more homes—we can have other debates about how to do that—but this policy will not do so. Indeed, it may have the opposite effect. I have spent some time talking to large housebuilders and lenders about this policy and, although the Government have made some adjustment in the phasing of the discount period, there is no question that both are concerned about it. The large housebuilders who have targeted relatively low-cost homes now see a product that effectively rips out the possibility of any certainty in their market for it. Many of them have also relied on pre-sales of affordable rents to housing associations to help fund early development phases. Therefore, relying on future sales to replace those rented products which can be pre-sold to housing associations to provide capital to enable development may make it harder to fund development going forward.

In many respects the concerns raised by lenders should alarm us more. They are concerned not about the inability to lend to people buying these properties—self-evidently, they are a relatively low risk; if they have a 20% discount they can then make back later they are not a high-risk lending proposition—but about those they have lent to previously who are in that part of the market with which this policy will directly compete.

Let me explain what I mean. I live in a poor community where there has been rapid housebuilding because land values are low and houses are sold at low prices. The large numbers of people who have bought those properties in the China Clay district, a relatively undesirable part of Cornwall for many—I do not agree with that view but it is reflected in the house prices—are young people, young nurses, young teachers and first-time buyers, exactly the group this policy is targeted at. When they come to sell, they would expect to sell to first-time buyers again, but how will they sell their property at the kind of prices they previously paid if now people can buy a brand new home at a 20% discount in exactly the same market? That is why the lenders are worried. They are concerned that this will have a dramatic distorting effect on the value of homes that people of the same group already live in but which were simply bought previously without the advantage of the discount.

I started by saying that I think the Government are trying to do the right thing—they are trying to address housing issues and the issues of young people who are unable to raise capital—but there is a simpler solution, and that is to offer the 20% discount in perpetuity. Why would that be so much better? For precisely all the reasons I have just mentioned. It would no longer distort the market because the people who would buy these homes with an in-perpetuity discount of 20% would be those who could not afford to buy a home at full cost. They would participate in any rise in the housing market that happened over time and they would be able to build up capital for when they move on, but this would not distort the market because anyone who could afford to pay the full price would do so and would then benefit from the whole capital appreciation of the value of the home. It would target much more precisely those with limited capital who could not otherwise afford to buy and it would not have the same distorting impact on the wider market because there would still be a market there to sell into for those who could and would afford more.

Perhaps what is most important is that it would not distort people's decisions about when to move on because I am worried about what we are doing for those who are buying into this proposal. Let us take a young couple who are thinking about buying their first property. They do not yet have children. They cannot afford a lot, so they buy a small flat. But they will have to give up the discount when they have a child in order to get the room they will need for the baby. How can that be right? Or do they delay the purchase and rent for longer because of the possibility that in a few years' time they will have a child? What

do they do if they have had one child and now want another one and therefore want to move on?

People will hold back from their sale, and it is because of that worry that frankly I understand absolutely why Amendment 1 has been brought forward. It addresses some of the issues for lenders and encourages people not to see the discount as a short-term investment, thus creating a new asset investment class with a view to getting it back in five or eight years. On the whole, the amendment is worth supporting because it is better than the status quo, but do we really want to lock people in to thinking that they have to stay in the same home for 20 years in order to get the full benefit of the discount? I cannot see that that is the right thing to do.

Some time ago Cornwall pioneered the principle of homes being given an in-perpetuity discount—not affordable homes, but simply properties built by local housebuilders with a covenant on resale that is tied to local wages. They would always be below market levels and would always be affordable to people on low incomes. There has been a really strong demand for those homes. Housebuilders like them because if they can get land at relatively low cost they are not too costly to build and they know that the sales will be there. Buyers like them because they know that they can then afford to get into the housing market and see the commercial uplift that comes as house prices rise, but they can then sell on again when it is right for them as a family to do so—perhaps when they have a child, the relationship breaks up, or things change because an inheritance comes through.

Making the discount in perpetuity would create a market for those who cannot afford to get their first foot on the ladder. As it stands, the starter home policy creates a very different vehicle: it is an investment vehicle with a 20% bonus at five or eight years. In a market for housing that is distorted by undersupply, which this policy does not address, and a market for housing that is even more distorted because it has become an investment market rather than one for the purchase of a home, the last thing the Government should be doing, in genuinely trying to address this issue, is introducing a product that is even more finely tuned as an investment product aimed at producing a return rather than providing a step towards the security of a home that meets people's needs.

Lord Horam (Con): My Lords, the noble Lord, Lord Taylor, said graciously that there has been a sea change in Government policy towards housing in the past year or so that recognises that there is obviously a severe problem in London and the south-east in particular, but also in other parts of the country. In debates on housing, we have heard occasionally from the noble Lord on the Liberal Democrat Benches about the different perspective of Pendle in the north-west, but broadly speaking it is recognised that there is a real crisis in housing throughout almost all the country. The Government should be congratulated on this imaginative proposal. I do not suppose that anyone will want to stop it going through in its broad shape, given that it has gone through the other place, but we are here to improve things and I think this proposal can be improved.

As the noble Lord, Lord Best, pointed out in his speech moving Amendment 1, it is a very expensive proposal that will cost £8.6 billion if it achieves the full panoply of 200,000 results. That is a lot of money. Even though some of it is offset, it is offset in ways which housing experts rather deplore. For example, less Section 106 affordable housing will be built if this development goes ahead. As the noble Lord, Lord Taylor, pointed out, there will be fewer Build to Rent proposals, which is one of the most imaginative things on the housing horizon. I also get the impression from talking to housing associations that they are concerned about the shared equity homes into which they have put a lot of money, and which are fully supported by Government grant. Those are just three areas that may well be adversely affected by so much emphasis on starter homes.

3.45 pm

The question therefore arises which the noble Lord, Lord Best, put rather well: can we somehow take the pressure off the situation by creating a slightly less favourable position for those taking on starter homes? His suggested method of, in effect, people paying back for the advantage they get is entirely sensible, and it does not necessarily mean locking a person into a home for 20 years. As I understand it, a discount of 1% could be paid back if they move after one year, or 5% after five years. The full 20% would be paid back after 20 years. People obviously move over a period of time so it seems to me, as an economist, that this has some sense. People who have the magnificent benefit of a 20% discount on their home acquisition will—after a period, obviously—pay back in a steady flow. There will be a steady flow of cash coming into the Treasury and the department that can be used for other housing purposes. Therefore, there is some sort of quid pro quo for all that the Government are laying out in this sensible way.

On the other hand, I hope the noble Lord, Lord Taylor, will forgive me for saying that I do not understand how his proposed discount in perpetuity would work. If you have in perpetuity two different classes of housing, eventually the market will somehow arbitrate between houses that do not have a discount and houses that do. Eventually, someone—an estate agent—will say, "Well, if you want this other more attractive one you can buy it but, of course, it will cost a bit more, even if we head it as 'furniture and fittings', or whatever". There will be a means of the market arbitrating between the two and the advantage will eventually disappear. Although I understand the idea behind Amendment 5, it is impracticable so it should not be supported. However, because Amendment 1 would bring in a flow of cash to the housing market, that seems to have a great deal of merit.

Baroness Warwick of Undercliffe (Lab): My Lords, I want to speak very briefly to Amendment 1, so powerfully moved by the noble Lord, Lord Best, and to comment now on the closely associated Amendments 8, 10, and 11. I shall focus on the impact of starter homes on the provision of affordable housing and on the effect starter homes could have on the long-term future of rural communities. I declare an interest as

[Baroness Warwick of Undercliffe]
chair of the National Housing Federation, which represents England's 1,000 housing associations.

It is undeniable that starter homes have the potential to help some young people on to the housing ladder. However, the Bill as drafted undermines the wider supply of homes of all tenures that are so critical to making housing affordable for young people. Clause 4 requires developers to deliver starter homes as part of their Section 106 obligations. When this is coupled with proposed changes to the definition of affordable housing, whereby developers can build starter homes to meet their Section 106 obligations, I fear it will lead to a significant fall in the supply of the sub-market homes, or truly affordable homes, that are so badly needed. That is because the housing crisis is different in different communities. Local authorities need to have the freedom to plan across a range of tenures, based on their strategic housing market area assessment.

I will not rehearse the many, many arguments that have been made in the several debates on rural areas that we have had in this House. The Government are consulting about the size of site that might be excluded from the starter homes requirement. I hope the Minister will say something on that today, but rather than restricting the option to 10 or fewer, as the consultation does, I would like her to consider excluding rural exception sites completely. The Government are endangering the bond of trust between the landowner, who provides these sites at below market value, and the housing providers. Landowners might be either unwilling to provide sites, or will seek a higher price for the land. Even if sites of fewer than 10 homes were excluded, this would apply to only half the total number of rural exception areas. This could lead to the end of affordable housing within five years, resulting in more young people leaving the rural areas they grew up in.

The best way to drive up new supply and to increase opportunities for home ownership is to deliver homes across all tenures. Starter homes should be seen as part of that, not the sole solution.

The Lord Bishop of Coventry: My Lords, I apologise for not engaging with the Bill at an earlier stage. Other colleagues from this Bench who have engaged with it are unable to be here today. I declare an interest: I have five children, and I worry very much about how they will own their own properties. Two have already managed to; the other three will need to work on it. It will be a little bit difficult for them. They will not have a great deal from me to help them, as they come from a clergy family. That is my second declaration of interest. Living on a clergy stipend for most of my adult life and living in clergy accommodation means that I have got to know the letting world reasonably well as a way of trying to make provision for my future and my family's future when I am evicted from my house at some point.

I very much commend the Government for the whole initiative of trying to help people on to the housing market. As a parent, I appreciate that enormously. A good deal of me is attracted to this proposal. I can see it being very helpful for my third son, who is just getting to that point. It could be extremely beneficial to him, but I worry about how it would leave my fourth and fifth children when they are in that position.

I simply wanted to say that there seems to be a moral principle to secure the permanent benefit of public funding in this way for as long as possible and to minimise the potential for this scheme to be used unduly for investment purposes.

Lord Cameron of Dillington (CB): My Lords, I support Amendment 1. For the purposes of Report, I declare my interests as a farmer and landowner, as a rural landlord of domestic property, and as the ultimate landowner of an exception site leased to Hastoe Housing Association.

I wish to make only one point—to re-emphasise what others have hinted at. We are all aware of the shortage of affordable housing in our country. We are also aware that this is not a short-term problem. I expect that most of us will have received the rather bleak report from the National Federation of Property Professionals, predicting that property prices and rents will continue to rise until at least 2025 because of the shortage of housing, particularly affordable housing. Meanwhile, the Government have promised to build 200,000 new starter homes by 2020. This will be the main plank in their policy to deal with the severe shortage of affordable housing. Let us say that it is 50,000 starter homes a year, although I expect that it is even more than that by now. The transience—that is the key word—of these starter homes, which causes them to fall out of the affordable sector currently after only five years, maybe eight, means that we will have to go on building 50,000 starter homes a year for ever.

We are trying to fill the bath with the plug taken out. Amendment 1 is an effort to put the plug back in. Therefore, I strongly support it.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, before I begin, I note that those of us discussing the housing Bill on the last day before recess were the last ones out of this place, and we are the first ones back in to discuss it today. I am very glad to see the noble Lord, Lord Kennedy, back, as well as the noble Baroness, Lady Bakewell—who is much chirpier than she was. I apologise for anything that the housing Bill took out of noble Lords.

Before I turn—or, in some cases, return—to the amendments we are discussing today, noble Lords will have seen that over the recess I wrote giving further detail on how the Government have reflected on the debate so far, and saying that we will amend the Bill as a result. It is worth considering where we have come from. For example, to reflect noble Lords' concerns about starter homes we introduced a requirement to consult when changing price caps, and have now introduced flexibility on the upper age limit so that more couples and injured service personnel can benefit. Many noble Lords—for example, the noble Lords, Lord Best and Lord Shipley—were also concerned about parents exploiting starter homes for their children. Today, I will move an amendment to address that.

The consultation document we published in March—referred to by the noble Lord, Lord Beecham—has been directly influenced by your Lordships' House, as have amendments I will move later when we discuss banning orders. Those amendments were inspired by contributions from the noble Lords, Lord Beecham and Lord Campbell-Savours. We are due to debate electrical safety, and I look forward to discussing with the noble Baroness, Lady Hayter—who is not yet in her place—and the noble Lord, Lord Beecham, the steps we can take to make homes as safe as they can be. The amendment I will move later is a direct response to the points raised through your Lordships' House.

I will continue to reflect as we turn to later parts of the Bill. I know, for example, that there is a lot of concern that noble Lords would not have the opportunity to see how we plan to implement the Bill's clauses on social rents. I will write this week giving that further detail, so that noble Lords can approach next week's debate as informed as they can possibly be.

I said before the recess that I trust that, as we discuss this Bill on Report, we can move closer on a number of matters about which we will all agree. I do not think there has ever been any dispute over the need to increase the number of homes built to meet this housing crisis. There is the need to ensure that housing markets and the planning system that enables their growth work as well as they can. I hope that a number of our debates will not divide us, and that we will take to Third Reading a Bill that is practical and improved as a result of the expertise that noble Lords have shown throughout.

Turning to Amendments 1 and 5, I thank the noble Lords, Lord Beecham and Lord Best, for Amendment 1, which would require the repayment of the 20% discount reduced by 1% for each year of occupation for a period of 20 years. I also thank the noble Lords, Lord Shipley, Lord Beecham and Lord Kennedy, for their Amendment 5, which would require the minimum 20% discount on a starter home to be retained permanently with the property. The noble Lord, Lord Beecham, asked for clarification on when the discount might be larger. That would be in the situation where local authorities, for example, negotiated a larger discount. I think it was my noble friend Lord Porter who pointed out how he had done that in Lincolnshire. It is difficult to speculate at this point where this might be done with starter homes. The point is that local authorities can and do negotiate larger discounts.

I made clear in Committee that we want to ensure that starter homes are sold to those genuinely committed to living in an area and not to those who would simply wish to quickly sell to secure financial gain. However, we also want to support mobility. Many noble Lords expressed concerns about the proposed five-year restriction that would enable the owner to sell at full market value after five years of occupation. I listened carefully to the quite extensive debate in Committee and to the views of the sector. As a result, we are seeking views in our consultation on whether a tapered approach should be introduced. This would enable owners of starter homes to sell at an increasing proportion of market value over time, stepping up to 100% after a maximum of eight years. We consider that restrictions beyond eight years would unreasonably limit young people's ability to move on. That is a similar point to the one made by the noble Lord, Lord Taylor, on the growing family, although I think that we made them for slightly different reasons. We do not want these houses to be restricted in perpetuity as we think that that would make it more difficult for the first-time buyer to move to a new home as their family needs grow and their circumstances change. Starter homes are for young first-time buyers whose needs will change. If you only ever own a proportion of the property, the step to full ownership is a much, much greater challenge. We want to support mobility, not hinder it.

4 pm

The amendment of the noble Lords, Lord Best and Lord Beecham, presents a much longer taper. My first concern is the limitations this would place on individuals. A couple in their mid-30s, buying a starter home as their first house, would need to stay until they were in their mid-50s to realise the full value of the property. Starter homes are about people buying their first home, not their only home.

Clause 2 provides the Secretary of State with the power to make regulations on these restrictions. The use of secondary legislation allows us to consult the sector and then bring affirmative regulations back to Parliament for agreement. Placing these restrictions in the Bill would take away our ability to engage properly and would also limit flexibility to make adjustments in the future. We will consider all responses to our consultation carefully, and I welcome noble Lords' views to help inform the resulting regulations. We need to work with those who will make this work on the ground to test our proposals and to ensure that the restrictions are feasible, proportionate and effective. In particular, the views of lenders are important, as the noble Lord, Lord Best, said. They have confirmed today that they welcome the principle of a taper but want to continue to discuss how best to make it work in practice. They are not supportive of a 20-year taper in the Bill. Furthermore, we are working with the sector on drafting model Section 106 clauses to help local authorities and applicants with securing the post-sales restrictions. This will help to standardise the approach to securing starter homes and reduce burdens on the planning applications process. It will build the restrictions into the conveyancing process so that first-time buyers and their advisers are aware of, and have certainty on, our approach.

Finally, I wish to be clear that we have listened to noble Lords' concerns expressed in Committee and are now consulting on a taper to seek wider views from those who will make it work on the ground without hindering mobility. I hope that the noble Lord will not divide the House but be satisfied with the commitments that I have made. I ask that the amendment be withdrawn.

Lord Best: My Lords, I am grateful to noble Lords all around the House for supporting Amendment 1 in my name. The noble Lord, Lord Shipley, proposed the alternative of the discount remaining at 20% in perpetuity. That admirable idea would moderate the generosity of the measure and ensure that the public benefit from this big discount lasted for very much longer—indeed,

[LORD BEST]
for ever. However, there are some technical difficulties with it. You would need to have a valuation each time anyone sold the property to see what the 20% represented a percentage of and you would need someone to police who is buying to determine whether they are a genuine first-time buyer and so on. These properties will be dotted around all over the place. A lot of complexity could be involved in that alternative, although in principle it is sensible.

The noble Lord, Lord Beecham, pointed out that housebuilders may sell their properties for rather more, knowing that buyers can pay rather more because they are getting a big discount. He raised a lot of interesting questions. I am afraid that starter homes are still a step into the unknown. This is the hazard that we face in debating them. The noble Lord, Lord Taylor of Goss Moor, applauded the Government's ambitions to increase the number of homes being built and to help first-time buyers, as we all do. He liked the in-perpetuity arrangements but he was also very much in favour of Amendment 1 and felt that anything that discouraged short-term, speculative use of a discount would have a distorting effect on the market and should not be there.

I am grateful indeed for an economist supporting Amendment 1. The noble Lord, Lord Horam, welcomed the starter homes initiative in principle, as nearly all of us do, but felt that it could be improved. He greatly welcomed the idea of there being a payback over a period of years once people moved out and moved on. The noble Baroness, Lady Warwick, was equally supportive and the right reverend Prelate gave the House a very practical illustration of a family with five children. Even in the most affluent of households, finding the deposit for five children to buy would be a pretty uphill struggle. Starter homes, as a way of helping people who will not be able to get hold of a deposit, will be a useful addition, but the right reverend Prelate felt that securing the public benefit for as long as possible—which Amendment 1 achieves—would be useful. The noble Lord, Lord Cameron of Dillington, talked about the transience of an arrangement where, after five—or possibly eight—years, all the benefits are lost to the wider public. That is what the amendment seeks to avoid.

I am grateful to the Minister, who mentioned that she has been listening. She has, indeed, been an absolute model of courtesy, patience and helpfulness throughout Committee and I know there will be amendments to come. She already concedes that the initial proposition, which is that people who buy a starter home get nothing back in the first five years of occupation and after that time collect the whole of the average of £43,000—possibly over £100,000 in London—was not a very helpful way of doing things. Instead, the Government are likely to go for a taper so that one keeps a proportion each year. However, that taper would run out after eight years, whereas Amendment 1 proposes that the public benefit is retained for 20 years, with the occupier getting more and more of the benefit the longer they stay there.

The Minister hoped that I would not wish to test the opinion of the House on this. I am clearly reluctant to do so when she has been a listening Minister throughout this process. We have the assurance that secondary legislation, after further consultation, may produce regulations that take us further in the right direction, but this is only in prospect for the future. Only by putting things on the face of the Bill can we, ultimately, be sure that they will happen. So, with a slightly heavy heart, I would like to test the opinion of the House.

4.08 pm

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Brady, B.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Buscombe, B.
Butler-Sloss, B.
Byford, B.
Caithness, E.
Carrington of Fulham, L.
Cathcart, E.
Cavendish of Furness, L.
Chadlington, L.
Chisholm of Owlpen, B.
Colwyn, L.
Cooper of Windrush, L.
Cope of Berkeley, L.
Cormack, L.
Courtown, E.
De Mauley, L.
Dear, L.
Deben, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dunlop, L.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Erroll, E.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Faulks, L.
Feldman of Elstree, L.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
Finn, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Garel-Jones, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Gold, L.
Griffiths of Fforestfach, L.
Hague of Richmond, L.
Hailsham, V.
Hamilton of Epsom, L.
Harris of Peckham, L.
Hayward, L.
Helic, B.
Henley, L.
Higgins, L.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Home, E.
Hooper, B.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leach of Fairford, L.
Leigh of Hurley, L.
Lexden, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lucas, L.
Luce, L.
Lupton, L.
Lyell, L.
McColl of Dulwich, L.
Mackay of Clashfern, L.
Magan of Castletown, L.
Mancroft, L.
Marland, L.
Maude of Horsham, L.
Mawhinney, L.
Mobarik, B.
Montrose, D.
Morris of Bolton, B.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Noakes, B.
Northbrook, L.
Oppenheim-Barnes, B.
O'Shaughnessy, L.
Patten, L.
Perry of Southwark, B.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Price, L.

Prior of Brampton, L.
Rawlings, B.
Renfrew of Kaimsthorn, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rotherwick, L.
Ryder of Wensum, L.
Sanderson of Bowden, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selborne, E.
Selsdon, L.
Shackleton of Belgravia, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Skelmersdale, L.
Smith of Hindhead, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stirrup, L.
Stowell of Beeston, B.
Stroud, B.
Suri, L.
Tanlaw, L.
Taylor of Holbeach, L. [Teller]
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wellington, D.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

4.25 pm

Amendment 2

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

2: Clause 2, page 2, line 7, leave out "under" and insert "at least 23 years old but has not yet reached"

Baroness Williams of Trafford: My Lords, I apologise for the delay—first day back and all that—but I will now move the amendments. Amendments 2 and 3 require qualifying first-time buyers to be a minimum age of 23 to be able to purchase a starter home.

As I made clear in Committee, the Government want to strongly discourage starter homes from being considered as commercial investment opportunities rather than homes to live in. Many noble Lords expressed concerns about the eligibility criteria for those able to purchase a starter home, including the possibility of such homes being used as an investment vehicle. One area of risk has been identified as parents buying starter homes in the name of young children, or even their young adult children who are not yet in a position to buy because they are not in stable employment but in higher education.

I listened carefully to the debate in Committee, and, as a result, we have tabled the amendment to introduce a minimum-age criterion that would limit the ability to purchase a starter home to those who are aged 23 or over. This would prevent individuals purchasing a starter home in the name of a child or perhaps a student under the age of 23.

We have considered the age that adult children leave education or training to enter the job market so as to become realistic first-time buyers in their own right. We estimate that about four-fifths of higher education students turn 23 either during their final year or after graduation. This minimum age requirement strikes the right balance between providing real opportunities for hard-working young people and families to secure a home and discouraging starter homes from being used as an investment opportunity.

My department's analysis of Council of Mortgage Lenders data suggests that, in 2015, only 4% of first-time buyers were under 23. I expect that this minimum age requirement would directly impact a relatively low proportion of potential buyers, but would restrict the scope to game the opportunity provided by starter homes. I therefore ask that this amendment be agreed to.

Lord True (Con): My Lords, I was unable to attend the Committee sitting in question, but I read the report carefully and understand entirely where my noble friend is coming from. She said that it may affect only 4%. I congratulate her on responding to your Lordships in seeking to address the potential abuse that she rightly identifies, but there is always a risk of viewing legislation from a London position and in a world where so many people who write and think about legislation went to university. Many people do not go to university, and in some parts of the country property values are quite low. In that 4%, there will be aspirant young couples—plumbers or mechanics married to teachers—who have the same hope to make a start in life and who should not be excluded from the opportunity for the sake of closing a loophole.

I know how difficult this is, and I will certainly not oppose my noble friend's amendment, but it will go back to the other place as a Lords amendment, so it will be subject to further consideration. I ask that we have a mind in this great House to that small 4% who may not have been to university, do not live in high-property-value areas but want to be first-time buyers and to benefit from the provision. I congratulate my noble friend on responding to the House, but I hope that, when the Bill goes to another place, my right honourable friend the Secretary of State will give further consideration to twiddling the amendment a little.

4.30 pm

Lord Lansley (Con): My Lords, I wanted to say a few words, including in relation to Amendment 4 in my name, which is in this group but does not relate to the age restrictions or requirements. I share with my noble friend Lord True an appreciation that our noble friend the Minister listened exhaustively and exhaustingly throughout Committee, and has taken the trouble to bring back amendments that are the basis of that reflection on some of the issues raised—and rightly so.

Amendment 4 relates to the definition of a starter home. I have always started with the plain English definition that a starter home is a new dwelling built expressly for the purpose of being available to first-time buyers. That, of course, is what the Bill says, but it puts a number of additional caveats on that definition, expressed in Clause 2, including the specific age requirements that the group relates to. But the Bill also, under the purchase provision in subsection (5), makes it clear that this will happen through purchase. What does "purchase" mean for the purposes of the Bill? Does it include or exclude when somebody buys with a mortgage? I think that clearly, by definition, we must assume that it includes buying with a mortgage and that it does not just mean buying outright. But what about if somebody buys through a shared equity

arrangement, or staircases to purchase through a rent-to-buy arrangement? My understanding from the prior discussions on the Bill is that they are not included, but my submission in the amendment is that they should be. From the standpoint of first-time buyers, those are routes to home ownership, which is what we are looking to promote.

One figure that we have not referred to yet on Report but which has been instrumental to our debate is that 86% of young people looking to go into the property market want to own their own home. Of that 86%, a significant proportion currently cannot do so. The manifesto commitment is absolutely right and admirable, and appeals to them for that reason, but there will be a proportion for whom, even at the discount to the market value, as Savills' work for the Local Government Association demonstrated, finding the deposit—because we know that deposits have at least doubled in the past decade or so—will be very difficult in some parts of the country. So maximising the mechanisms by which young people can buy a starter home, including other mechanisms for buying a starter home, seems a reasonable approach.

There is a good argument against this proposal, which is—very straightforwardly—that the starter home is a distinct product and separate and different from shared ownership or indeed rent to buy, and if we were to conflate these things we would make it much less clear what the starter home requirement relates to. But the Government should look at the technical consultation; the calculations on the back show the Government's estimate of the proportion of affordable homes that would be available for the starter home requirement at the average subsidy through developer contributions on sites in excess of 10 units. The answer was that 22% as a starter home requirement could be delivered on the average as already assessed on the viability of those sites. The Government are now consulting on a 20% starter home requirement, with the implication that the overwhelming majority of that affordable housing contribution will be consumed by the starter home requirement. It therefore seems that the starter home requirement should include more of those affordable housing requirements and mechanisms. Otherwise, a significant proportion of young people might be left out of the opportunity, through affordable housing contributions, to own their own homes. If you were to take the 20% requirement down to, say, 15%, which is one of the options discussed in the technical consultation, the net result is that at 200,000 homes a year over five years, you do not get 200,000 starter homes. It is only at 20% that you get 200,000 starter homes over five years so, in that sense, we are between a rock and a hard place. One of the mechanisms for dealing with that—and I continue to commend it to the Minister in her further thoughtful approach to the Bill—is to think about whether the definition of starter homes is unnecessarily narrow. A slightly wider definition, to embrace some of the other products that enable young people to buy their own home, would allow us to meet the starter home requirement more readily and ensure that a larger proportion of young people are able to access a home of their own through these proposals.

Lord Best: I shall speak briefly to Amendment 10, but I add my support for Amendment 4 in the name of the noble Lord, Lord Lansley. Amendment 10 states that age-restricted housing schemes for older persons will be exempt from any requirement to provide starter homes. I do not think this will detain us for very long because it is pretty obvious that if you are building an extra care scheme for older people, or even a block of retirement apartments, there is no place for housing for people under 40, for whom starter homes are intended. The 22% requirement simply cannot apply if we are to have those homes built for older people. I therefore hope that the Minister will be able to be very reassuring on this point and that wherever a developer or a housing association puts in for planning consent for an extra care or continuing care development, a retirement village, a retirement community, a sheltered housing scheme or a retirement apartment block the planner will be able to say that in these cases there is no requirement to insist upon starter homes and that the developer can proceed with a scheme exclusively for older people. That will help younger people as well because nearly everyone who moves into a retirement apartment leaves behind a three-bedroom or possibly even a four-bedroom family home and frees a flow through the marketplace that helps everybody right through the system.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, as this is the first time I have spoken on Report, I draw the attention of the House to my interests as set out in the register as a South Somerset District Council councillor and as a vice-president of the LGA.

I rise to support Amendment 10. As the noble Lord, Lord Best, ably demonstrated, age-restricted housing schemes for older people should, by their very nature, be exempt from the requirement to provide starter homes. The majority of these schemes will have been designed around the needs of older people and will be completely tailored to their needs. The ethos of the Government's starter homes policy is targeted at younger people between the ages of 23 and 40. It would be inappropriate for starter homes to become part of an elderly people's complex, and they should therefore be exempt. This should be clear in the Bill.

Lord Porter of Spalding (Con): My Lords, as this is the first time I have spoken on Report, I remind the House of my declaration of interests. It is long and exhaustive, and I do not propose to read it out again. Noble Lords should refer to previous copies of *Hansard* or to the register, where it is all recorded.

I support my noble friend Lord True on the age restriction. I would not go through the wrong Lobby on this minor issue, which is going to go to the other end of the building and hopefully someone will look at it, but the age restriction based on the arguments that were exercised in this House excludes some people who may well be able to purchase a starter home if they are not university students. To exclude people who are not university students because we are worried about avaricious parents of university students seems perverse. I hope the Government will try to work out a way in which we can get a restriction on people getting

[LORD PORTER OF SPALDING]
into schemes that does not preclude those youngsters—probably in couples, with trades behind them—who could earn enough money, subject to being able to get access to a deposit, for 80% of the value of the scheme where they would not for 100%. That aspect requires a bit more work.

In response to my noble friend Lord Best's comments about properties for the elderly being excluded from this measure, quite clearly there would be an expectation that we would not be putting starter homes on elderly-unit accommodation. However, that is not to say that a developer, if the financial circumstances warranted it, should not be expected to pay a commuted sum to offset the cost of starter homes on an alternative site. Some more work needs to be done on this to ensure that we are not allowing some developers to get off without it while we are imposing it on others.

Lord Beecham: My Lords, the Opposition support the Government's amendment here. I guess that a line has to be drawn somewhere with regard to age, and the Government are probably right to have drawn it where they have.

I also support the amendment in the name of the noble Lord, Lord Lansley. I hope the Government will take it back in a positive sense because he makes a strong argument for extending the principle to these different forms of ownership—they are quite compatible with the Government's intentions, after all—and meeting the particular needs that he has so clearly identified. I hope the Minister will feel able to say that she will take that back positively and perhaps return later on Report if she cannot accept it today. It would be ideal if she could accept it today but I guess that she may not have that freedom. Still, a positive response would be very welcome.

I sympathise again with the amendment moved by the noble Lord, Lord Best. I am not sure whether that needs to be in the Bill so long as it is on the record that it is the Government's intention that the thrust of the amendment would be realised in practice. If the Minister were able to give that assurance, that might avoid the need to amend the legislation. That is a matter for her judgment, but it might be a way forward.

Baroness Williams of Trafford: On the government amendment regarding the minimum age of 23, I take the points made by my two noble friends. The under-23s are of course aspirants too, and in certain parts of the country this policy might really help them. But as the noble Lord, Lord Beecham, says, we have to draw the line somewhere and, given that 96% of 23 to 40 year-olds will benefit, that is where we have chosen to draw it.

I thank my noble friend Lord Lansley for his Amendment 4. As noble Lords will know, we are committed to delivering the 135,000 shared-ownership and 10,000 rent-to-buy products. Each has its place, and these products can and do complement each other. They can be considered by councils as part of their wider affordable-housing requirements for their area, and the starter homes clauses will not prevent these developments coming forward. We will be touching on this later on Report.

However, trying to blend them would create complexity and lose the distinctive characteristics of each, and it could put at risk our starter homes manifesto commitment. For example, if a young person entered a right-to-buy arrangement, at what point in their occupation of the property would they be committed to purchase? After how many years of occupation would they be entitled to sell at an increased market value? That could be difficult to justify when we need to deliver as many new homes as possible.

Still, we recognise that there may be different routes to purchase, and over time there may be different opportunities to consider how these will fit within the overall starter home model. Much of the detail on the model will sit in secondary legislation, and the definition of purchase in the Bill is broad enough to allow different purchase mechanisms to be used. As the starter home model rolls out, we will keep it under review.

I also thank the noble Lords, Lord Best and Lord Beecham, and the noble Baronesses, Lady Andrews—who is not in her place—and Lady Bakewell, for Amendment 10. Our consultation on the starter homes regulations sets out potential flexibility on the on-site starter homes requirement. We recognise that some developments, including age-restricted schemes, do not easily lend themselves to an on-site provision, and we do not want to render those schemes unviable or undeliverable.

4.45 pm

The consultation proposes that the requirement should not apply to dedicated supported housing which provides specialist accommodation for a particular group and which includes an element of support, such as residential care for older people. A starter homes requirement could have an adverse impact on the viability of such developments and we propose that they are exempted. Furthermore, we propose that housing designed specifically with older people in mind, but with no additional support provided, will be subject to an off-site contribution to starter homes. An on-site contribution would not be compatible with the function and design of this form of housing. I believe it is right and proper to wait for the outcome of that consultation on the important issue of older people's housing, rather than rush into making changes now, and I think that that is what the noble Lord, Lord Beecham, was driving at.

Finally, I hope that the Government's amendment to impose a minimum age of 23 provides reassurance that starter homes will provide homes to live in, rather than investment opportunities. I have listened carefully to the debate, and I hope that the steps I have set out make noble Lords feel that they do not have to divide the House. It is only right that we work with the sector to agree an approach that supports home ownership and operates fairly. Rather than rush to a legislative provision now, we need to listen and respond before bringing affirmative regulations back to this House. With that, I ask noble Lords not to press their amendments.

Lord True: Before my noble friend sits down, I apologise for not having reminded noble Lords of my interest as leader of a local authority, although the

issue that I raised would not apply there. I was disappointed by my noble friend's response and by the response from the Front Bench opposite. If the Labour Party does not recognise the potential situation of young people in craft or trade, who may be precisely the sort of people who are caught if we have an arbitrary age limit, that is disappointing. This issue may be dealt with in regulations, but regulations cannot solve the problem if there is not primary legislation at the cut-off stage. I ask only that there is some criterion where people under 23 have to show whether they are in full-time employment or have their own income as the basis for securing a loan. It ought to be possible to bring in that other 4% of aspirants and I hope that that will be considered.

Baroness Williams of Trafford: I would not like my noble friend to think that I did not agree with his point about aspirant young people. I totally agree with him. Without closing down the conversation, I pay tribute to what he said, and things may come forward to deal with that age group.

Amendment 2 agreed.

Amendment 3

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

3: Clause 2, page 2, line 9, leave out "or minimum age"

Amendment 3 agreed.

Amendments 4 and 5 not moved.

Clause 3: General duty to promote supply of starter homes

Amendment 6

Moved by ***Baroness Bakewell of Hardington Mandeville***

6: Clause 3, page 2, line 38, after "homes" insert "and other types of social and affordable housing"

Baroness Bakewell of Hardington Mandeville: In moving Amendment 6, I shall speak very strongly in support of the other amendments in this group. While the Government's aim to provide starter homes for young people is to be commended, it should not be seen as the only route for people to access homes and accommodation. As the noble Baroness, Lady Warwick of Undercliffe, said and as was said in Committee, local authorities up and down the country continually update their housing requirements and are able to assess the local need for all types of social and affordable housing. There must therefore be a requirement for them to provide other forms of homes outside the starter homes programme, which they are willing and able to do.

A large of number of residents will require homes to rent, as their incomes and circumstances will preclude their buying a home of their own regardless of their desire to do so. The needs of such residents should be met by local authorities, which are keen to fulfil their housing function in this direction.

Alternative social and affordable housing will also include shared ownership—as has been said—and shared equity schemes, as well as social rented homes. For local authorities to focus entirely on the starter homes programme will leave a large number of families, couples and single people without any means to access a home. It is a basic right for every individual to have a home that is fit for purpose so that they may access employment and ensure that their children are able regularly to attend school.

Having carried out their housing needs surveys, English planning authorities should grant permission for residential developments only where their survey indicates a need and a demand for such housing. This could include starter homes but not to the exclusion of other forms of affordable housing. I look forward to the Minister's response on this important matter and I beg to move.

Lord Kerslake (CB): My Lords, I shall speak to Amendments 8 and 9 and in doing so declare my interests as president of the Local Government Association and chair of Peabody.

The amendments form part of a series of amendments intended to make the Bill fairer, more localist and more workable, while respecting the manifesto commitments made by the Conservative Party during the general election last May. The specific purpose of Amendment 8 and the consequential Amendment 9—I would argue that it is consequential—is to place the responsibility for determining the proportion of starter homes in any particular development where it should properly lie: with the local planning authority.

We discussed at length during the Committee stage of this Bill, and indeed today, how starter homes as an initiative has moved from being an interesting and positive new way to provide additional supply of new housing to effectively replacing affordable rented housing in new developments, despite the fact that starter homes will serve a very different group of people, being available only to those on middle or higher incomes in those areas where housing is in high demand. Shelter has calculated, for example, that 98% of families who are on the Chancellor's national living wage would not be able to afford a starter home.

In Committee, we also learned that there is not one housing market in this country but many, each with their own different needs and issues. It is for this very reason that we require each local authority to consider carefully its local housing needs and draw up a local plan to meet them. The Bill, however, gives the Secretary of State the power to prevent the approval of individual planning applications unless they have met the specified requirement for starter homes. It is hard to think of a more overbearing and centralising action that the Government could have taken on something that should so clearly be a matter for local decision. So far as I am aware, it is also completely without precedent. I cannot establish any previous Government who have sought to specify the types and tenures of housing in individual planning applications in this way.

On 23 March, just prior to the Easter Recess, the department issued a technical consultation document on starter homes. It proposed a single starter homes percentage of 20%, with exceptions only for very small sites and where the viability of the scheme was in question. The Government's consultation document does not give an estimate of how many affordable

[Lord Kerslake]
rented houses this would displace but both the Local Government Association and Shelter believe this to be significant. Indeed, the department's own numbers estimate that, in cash terms, 91% of affordable housing contributions on an average site will be redirected to starter homes.

I have no doubt that a figure of 20% starter homes will be right for some parts of the country, but I am equally clear that for many others it will not. There is a risk that further delays will be added to the planning process as local authorities struggle in individual applications to reconcile this top-down requirement with what they know is right for their own area. Amendment 8 leaves the choice with individual local authorities but makes clear that the local authority must have regard to the provision of starter homes when it comes to make its decision. This, taken with the general duty to promote starter homes that is already in Clause 3(1), will provide more than sufficient onus on local authorities to take forward the Government's intentions. There is enough leverage already in the Bill. We must surely be able to trust local authorities to make the right decisions based on their own local needs and circumstances.

In other parts of the debate in Committee—for example, on the appropriate size of new housing—Ministers were clear in their view that local authorities are best placed to understand and decide what is required locally. This must surely be the case for type and tenure; otherwise, we are effectively in this Bill going for "pick and mix" localism.

Today the four leaders of the Conservative, Labour, Liberal Democrat and independent groups of the Local Government Association took the unusual step of writing a joint letter to the *Guardian* about the Bill. In it they say the following:

"Current proposals for starter homes carry a risk that a crucial supply of new affordable rented homes will be displaced, and despite 20% discounts they will still be out of reach for the majority of people in need of an affordable home. Councils support measures to boost home ownership, and starter homes are one of the ways this can be achieved, but we are also urging peers to back amendments allowing councils to decide how many starter homes, alongside affordable rented homes, are on each development to ensure they meet the needs identified by councils with their communities".

The letter ends:

"New homes are badly needed and councils are keen to build them. The Local Government Association believes we will only see a genuine end to our housing crisis if we are able to get on with the job".

Quite so.

I hope, even at this late stage, that the Government will see fit to accept this amendment.

The Earl of Listowel (CB): My Lords, I declare my interests in the register as a landowner, a vice-president of the Local Government Association and a trustee of several child welfare charities, including the Brent Centre for Young People in north London, which provides mental health support for adolescents. I shall make clear why that is a relevant declaration later.

I rise to speak to my Amendment 7A and to support the other amendments in the group. I was grateful for the Minister's response to this same amendment in Committee and for the opportunity to discuss its concerns with her and the Minister in the other place this morning. I have retabled the amendment because I would like further reassurance from the Minister that the Bill will not direct resources away from more secure accommodation for low-income families, a concern that the noble Baroness, Lady Bakewell, and others have raised in relation to this grouping and elsewhere. My amendment would place a duty on local authorities to provide an adequate supply of affordable homes for families in temporary accommodation. For many years, low-income families have become increasingly dependent on private housing. Tenure there tends to be more insecure than the alternatives and we have seen the rate of family homelessness rising again as a consequence.

Recently I spoke to two early-years teachers and the head teacher of a primary school in west London. Those early-years professionals were acting as family support workers and described a sea change in local housing provision as homes have become more and more overcrowded and families are more and more transient. They work hard to build relationships with troubled families, but often those families move on within a few months. All their work comes to naught because of instability of tenure. We are learning more and more about the importance of a secure start for children in stable families where the parents make a strong attachment to their children even before birth, but especially in the early years. Such children are much more likely to grow up without the mental health issues that arise particularly in adolescence. So I would be grateful if the Minister could provide a further assurance that the Government are giving priority to working with local authorities—my noble friend Lord Kerslake talked about the importance of working in partnership with them—and others to provide low-income families with the secure housing they so urgently need. I look forward to her response.

5 pm

Lord Beecham: My Lords, the amendments in this group deal with the need to broaden the concept that the Government are promoting to ensure that a range of different needs are met, and in particular that affordable homes for rent should be included in the policy as it develops—literally—on the ground. That is the thrust of the amendments to which I and my noble friend Lord Kennedy have added our names, and to which those who tabled them have already spoken.

I can recall a time when the Labour Government's requirement for regional housing strategies to be prepared was vigorously opposed by the Conservative Party on the grounds that it was an interference with the local decision-making powers of individual authorities. It was a view that overlooked the need to regard the provision of housing as more than just the concern of an individual authority because, of course, some were finding it impossible to make provision for their communities simply because of the dictates of geography. The classic case was that of Stevenage Borough Council, which was literally unable to build within its boundaries and was prevented by its neighbouring authorities from making any further provision for its residents.

Now we have a situation where the Government are apparently to determine what counts as a starter home and are taking, in the views that have quite correctly been put to your Lordships' this afternoon, a much narrower view than is acceptable, in particular in relation to looking purely at the supply of starter homes for purchase when that cannot meet all the current needs and those that are likely to arise in many parts of the country.

I hope, therefore, that the noble Baroness will feel able to accept the thrust of the amendments. I do not know which of them will be put to the House; I suspect that it will be Amendment 8, tabled by the noble Lord, Lord Kerslake. Although it does not refer explicitly to the provision of affordable rented houses, it places the responsibility where it should lie, which is on the local authority. There is an implicit indication that local housing need will have to reflect the need for rented homes as well as owner-occupied properties.

This does not in any way vitiate the Government's approach. It will not and does not seek to prevent the building of homes for sale in this context, but it recognises that more than one need must be met. I hope that the Government will look sympathetically at this proposal—and if the noble Lord chooses to test the opinion of the House, the Opposition will certainly support him.

Lord True: My Lords, I, too, should declare an interest as a member of the Leaders' Committee of London Councils. I should make it clear that London Councils is sympathetic to the amendments in the group, although I do not speak on its behalf.

I hope very much that my noble friend, in summing up, will show the same understanding she had in Committee for the issues raised in the amendments. There is certainly a concern about the hierarchy of need and the difficulty in some areas of providing affordable housing, and the potential problems, particularly in high-income areas in my case, of starter homes squeezing out. I know that it is not the intention of my noble friend Lord Kerslake, or anybody else, but I do not want to see us getting to the point where we make it less likely that a government initiative, which was a manifesto initiative, and has been supported, will be implemented across the board. It is an extremely difficult balance to strike.

I am seeking something that is not necessarily on the face of the Bill but which shows a real display of understanding by the Government of some of the tensions and difficulties. I think that I heard in Committee—and I am sure that I will hear again today—about the difficulties of providing for the gamut of different types of housing needs in an area. That will certainly include affordable for rent, starter homes where we can do them, and other things of a different nature. So I would be nervous of putting something in the Bill that might inhibit or be used to inhibit—it could be the basis of legal challenge, or whatever—the delivery of starter homes, but I hope that my noble friend will show very much that she has heard and understands the spirit of the amendments.

Baroness Williams of Trafford: My Lords, I thank the noble Lord, Lord Shipley, and the noble Baroness, Lady Bakewell, for their amendment, which would require local planning authorities to promote the supply of other types of social and affordable housing in addition to starter homes. I thank, too, the noble Earl, Lord Listowel, for his amendment to require key-worker housing and temporary accommodation to be included. I also thank the noble Lord, Lord Beecham, and the noble Baroness, Lady Bakewell, for the amendment requiring local planning authorities to promote the supply of other home-ownership products and affordable homes to rent, as well as starter homes.

As I said in Committee, we want to address a specific gap in the market for young, first-time buyers. An additional product is therefore required to help a generation into home ownership. A recent report by NatCen Social Research found that home ownership continues to be one of the most important milestones in life for young people. For example, 77% of respondents said that longer term, they would prefer to own their own home. Just over two-thirds of respondents reported that owning their own home was essential to feeling that they had actually succeeded in life.

That is why we are legislating for starter homes to ensure that delivery will be supported across all areas. Support is available through our Help to Buy ISA to help purchasers to save for a deposit. Starter homes will offer an affordable step on to the property ladder, with lower costs and the benefit of immediate ownership, helping people to achieve the step up to their second property in due course.

Clause 3 expects councils to actively support starter homes as a new product in their housing mix. But it does not remove their ability to deliver other affordable housing and home-ownership products alongside starter homes, and we fully expect them to continue in this vein. Nor does it remove their local plan policy. Local authorities already have legal duties to house the most vulnerable in society and to consider housing needs in their areas.

We are helping people to access homes that they can afford in a number of different ways, and the Bill should not be seen in isolation. Our spending review commitments represent the largest affordable housebuilding programme by a Government since at least 1979. We believe that affordable shared ownership and other home-ownership products have an important role to play as part of the diverse and thriving housing market in helping those who aspire to home ownership but may otherwise be unable to afford it.

The spending review has committed £8 billion to deliver a further 400,000 new affordable housing starts, including the £1.6 billion to deliver 100,000 affordable homes for rent and £4.1 billion to deliver 135,000 shared-ownership homes. It builds on our strong track record of affordable housing delivery. We have delivered 277,000 affordable homes since 2010, including nearly 200,000 to rent. In the last year we have added more than 50,000 social and affordable rent homes, and twice as much council housing has been built since 2010 than in the previous 13 years.

We fully believe that local planning authorities know their area. We would expect them to seek other forms of affordable housing such as social rent where it would be viable, and we are currently consulting on the starter-homes requirement for the regulations to

[Baroness Williams of Trafford]
seek wider views so that we get this right. Local planning authorities have the option to release more land for housing of all tenures, as needed, in their local areas. They are very aware of their commitments to meet local housing needs and they will strive to meet these needs.

Amendment 7A, in the name of the noble Earl, Lord Listowel, specifically refers to families requiring temporary accommodation and to key workers. As I have already outlined, there are a range of tenures available that could help accommodate key workers. Councils can promote affordable housing schemes for key workers if they want to prioritise this. As I explained in Committee, they are also required to consider homelessness under the Homelessness Act 2002. But our aim with this legislation is to drive a focus on delivering starter homes—a new product that is much needed to address a growing problem among the under-40s. Our legislation focuses on this product to ensure that it has the necessary attention to secure delivery, but not to divert attention away from other products. We know that local authorities will continue to look to provide other forms of housing tenures. We do not need to promote these as part of this duty.

I now turn to Amendments 8 and 9, which I thank the noble Lord, Lord Kerslake, for. They would allow a local planning authority to have regard to the provision of starter homes, based on its own assessment of local housing need and viability. I have heard the arguments that planning for starter homes should be devolved to the local level. I will explain the Government's proposals and why we are taking forward our requirement.

The English housing survey, published in February, found that 19% of all households live in the private rented sector and 17% in the social rented sector. This amounts to 8.2 million households. We know that aspiration for home ownership is high. This requires a new approach. Starter homes are a manifesto commitment and a national priority, so all local authorities must play their part in delivery. Therefore, we are currently consulting on a starter homes requirement to be set out in regulations.

We are seeking views on a 20% starter homes requirement on sites of 10 units or more, or larger than half a hectare. We accept entirely that this may not be appropriate for all residential schemes and a number of exemptions are being proposed, such as: a general viability exemption for those residential developments where it can be clearly demonstrated that the starter homes requirement would make the site unviable; and potential exemptions for specific housing types, such as estate regeneration schemes and developments led by affordable housing. We are also suggesting that there are particular cases, such as private rented sector developments and older people's housing, where an off-site commuted sum in lieu of on-site provision would be more appropriate. This amendment would bring considerable delay to starter home delivery. Noble Lords are very aware of the difficulties in some councils of bringing forward local plan policies: many years of delay in some cases, and 30% of councils have not adopted a post-2004 plan. The Bill includes measures to accelerate the process but we cannot risk these delays for starter home delivery.

5.15 pm

Over time, I expect local authorities to begin to assess the needs of first-time buyers in their area and reflect this in their housing needs assessment. However, first-time buyers want homes now and cannot wait for 336 planning authorities each to undertake local needs assessments before action is taken on starter homes. The Government believe it is important that the delivery of starter homes is as simple as possible for buyers, developers and local authorities, with a clear national requirement. Our modelling showed that 20% is a reasonable minimum figure for the requirement. The NPPF directs local authorities to plan for a mix of housing based on current and future demographic trends and the needs of different demographic groups, and this remains government policy. We estimate that 50,000 to 70,000 traditional affordable housing starts will come forward by 2021 through Section 106, alongside the starter homes requirement.

I want to be clear that the Government are totally committed to promoting the supply of housing across all tenures. I commend local authorities for all the work that they do but legislation is needed to promote the supply of starter homes and ensure that delivery is maximised. With that, I hope noble Lords will feel content to withdraw their amendments.

Baroness Bakewell of Hardington Mandeville: I thank the Minister for her response, which was quite encouraging but does not completely satisfy me. I thank all noble Lords who took part in this debate, especially the noble Lords, Lord Kerslake, Lord Beecham and Lord True. I am still concerned that local authorities that know their residents and what is going on in their areas, and are best placed to decide what types of housing are needed for their areas, will have to provide 20% starter homes on all their developments because that is the Government's intention. I understand the need for starter homes and the Government's wish to fill the gap in the market and to help people into home ownership. However, I believe it should be for local authorities to decide how best to fulfil this gap in the market. Nevertheless, having heard what the Minister said, I beg leave to withdraw Amendment 6.

Amendment 6 withdrawn.

Amendments 7 and 7A not moved.

Clause 4: Planning permission: provision of starter homes

Amendment 8

Moved by ***Lord Kerslake***

8: Clause 4, page 3, line 15, leave out subsection (1) and insert—

"( ) An English planning authority may only grant planning permission for a residential development having had regard to the provision of starter homes based on its own assessment of local housing need and viability."

Lord Kerslake: My Lords, I listened very carefully to the debate. I think we all agree on the ends here: more housing supply of all types and tenures. However, on this issue I fear I cannot agree with the Minister on the means. The imposition of a top-down control

would delay the process of providing starter homes, not assist with it. There is a duty in the Bill and local authorities will respect and deliver that. Regretfully, along with my noble friend Lord Best, I would like to test the opinion of the House on this issue.

5.18 pm

Division on Amendment 8

Contents 280; Not-Contents 194.

Amendment 8 agreed.

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5.34 pm

Amendment 9

Moved by ***Lord Kerslake***

9: Clause 4, page 3, line 22, leave out subsection (3)

Lord Kerslake: My Lords, this amendment is consequential to Amendment 8. It entirely follows on from that amendment as it relates to the specified housing requirement and obviously, if that has been removed from the Bill, regulations to define it are no longer needed. I move it formally.

Amendment 9 agreed.

Amendment 10 not moved.

Amendment 11

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

11: Clause 4, page 3, line 29, at end insert—

"( ) The regulations shall confer discretion on an English planning authority to exclude starter homes on rural exception sites.

( ) Rural exception sites are—

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

(b) sites which would not normally be used for housing;

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

Lord Cameron of Dillington: My Lords, I regret that during the Recess I failed to meet the DCLG ministerial team to discuss this and other rural amendments. The fault lies mostly with me because I was away in Rwanda for a lot of the time with a

parliamentary group looking at agriculture. There was a certain amount of confusion over ministerial diaries early on as well. This morning I had meetings in Cornwall and was not here till late but my noble friend Lord Best has met the ministerial team, including the Secretary of State and others, and I gather there is some good news to report on this amendment, which makes the most persuasive speech that I had prepared rather redundant. I was going to talk about the importance of exception sites to rural areas and the unanimity we had in Committee, and about communities, public space and so on, but, as I say, all that is redundant.

I think one of my points is still worth making on the basis that I have not yet seen the detail of the Government's acceptance of this amendment. In the debate we had in Committee, the two most frequent words we heard were "in perpetuity". Landowners and farmers want to give the land to their community in perpetuity. Villagers want these houses to be for village families in perpetuity. In my experience, even the young families who occupy the houses want to see their houses serve the village in perpetuity, as though they were passing on the baton in a relay race to keep their village alive. The undeniable fact is that most people—everybody, actually—in the Committee debate said that the problem with these transient starter homes was that they were not in perpetuity, although to some extent the vote on Amendment 1 may have changed that slightly. The lack of perpetuity is a serious problem for the trust that is needed to help the exception site movement keep going as strongly into the future as it has in the past.

I say "movement" because in a way that is what it is. Everyone involved needs to sign up to its objectives and aspirations for it to continue to serve rural communities so well into the future. Everyone has to know exactly where they stand. The very fact that we were talking about starter homes on exception sites is enough to undermine that trust. However the Government decide to backpedal from their currently damaging position, it is most important that the amendment is in the Bill. Statements made on the Floor of the House do not persuade parish councils or landowners because they have to trust what is going on. Pleas to wait until consultations are completed hold no water. Even government promises of regulation do not really promote the necessary trust. We have to have a firm, no-nonsense commitment in the Bill because that is the only way we will be able to restore the trust needed to ensure that proper exception sites continue to provide the vast majority of the incredibly important affordable housing in our small but important rural villages.

Having said that, I will leave it to the Minister to give us what I understand is the good news. I echo the remarks made by my noble friend Lord Best and thank the Minister for her constant courtesy and unflagging attention to the arguments and discussions we have had on the Bill. In her place, I would never have had the energy to keep going endlessly for the very long days we had, and I certainly would not have had the patience. I thank her very much for her conscientious dedication and tolerance, and particularly her attention to this amendment and her acceptance of it. I beg to move.

Baroness Williams of Trafford: My Lords, I thank noble Lords, particularly the noble Lords, Lord Cameron and Lord Best, for the persuasive arguments they put forward in Committee. We would not want to create some of the effects they talked about, such as benevolent landowners putting forward sites that are then slapped with a starter home policy. I ask the noble Lord, Lord Cameron, to allow me to take this issue away and return to it at Third Reading. I hope that that will help him and other noble Lords who plan to speak on this amendment.

Lord Cameron of Dillington: If there are no other speakers—

Lord Best: I was going to say that it was possibly not worth me intervening at this point, other than to echo the words of the noble Lord, Lord Cameron of Dillington.

Lord Beecham: On behalf of the Opposition, I congratulate the noble Lord on apparently achieving his objective of persuading the Government to be reasonable. We very much welcome the indication that that will be the case. I hope this is a trailer for what might happen when we discuss right to buy and its impact in rural areas. It is a parallel situation. There are particular needs in those areas which have to be reflected in the legislation and the changes the Government envisage. I will not ask the Minister to commit herself today to that point, but we look forward to a sympathetic response on similar lines when we get to it. I am sure the House will join me in thanking the noble Lords, Lord Cameron and Lord Best, for pursuing this case so assiduously and with what is apparently a very satisfactory outcome—although we will read the small print when it arrives.

Baroness Bakewell of Hardington Mandeville: I, too, thank the noble Lords, Lord Cameron and Lord Best, for having negotiated what looks like an agreement we can all sign up to, but I will be looking forward to the detail at Third Reading. I gave a long and detailed speech in Committee on this subject. Your Lordships will be pleased to know that I am not going to do the same today, but I still feel very passionately about rural exception sites and protecting rural communities, so I will be looking closely at what comes forward at Third Reading.

Lord Cameron of Dillington: I thank noble Lords for their support and congratulations, if that is the right word. I, too, look forward to the detail and possibly to having future discussions with the Minister but in the mean time, I beg leave to withdraw the amendment.

Amendment 11 withdrawn.

Amendment 12

Moved by ***Lord Foster of Bath***

12: After Clause 4, insert the following new Clause—

"Planning obligations: starter homes

Regulations under sections 3 and 4 shall not disapply the provisions of section 106 of the Town and Country Planning Act 1990 (planning obligations)."

Lord Foster of Bath (LD): My Lords, I beg to move this amendment standing in my name and that of my noble friend Lady Bakewell and to speak to Amendment 13. I have been listening to the debate with great interest, both today and earlier in Committee, and I have three key concerns about this part of the Bill. The first is that starter homes, notwithstanding the attempts being made by the Government to change the definition, are simply not affordable homes. All the evidence from Shelter and others shows that they will be out of reach for most middle-income families.

My second concern is that starter homes will largely be built instead of, rather than as well as, the affordable homes that would previously have been built under Section 106 agreements. If enacted, the Bill will see the end of truly affordable housebuilding in this country. As the noble Lord, Lord Best, put it, we are robbing Peter to pay Paul because over the last 10 years, planning obligations such as Section 106 have helped to deliver some 250,000 genuinely affordable homes for purchase and rent. This will cease if the planning obligations are abolished and replaced with a starter home-only obligation.

5.45 pm

The Minister will of course argue that we have not yet seen the regulations which will set out the percentage of starter homes that local authorities will be required to deliver on different-sized sites and in different areas. I suspect she will argue that we cannot claim that there will be a starter home-only obligation. But we know, as already discussed during our deliberations on Amendment 8, that it is the Government who want to impose the number of starter homes on each site. They have already consulted on the 20% figure, which we have heard about. We also know that they acknowledge, as the impact assessment makes clear, that:

"This may reduce or alter the mix of affordable housing provided which could impact on those individuals seeking affordable housing".

The Government themselves acknowledge that this is going to change the whole nature of the mix of different tenures and so on. If the figure of 20% starter homes goes ahead, it is clear that there will be very little remaining scope for other forms of genuinely affordable housing. It will, in effect, mean a starter homes-only obligation.

My third concern is that local discretion is being trampled over and the vital role of local plans ignored. Local plans are vital so that councils can ensure truly integrated communities, in which new houses are built with a range of tenures and prices for rent and for purchase. Additionally, they ensure the sustainability of such integrated communities, so that alongside new housing there is the appropriate infrastructure—from shops, schools and GP surgeries to roads and public transport. Achieving such sustainable, integrated communities has required the judicious use of Section 106 agreements and, more recently, community infrastructure levies. If developers are exempted from the community infrastructure levy and from some aspects of Section 106, the planned 200,000 starter homes will place additional pressures on local schools, roads and other infrastructure, creating an additional non-funded burden for already hard-pressed local councils. I note that the Government acknowledge this in the Explanatory Memorandum and the impact assessment; they say that it will be reflected in the new burdens principle. When the Minister sums up, I wonder whether she might say a little more about how that will be reflected when we get the local government finance settlement towards the end of the year.

These two amendments are ways of trying to mitigate the concerns I have expressed, but it is genuinely difficult to get to grips with what the Government's plans for Section 106 and the community infrastructure levy really are. In relation to starter homes on exceptional sites, the impact assessment is totally silent. It was left to a later ministerial Statement by the Minister, Brandon Lewis, to say what was to happen. He said that,

"local planning authorities should not seek section 106 affordable housing and tariff-style contributions on Starter Homes; and they should be exempt from the Community Infrastructure Levy ".

While he said that local planning authorities will be able to seek other forms of Section 106 contributions to mitigate the impact of the development, he also said that tariff-based contributions to general infrastructure pots will not be permissible. The impact assessment makes it clear that this approach will apply to starter homes on conventional housing sites.

The claim by Mr Brandon Lewis that the process of agreeing planning obligations would change little as a result of the Bill is therefore certainly not one that I share, nor is it shared by many experts; nor is his further claim that the mix of tenures contained in Section 106 agreements would remain a matter for negotiations between town halls and developers. If it is the Government who are going to impose a percentage of starter homes on a site and restrict community infrastructure levies and Section 106 obligations, then things will change significantly more than a little—as Mr Lewis put it—and town hall negotiations with developers will be very seriously curtailed.

These two amendments, in different ways, seek to do something similar to Amendment 8, which is to return power to our local councils. The Minister said that she has confidence in local councils, so I hope she is confident that they will use the opportunities of Section 106 judiciously. They want to get houses built, and will want to get starter homes built as well as other forms of housing, but they will also want to be able to carry out their duties as local planning authorities to plan for sustainable, mixed development. They will not be able to do that if the restrictions in the Bill in relation to Section 106, for example, go ahead. I beg to move.

Lord Beecham: My Lords, I have a good deal of sympathy with what the noble Lord has just said. In particular, I very much commend his implicit view that we should not really be talking about individual developments or about just catering for a particular group of people but should be concerned with communities with a range of interests, ages and people of different backgrounds—not simply a group, important though it is, seeking to purchase homes for the first time.

It also seems to me that this part of the Bill cannot be read just on its own terms, as if it is unrelated to some of the material that follows. In the planning

section of the Bill, there is of course the issue of PIP—permission in principle—and the Government's ability to effectively prescribe what is to happen on brownfield and other sites. The two things seem linked to me, and the suggestion in these amendments is one that the Government should consider very carefully. We have heard a good deal about local aspects—the Minister herself was saying just a few minutes ago that the Bill would make provision for local people—but what is meant by local in this context? For example, you could have sites in London, in hard-pressed boroughs with their own housing needs, which would no doubt become available for starter homes, potentially at the expense of people from that particular borough, unless the Government are able to say that they could be limited to the residents of that borough—which I think is a bit unlikely, although it would be interesting to see whether the Government would contemplate that.

We have of course seen considerable changes in the make-up of communities in inner London and in other cities, and the danger seems to me to be that without Section 106 agreements, and without looking rather carefully at who might benefit from the desirable provision of starter homes, and from where they might be coming, we could simply be importing people into the area at the expense of those already living there. Perhaps the Minister could indicate whether such a consideration has been taken on board and the extent to which it might be reflected in the implementation of this part of the Bill. Otherwise, the concerns expressed by the noble Lord, Lord Foster, will resonate even more profoundly. There has to be a way of securing a balance in all these aspects, and at the moment there does not seem to be, within the Bill, an adequate provision to achieve that purpose.

I hope that the Minister will respond constructively rather than—if I may say so, with all due respect—complacently. I do not mean she would be complacent in her own right, as it were, but that it would reflect complacency in the Government about the impact of what they are providing here, unintended though it may be.

Baroness Williams of Trafford: My Lords, I thank the noble Lord, Lord Foster, and the noble Baroness, Lady Bakewell, for the amendments and the noble Lord, Lord Beecham, for speaking to them. I need to be clear right from the outset that there is nothing in Clauses 3 and 4 that prevents the use of Section 106 with starter home developments, and local authorities will still be able to seek on-site Section 106 infrastructure contributions. Section 106 agreements are crucial for securing the supporting infrastructure. Indeed, our starter home requirement will be secured on sites using Section 106 agreements. We are working with the sector on draft model Section 106 clauses to help local authorities and applicants with the process. As such, we expect authorities to continue to have regard to the need to secure Section 106 agreements on starter home developments, as they would do on any other development.

The noble Lord, Lord Foster, asked about the new burden assessment. I can assure the House that the new burdens on local authorities arising from starter home duties, such as that of providing monitoring information, will be considered in the usual way that new burdens are.

Planning decisions for all developments, including those that contain starter homes, will still need to be made in accordance with local planning policy, subject to the starter homes requirement and other material considerations. Infrastructure considerations will clearly need to be issued.

Yes, we are going to reaffirm in national planning policy that affordable housing contributions should not be sought for starter homes and that we need to exempt starter homes from community infrastructure levy contributions. I make it absolutely clear that this will align with existing practice on affordable housing and that local authorities will continue to be able to seek site-specific infrastructure improvements, if they are necessary to make the development acceptable in planning terms. They will also continue to be able to seek additional on-site affordable housing, including housing for social rent and shared ownership, where it is viable to do so.

I have listened carefully to the debate and hope that the reassurance that local authorities will continue to be able to use Section 106 agreements to secure infrastructure on sites means there is no need to divide your Lordships' House and that the amendment will be withdrawn.

Lord Foster of Bath: My Lords, I am grateful to the noble Lord, Lord Beecham, for his support for the amendment. I entirely agree with him about the importance of developing mixed, sustainable communities and of ensuring that there are a range of different tenures within them. I also say to him that I have never, so far in my time in the House, found the Minister complacent. I thank her for the very generous way in which she has given of her time to talk to many noble Lords and know she has listened to many of the concerns that have been expressed by Members of your Lordships' House.

However, I am not entirely convinced by the arguments that she has made this evening. We are in difficulty because we know that, as with so many things, the Government are still consulting. We do not know what the outcome will be in relation to the percentage of starter homes that will be imposed on particular sites and we have not seen the model Section 106 agreements that the Government are currently developing. This puts us in a very difficult place but there will be further opportunities for discussion and to come back to these issues so, at this stage, I beg leave to withdraw.

Amendment 12 withdrawn.

Amendment 13 not moved.

Panama Papers

Statement

5.59 pm

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, with the leave of the House, I will now repeat a Statement made by my right honourable friend the Prime Minister in another place. The Statement is as follows:

[Baroness Stowell of Beeston]

"With permission, I would like to make a Statement on the Panama papers.

Dealing with my own circumstances first, yesterday I published all the information in my tax returns not just for the last year, but for the last six years. I have also given additional information about money inherited and given to me by my family, so people can see the sources of income that I have: my salary, the benefit in kind of living in No. 10 Downing Street, the support my wife and I have received in my job as leader of the Conservative Party, the renting out of our home and the interest on the savings I have. Since 2010, I have not owned any shares or investments.

The publication of a Prime Minister's tax information in this way is unprecedented, but I think it is the right thing to do. But let me be clear: I am not suggesting that this should apply to all MPs. The Chancellor has today published information on his tax return, in a similar way to the shadow Chancellor and the First Minister for Scotland. This begs the question of how far the publication of tax information should go. I think there is a strong case for the Prime Minister and the leader of the Opposition, and for the Chancellor and the shadow Chancellor, because they are people who are or who wish to be responsible for the nation's finances.

As for MPs, we already have robust rules on Members' interests and their declaration, and I believe that is the model that we should continue to follow. We should think carefully before abandoning completely all taxpayer confidentiality in this House, as some have suggested. If this were to come in for MPs, people would also ask for a similar approach for those who ask us questions, those who run large public services or lead local government, or indeed those who edit the news programmes or newspapers. I think this would be a very big step for our country. It certainly should not take place without a long and thoughtful debate, and it is not the approach that I would recommend.

Let me deal specifically with the shares my wife and I held in an investment fund or unit trust called Blairmore Holdings, set up by my late father. The fund was registered with the UK's Inland Revenue from the beginning. It was properly audited, and an annual return was submitted to the Inland Revenue every year. Its share price was listed in the *Financial Times*. It was not a family trust; it was a commercial investment fund for any investor to buy units in. UK investors paid all the same taxes as with any other share, including income tax on the dividends every year.

There have been some deeply hurtful and profoundly untrue allegations made against my father, and I want to put the record straight. This investment fund was set up overseas in the first place because it was going to be trading predominantly in dollar securities, so like very many other commercial investment funds, it made sense to be set up inside one of the main centres of dollar trading.

There are thousands of these investment funds and many millions of people in Britain own shares, many of whom hold them through investment funds or unit trusts. Such funds, including those listed outside the UK, are included in the pension funds of local government, most of Britain's largest companies and, indeed, even some trade unions. Even a quick look shows that the BBC, the Mirror Group, Guardian Newspapers and—to pick one council entirely at random—Islington all have these sorts of overseas investments. To give one further example, Trade Union Fund Managers Ltd, based in Congress House, has a portfolio of more than £50 million of investment in the trade union unit trust, with 3% of its net assets based in Jersey. This is not to criticise what it does; it is to make the point that this is an entirely standard practice, and it is not to avoid tax.

One of the country's leading tax lawyers, Graham Aaronson, QC, has stated unequivocally that this was,

'a perfectly normal type of collective investment fund'.

This is the man who led the expert study group that developed the general anti-abuse rule—so much debated and demanded in this House—which Parliament finally enacted in 2013. He also chaired the 1997 examination of tax avoidance by the Tax Law Review Committee. He has said that it would be,

'quite wrong to describe the establishment of such funds as "tax avoidance"'.

and, further, that,

'it would be utterly ridiculous to suggest that establishing or investing in such funds would involve abusive tax avoidance'.

That is why getting rid of unit trusts and other such investment funds that are listed overseas has not been part of any Labour policy review, any Conservative Party policy review or any sensible proposals for addressing tax evasion or aggressive tax avoidance.

Surely, it is said, investors in these funds benefit from their being set up in jurisdictions with low or no taxes. Again, this is a misunderstanding. Unit trusts exist to make profit not for themselves but for the holders of the units. Those holders pay tax, and if they are UK citizens, they pay full UK taxes.

It is right to tighten the law and change the culture around investment to further outlaw tax evasion and discourage aggressive tax avoidance, but as we do so, we should differentiate between schemes designed to artificially reduce tax and those that are encouraging investment. This is a Government—and this should be a country—who believe in aspiration and wealth creation. We should defend the right of every British citizen to make money lawfully. Aspiration and wealth creation are not somehow dirty words. They are the key engines of growth and prosperity in our country and we must always support those who want to own shares and make investments to support their families.

Some people have asked, 'If this trust was legitimate, why did you sell your shares in January 2010?'. I sold all the shares in my portfolio that year because I did not want any issues about conflicts of interest—I did not want anyone to be able to suggest that, as Prime Minister, I had any other agendas or vested interests. Selling all my shares was the simplest and clearest way that I could do that.

There are strict rules in this House for the registration of shareholdings. I have followed them in full. The Labour Party has said it will refer me to the Parliamentary Commissioner for Standards. I have already given her the relevant information, and if there is more she believes I should say, I am very happy to say it.

I accept all of the criticisms for not responding more quickly to these issues last week, but, as I have said, I was angry about the way my father's memory was being traduced. I know he was a hard-working man and a wonderful dad, and I am proud of everything he did to build a business and provide for his family.

On the issue of inheritance tax, there is an established system in this country. I believe that, far from people being embarrassed about passing things to their children—for example, wanting to keep a family home within the family—it is a natural human instinct and something that should be encouraged. As for parents passing money to their children while they are still alive, that is something that the tax rules fully recognise. Many parents want to help their children when they buy their first car, get a deposit for their first home or face the costs of starting a family. It is entirely natural that parents should want to do those things, and, again, something that we should not just defend but proudly support.

Let me turn to the Panama papers and the actions that this Government are taking to deal with tax evasion, aggressive tax avoidance and international corruption more broadly. When we came into office, there were foreigners not paying capital gains tax when selling their UK homes, private equity managers paying a lower rate of tax than the people who cleaned their offices, and rich homebuyers getting away without paying stamp duty because houses were enveloped within companies. We have put an end to all those things. In the last Parliament alone, we made an unprecedented 40 tax changes to close loopholes, raising £12 billion. In this Parliament, we will legislate for more than 25 further measures, forecast to raise £16 billion by 2021. No British Government, Labour or Conservative, have ever taken so much robust action in this area.

Through my chairmanship of the G8 at the summit at Lough Erne in 2013, I put tax, trade and transparency on the global agenda, and sought agreement on a global standard for the automatic exchange of information over who pays taxes and where. Many said it would never happen, but today 129 jurisdictions have committed to implementing the international standard for exchange of tax information on request, and more than 95 jurisdictions have committed to implementing the new global common reporting standard on tax transparency. Under that new standard, we will receive information on accounts of UK taxpayers in all those jurisdictions. In June this year, Britain will become the first country in the G20 to have a public register of beneficial ownership, so everyone can see who really owns and controls each company. This Government are also consulting on requiring foreign companies that own property or bid on public contracts to also provide their beneficial ownership information, and we are happy to offer technical support and assistance to any of the devolved Administrations also considering these measures.

However, as the revelations in the Panama papers have made clear, we need to go even further. We are taking three additional measures to make it harder for people to hide the proceeds of corruption offshore; to make sure that those who smooth the way can no longer get away with it; and to investigate wrongdoing. First, let me deal with our Crown dependencies and our overseas territories that function as financial centres. They have already agreed to exchange taxpayer financial account information automatically, and will begin doing so from this September. That never happened before I became Prime Minister and got them round the Cabinet table and said to them that this must happen. But we need to go further. Today I can tell the House that we have now agreed that they will provide UK law enforcement and tax agencies with full access to information on the beneficial ownership of companies. We have finalised arrangements with all of them, except Anguilla and Guernsey, both of which we believe will follow in the coming days and months. For the first time, UK police and law enforcement will be able to see exactly who really owns and controls every company incorporated in these territories—the Cayman Islands, British Virgin Islands, Bermuda, the Isle of Man, Jersey, the lot. This is the result of a sustained campaign, building on the progress we made at the G8, and I welcome the commitment of the Governments of those territories to work with us and to implement these arrangements. The House should note that this will place our overseas territories and Crown dependencies well ahead of many other similar jurisdictions but also, crucially, ahead of many of our major international partners, including some states in the United States of America. Next month we will seek to go further still, using our anti-corruption summit to encourage consensus not just on exchanging information but on publishing it and putting it in the public domain, as we are doing here in the UK. We want everyone with a stake in fighting corruption, from law enforcement to civil society and the media, to be able use these data and help us root out and deter wrongdoing.

Next, we will take another major step forward in dealing with those who facilitate corruption. Under current legislation, it is difficult to prosecute a company that assists with tax evasion, but we are going to change that. We will legislate this year for a new criminal offence to apply to corporations that fail to prevent their representatives from criminally facilitating tax evasion. Finally, we are providing initial new funding of up to £10 million for a new cross-agency task force to swiftly analyse all the information that has been made available from Panama and take rapid action. The task force will include analysts, compliance specialists and investigators from across HMRC, the National Crime Agency, the Serious Fraud Office and the Financial Conduct Authority.

This Government will continue to lead the international agenda to crack down on tax evasion and aggressive tax avoidance. This battle is important and it needs to be combined with the approach that we take in this country. Having low tax rates but taxes that people and businesses pay is how we will tackle these issues and build a strong economy that can fund the public services we need. It is that strong economy, creating jobs and rewarding aspiration, that is the true focus of this Government, and something that would never be safe under the party opposite. I commend this Statement to the House".

My Lords, that concludes the Statement.

6.14 pm

Baroness Smith of Basildon (Lab): My Lords, I thank the Leader of the House for repeating the Prime

[Baroness Smith of Basildon]

Minister's Statement. It has been a difficult week for the Government. For most people, the reports that they have heard over the past week or so about offshore investments, tax havens and corporate tax avoidance are way outside of their personal experience. Most people are still going to open bank accounts in their local high street, if they can find a branch open. So the press reports will not be fully understood by everyone, but three things emerge. Overwhelmingly, most people have said that they were very familiar with reports on the Panama papers, with just over 4% of those aged 65 and over saying that they were not—so most people have read the information and heard what is going on. There is a general attitude from most people that, even without understanding the full details, something here is not quite right. But only 8% of people said that they were surprised at the reports. For me, that indicates a cynicism about the finances of those in the public eye and highlights a necessity for public confidence in financial regulatory regimes.

George Osborne said in his Budget Statement last month that people,

"talked about social justice, but left enormous loopholes in our tax system for the very richest to exploit".—[*Official Report*, Commons, 16/3/16; col. 956.]

When he said that, I do not think that he was anticipating the Panama papers. What has become clear, as news from across the world shows, is that not everyone who holds such offshore accounts or funds welcomes the transparency that this leak has brought—not because they have done anything illegal or necessarily wrong but because they never intended it to be public. Clearly, some have found it very difficult and for others it has had serious consequences.

I have a few questions for the Leader of the House on the Statement. It reports that Crown dependencies and overseas territories have agreed automatically to exchange taxpayer financial information from September. That is welcome, but it has taken some time, as my understanding is that these negotiations were initiated and made progress under the Labour Government. I ask specifically about bearer shares, when the identity of the investor or beneficiary is secret. Holding such shares is illegal for UK companies, but can she confirm that it is legal for a UK citizen to hold funds in bearer shares in other countries? If it is not, what is the penalty?

The Statement also says that there will be new legislation this year,

"to apply to corporations who fail to prevent their representatives from criminally facilitating tax evasion".

Your Lordships' House will appreciate that that is not a new announcement. In fact, the Government have already consulted on this, and published the consultation responses last December. The report on responses to the consultation last year, under the fourth item, "Next steps", said that there would be further consultation early in 2016, including seeking views on,

"the merit and content of industry drafted guidance".

Why is further consultation needed after there has already been a consultation? Is that approach of industry-drafted guidance really appropriate, and has that consultation, which was promised for early 2016, yet been published? Given that we have an extra consultation, is this an opportunity for the Government to take account of the recommendations from the Parliamentary Commission on Banking Standards in its report, *Changing Banking for Good*? That commission included Peers from across your Lordships' House, including the most reverend Primate the Archbishop of Canterbury and the noble Lords, Lord Lawson and Lord McFall. Following their work, and having taken evidence, they were clear that it is not just corporate responsibility that is needed—they recommended individual responsibility. The commission received considerable evidence, including from bankers themselves, that led it to the recommendation that, without such individual responsibility, it would be impossible to crack down on banking failures and problems. Does the Leader of the House really believe that, without individual responsibility, the legislation proposed would be an adequate deterrent?

The fines and compensation paid by UK banks in the past 15 years come to more than £53 billion, which is six times the cost of the 2020 Olympics. It is an almost inconceivable amount of money. Yet no one has ever gone to prison and only one person has ever been held personally culpable and personally fined, to the tune of half a million pounds. I think that the Chancellor raised the point that it is the customers and shareholders who bear the cost of that failure, not the senior managers, who are supposed to be rewarded for being responsible. Yet there are numerous accounts of those who have wrongly claimed benefits and been sent to jail. A quick internet search finds dozens of cases where false claims of £30,000 or less have led to custodial sentences. So will the recommendations from the Parliamentary Commission on Banking Standards be considered as part of this new consultation on corporate responsibility so that the Government can consider individual responsibility as well?

Will the noble Baroness explain why the Government lobbied the EU against plans to tackle tax avoidance? Conservative MEPs have regularly voted against measures to deal with aggressive tax avoidance and press reports suggest that the Prime Minister personally intervened to block EU plans to take action on tax havens. It would be helpful for your Lordships' House if the noble Baroness could clarify those points.

Finally, on enforcement, the commitment of a £10 million cross-agency task force is welcome. Additional funding is clearly essential, especially given the cuts that have been made to HMRC. In the last Budget, the Chancellor made a strong case for bearing down on tax avoidance and evasion, especially in relation to the impact on public finances, and I think we would agree on that. In terms of ensuring that taxes are paid, the OBR reported just last month:

"HMRC is also now less optimistic about how much of the lost yield can be recouped through additional compliance activity, on the basis that they are unlikely to be able to work the higher number of additional cases on top of existing workloads".

To date, the Chancellor has refused requests better to resource HMRC. How will the £10 million referred to today be allocated? Will it go directly to HMRC or is it something to be found from within existing Treasury budgets?

I am grateful to the noble Baroness for repeating the Statement and I look forward to her response in answer to those questions.

Lord Wallace of Tankerness (LD): My Lords, I, too, thank the noble Baroness the Leader of the House for repeating the Prime Minister's Statement. As I observed to my noble friend Lady Kramer, if when we went into recess on 23 March we had thought that on the first day back there would be a Statement entitled "Panama Papers", we would wonder what in the world had been going on. However, they relate to a very important issue because it is at the core of our politics.

It is, I think, agreed on all sides of your Lordships' House that people in this country should have full confidence in our leaders and that when decisions are made and Budgets are written there is not even the slightest hint of a conflict of interest or personal gain. Regrettably, we are now in a position where not only do people no longer have complete faith in this Government's decisions but, more fundamentally, trust in politics and in our ability to get things done has been damaged by the events of the past week. It is a poor indictment of our political system that there is now such a great demand to see politicians' tax affairs and that trust in politics is now so low that there is almost an assumption that a politician is doing wrong, playing the system or is "at it", and there is the cynicism referred to by the noble Baroness, Lady Smith of Basildon. In the nearly 33 years since I was first elected to the House of Commons, I have known politicians from right across the political spectrum. With very few exceptions, I can say that whatever our differences in political outlook—and some of the differences have been quite fundamental—my experience has been of men and women united in the common purpose of public service. Sadly, that is not always the common perception, so there must be change.

There has been some discussion about the Prime Minister's personal affairs. Frankly, they are beside the point. Indeed, if this issue triggers an avalanche of published tax returns, and consequent personalisation as they are pored over and individuals are identified, there is a danger that the fundamental point of the weaknesses in the current system will be missed. For, miles removed from the Prime Minister's personal tax affairs, these Panama papers have shown up dictators stealing from their people from Sudan to Syria, from the family of Mubarak to the friends of Putin, aiding warlords and leaders ripping off developing countries which need the most help. The epicentre of much of this activity would appear to be in a number of British Overseas Territories. At its peak in 2005, it was claimed that there were more than 7,000 somewhat dodgy deals in the British Virgin Islands alone. We have some responsibilities there, so can the Leader of the House guarantee that the Prime Minister will use the options available to him to ensure that those under the UK's watch can no longer be complicit in helping dictators and other unsavoury characters?

When, not so long ago, the Prime Minister asked British Overseas Territories to reform their activities, particularly in relation to disclosure of beneficial interests in companies registered there, they said no, and he backed down, but today we are told that they will provide UK law enforcement and tax agencies with full access to information on the beneficial ownership of companies. That turnaround is very welcome, but can the noble Baroness tell us whether at the anti-corruption summit this May it is intended to press overseas territories to make available to tax authorities in other countries with a legitimate interest in the information a central list of beneficial ownership in each fund created?

In coalition government, the coalition parties, including the Liberal Democrats, took unprecedented action to clamp down on tax avoidance and evasion, very much at the prompting of my colleague Danny Alexander. I am sure the noble Baroness will like to confirm that we made 42 changes to tax law, closing down loopholes and making strategic changes to deter and prevent tax avoidance. We invested nearly £1 billion in HMRC to make sure that everyone pays their fair share of tax and increased the number of staff working to tackle tax avoidance by 2,500. Will she confirm that we strengthened the disclosure of tax avoidance schemes—DOTAS—regime and introduced a tougher monitoring regime and penalties for high-risk promoters of tax avoidance schemes?

Will she also agree that there is more that can and should be done? Indeed, in March my party leader, Tim Farron, asked my colleague Vince Cable to lead a major review on tax to ensure that people can have faith in the system and to make sure it works in a truly globalised world. I hope that, in a spirit of non-partisanship, when that work is done the Government will be willing to look at it closely. We will of course want to examine closely criminalising those who assist in evasion, which has been announced by the Prime Minister, but can the noble Baroness confirm that that is the same policy that Mr Danny Alexander announced on 19 March 2015, when he unveiled plans to,

"make it a criminal offence for corporates to fail to prevent tax evasion or the facilitation of tax evasion on their watch"?

The noble Baroness the Leader of the Opposition foreshadowed that question. I am quoting from a press release by Her Majesty's Treasury. Is this a reannouncement or is there is really something new?

In a similar view, will the noble Baroness the Leader of the House look again at some of the other proposals trying to tackle tax evasion that my right honourable friends put forward during the coalition, which were blocked by her party? Does she also recognise that the current anti-abuse rules, while an excellent start, can and should go further? Will the Government strengthen the penalties for participating in repeated avoidance schemes? Does she recognise that the changes the Government are bringing in will not even allow someone to be named unless they have been involved in three separate avoidance schemes, and that this is does not go far enough?

At the weekend, the secretary of the Church of Scotland's Church and Society Council, the Reverend Martin Johnstone, tweeted:

"I hear #DavidCameron is being discriminated against for being rich. It's tough but easier than being discriminated against for being poor".

In all this, we must not lose sight of what is really at stake: the need to rebuild faith in our politics by doing

[Lord Wallace of Tankerness]
what matters, by reaching out and helping people, and by having a politics that works for people and their communities when it is their interests that are at the heart of how things are done. We must not lose this opportunity to change the system, so will the noble Baroness assure the House that the Prime Minister's announcement today will be the start of a process to strengthen our anti-abuse rules and to rebuild trust in our politics?

Baroness Stowell of Beeston: My Lords, as always, I am grateful to the noble Baroness and the noble and learned Lord for their remarks. Before I respond to some of the specific questions that they put to me, I want to re-emphasise a couple of points in the Prime Minister's Statement. While David Cameron has been Prime Minister of this country, we have done more to tackle tax evasion and aggressive tax avoidance than any Government before we came to power. Some of the evidence to illustrate the impact of our action has already been highlighted. We made 40 tax changes to close off loopholes which have brought in £12 billion. We have brought in £2 billion from offshore tax evaders since 2010. One of the points which is worth me highlighting, which has not been fully recognised, is that all this action, whether on tax avoidance or on closing tax loopholes generally, means that the gap between tax owed and tax paid is now at its narrowest point ever. That illustrates how much we believe in making sure that people pay the taxes they owe and that the actions we have taken have had a positive effect.

We have been leading efforts worldwide; it is not just about the things that we have done in this country. Thanks to the work of the UK, more than 90 countries have signed up to the automatic exchange of information. That means that agencies such as HMRC can now pursue avoiders and evaders in ways that they have never been able to before. Our determination to tackle corporate secrecy by shining a light on beneficial owners is going to be game-changing. I get civil servants briefing me on some of these technical matters, and when you start asking questions, you realise just how different things will be when all these measures are in place. I do not think that that has been properly understood and recognised. It is the right thing for us to do.

The anti-corruption summit that the Prime Minister will be hosting next month is the first one ever, and it follows from him taking the lead at the G8 in 2013. The noble and learned Lord is right that while we did a lot when we were in coalition with the Lib Dems, there is more to do and we will continue to pursue this while we are in government because it is absolutely the right thing for us to do.

I turn to the specific questions asked by the noble Baroness and the noble and learned Lord. I was asked about the new criminal offence. I would not want to say that the Lib Dems in coalition or indeed Danny Alexander should take credit in quite the same universal way that the noble and learned Lord was trying to claim in his remarks, but it is true to say that this is a new criminal offence, previously announced, and a lot of work has been undertaken in consultation to prepare for this legislation. That is a good thing. It is good that it has taken time for this to come through and that it has been widely consulted upon. It is not a knee-jerk reaction to any of the events of the past week; it will be properly thought-through new legislation. It will be part of the Queen's Speech, and we will hear more about that when we introduce the legislation later this year.

The noble Baroness asked me why further consultation on the legislation was necessary. I do not think we are trying to pursue further consultation. The consultation has happened and we have produced a written response to it. As she would expect, as we finalise legislation—

Baroness Smith of Basildon: My Lords—

Baroness Stowell of Beeston: This is a Statement and I am responding to questions. If there is more information on this that I can provide afterwards then I will write to the noble Baroness if there is something specific.

The noble Baroness asked about the European Commission and what was described as the Prime Minister blocking something that the European Commission wanted to pursue by way of disclosure of the beneficiaries of trusts. At the time that the Prime Minister wrote his letter, the Government were concerned that what was proposed by the commission, which included all trusts, would distract from action against those areas of most concern, such as shell companies, and in practice these further changes were not achievable. In the subsequent negotiations we were able to secure a sensible way forward that ensures that trusts that generate tax consequences have to report their ownership to HMRC. In layman's terms, I would say that that means the automatic exchange of information will very much provide the data and the information that are needed for the relevant agencies to pursue tax avoidance and evasion.

The noble Baroness asked about bearer shares. In the same letter to the noble Baroness I will provide further detail on the new legislation if I can, but it is fair to say that there are very few countries now that permit the issuance of bearer shares as a result of the work of the global forum on tax transparency, which we were very much in the lead on.

The noble and learned Lord, Lord Wallace, asked about some specific issues, most of which I think I have covered. He asked about the collection by Crown dependencies and overseas territories of data that will be available to our law enforcement agencies in this country. We are going to publish our own public register of beneficial ownership. The Crown dependencies and overseas territories will for the first time be collecting the data and making them available to the United Kingdom. I am not able to answer the noble and learned Lord's specific question except to say to him, as the Prime Minister made clear in his Statement, that what these Crown dependencies and overseas territories are now committed to doing on the collection of data for us on their beneficial ownership—and, I should add, doing it with regard to the automatic exchange of information a year earlier than any of the other countries that have signed up to doing this—is something that many of our partner countries, such as states in the United States of America, do not even collate. The overseas territories and Crown dependencies

are going to be collating it. That is a very big step forward, and we will continue to make all the progress that we can to ensure that in this country we go after aggressive tax avoidance. We will pursue every avenue that we possibly can.

6.36 pm

Lord Howarth of Newport (Lab): My Lords, on the question of international corruption, will the Government now abolish the tier 1 visa system, established in its present form by the coalition? It is effectively an arrangement for selling passports to wealthy foreigners with such due diligence as is performed carried out by banks, which the National Crime Agency tells us are laundering billions of dollars every year. For a loan to the Government of as little as £2 million invested in gilts, a so-called international investor can acquire the right to reside in Britain. Is the noble Baroness aware that this is a charter for money laundering while, in the words of the Migration Advisory Committee, bringing "absolutely no gain" to Britain in terms of the kind of international investment that we ought to be seeking? The largest number of tier 1 visas have been granted to wealthy individuals from Russia and China, many of whom have used their money to force up the price of homes in London, with the cascade of misery that follows from that. Will Russia and China be attending the anti-corruption summit in May?

Baroness Stowell of Beeston: I am not able to provide a full guest list of those who are going to be at the anti-corruption summit in May. On the noble Lord's question about tier 1 visas, that is a matter that I will have to follow up with him in writing: it is not one that I have information on right now. I can say to him that part of the action that this Government have been taking over the past few years and will continue to take is about tackling money laundering. What we are trying to do here is tackle crimes. We want to eradicate corruption. We want to go after the criminals and do everything that we can. If there are avenues open to us that we have not yet pursued, we will be pursuing them with great vigour because that is what we want to achieve. All I can do is reassure the noble Lord that a lot has been done, but clearly there is more. If there is more that we can do, we will not be shy in coming forward with further steps.

Lord Davies of Stamford (Lab): My Lords, the noble Baroness said that the gap in this country between tax due and tax paid is narrower than it has ever been. How does she know? How does she, or anyone, calculate the amount of tax that is due but undeclared and unpaid?

Baroness Stowell of Beeston: That is something that is an established way of recording. The noble Lord has challenged me, and I feel that I am entering into a zone where I am going to be asked about lots of technical financial matters that I am afraid I am probably not the best person to be able to respond on in detail. If I can provide the noble Lord with further information in writing, I will, but I assure him that this is a statement of fact and, I say to him, one that surely it should be pleasing to hear. We want to ensure that we collect as much tax as we possibly can. If we are collecting more than we have ever done before, that is a good thing.

The Lord Bishop of Coventry: My Lords, I am mindful that the OECD has estimated that tax havens may be costing developing countries up to three times the global aid budget. I am also mindful of the role of UK overseas territories and Crown dependencies in the international movement of finance. I very much welcome the Prime Minister's Statement about transparency and making the exchange of information available to particular agencies, and I also welcome the clarifications that the noble Baroness the Leader of the House gave. Perhaps I may ask for a little clarification on the Prime Minister's point about taking that further and putting the information in the public domain. Am I right in thinking that, as well as encouraging other countries to do that, there will be a particular focus on the UK overseas territories and Crown dependencies, bearing in mind our responsibilities towards them and with them?

Baroness Stowell of Beeston: My Lords, I can tell the right reverend Prelate that the register of beneficial ownership, which will be established in the United Kingdom, will, from June, be available publicly to anybody who wants to access it.

The overseas territories and Crown dependencies have committed to collate the relevant information on beneficial ownership so that our law enforcement agencies are able to access it. That is a step forward and a significant improvement on the current situation. They have not committed to preparing a public register but nor has any other country around the world, so I think we should acknowledge the positive steps that the Crown dependencies and overseas territories are taking. Clearly, we will continue to work with them so that they always look at taking further steps. We will make sure that they are in a strong position by adopting the standards that we would expect of any overseas territory, any Crown dependency or any place associated with the United Kingdom, so that they are chosen as places where those who are respected can invest in a respectful way and so that they, as nations, can prosper from those investments.

Lord Harris of Haringey (Lab): My Lords, the Prime Minister has set a precedent by publishing his tax arrangements. I gather that others have followed suit, including the Chancellor of the Exchequer and my right honourable friend the leader of the Opposition. Does the noble Baroness the Leader of this House think that this is a precedent that should extend to Members of your Lordships' House, as it is clearly going to be an inexorable precedent in the other place?

Baroness Stowell of Beeston: My Lords, the Prime Minister made clear in his Statement why he thinks it is appropriate for him and the Chancellor, as those responsible for the nation's finances, to publish their tax returns. He also explained why he does not believe that that should be extended to other public figures. Your Lordships' House has very clear rules about us all being UK residents and UK domiciled for tax purposes, and those were brought in just before the

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2010 election. There is a very clear and robust requirement in terms of the register of interests. I remind noble Lords that a failure to make a declaration or entry in the register is a very serious matter, and any claims of any of us not doing so properly are pursued rigorously. I would always urge anybody who has any information on any of us that they want to see pursued to submit their complaint to the commissioner. We have that strong regime in place but clearly we must always keep under review how our code of conduct works, how we apply it and how it is administered, and that is a matter of course and of routine. However, the Prime Minister has made clear his views on extending the declaration that he has made today and the publication of income tax returns, and at the moment I do not see us going beyond that.

Update on the UK Steel Industry

Statement

6.45 pm

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): My Lords, with your Lordships' permission, I shall now repeat a Statement made in another place by my right honourable friend the Secretary of State for Business, Innovation and Skills.

"All of us are by now familiar with the perfect storm of factors that led to the global price of steel collapsing during 2015. But for all the economic challenges we face, the real tragedy is a human one. Over the past 11 months I have visited steel-making communities right across the UK. They are very different plants in very different places, but one thing unites them: the pride and dedication of the highly skilled people I meet. All they want is to be able to carry on doing what they do so well, and I am doing everything I can to help them do just that.

I will talk first about Port Talbot. Since becoming Secretary of State for Business, I have been in frequent contact with the senior management of Tata. This includes several meetings with the group's chairman last year and this. Several weeks ago Tata told me, in confidence, that it was seriously considering an immediate closure of Port Talbot—not a sale, a closure. That would have meant that thousands of hard-working men and women could already be out of a job. Thousands more would be facing a bleak future. I was not prepared to let that happen.

In the days that followed, I worked relentlessly to convince Tata that it was in everyone's interests to keep the plant open and to find a new buyer. I also made it very clear that the Government are totally committed to supporting and facilitating that process. This work paid off.

Last month, Tata announced its intention to sell the plant and its wider UK assets rather than close it. Since then, I have continued to meet its executives here and in Mumbai. I have been joined in this by my right honourable friend the Secretary of State for Wales. We have secured assurances that Tata will be a responsible seller and will allow appropriate time to find a buyer. The formal sale process begins today. I have been in contact with potential buyers, making it clear that the Government stand ready to help. This includes looking at the possibility of co-investing with a buyer on commercial terms, and we have appointed E&Y to act as financial advisers on behalf of the Government. Commercial confidentiality means that I cannot go into detail about ongoing discussions. However, I will update the House as soon as it is appropriate. And let me just thank the First Minister of Wales for all his work so far. His support in these talks has been invaluable.

I turn now to Tata's long products division. I am sure that all members will join me in welcoming today's news of a conditional agreement between Tata and Greybull. It is an agreement that protects jobs and minimises the cost to taxpayers. We have been closely involved in the sale process from day one, including making a commercial offer on financing if required, and we will continue to work with them to get the deal done.

Moving on to Scotland, on Friday we saw Liberty House receiving the keys to two Tata mills in Motherwell and Cambuslang. It is a great result for the people of Scotland, and the Scottish Government deserve thanks for helping to secure it.

Finally, since January the global price of steel has started to recover, although it is still a long way from its pre-crisis peak. So there has been some positive news for Britain's steel makers, but our support for the industry and its supply chain continues. The Steel Council, which met for the first time early last month, is bringing together government and industry to find solutions. We have been working closely with the unions, and I take this opportunity to thank Community, in particular, for its positive and constructive approach.

We have taken action on power. Some £76 million has already been paid to steel makers to compensate for high energy bills and we expect to pay more than £100 million this year alone. We have taken action on procurement. New rules make it easier for the public sector to buy British. And we are leading calls for EU action against unfair trading practices. We voted in favour of anti-dumping measures on wire rod and on steel pipes in July and October last year. And we voted in favour of measures on rebar and cold-rolled products in February this year. These measures are having a real effect, with rebar imports from China down 99%. However, we are still looking at ways of improving the EU tariff mechanism so that we can help the steel industry without harming other sectors. I am happy to hear suggestions that honourable Members have on that front. Let me make one thing very clear: we have repeatedly demanded and voted for tariffs on unfairly traded Chinese steel, and we will continue to do so.

Mr Speaker, I would love to stand here today and declare the crisis over. To say that not one more job will be lost in Britain's steel industry is not a promise that I or anyone in this Chamber can make. But I can promise this: the Government have consistently done all they can to support Britain's steel industry, and that will continue.

We know there are no easy answers. The challenges facing the industry are vast. Too many jobs have already been lost. Where that has happened, we have

worked to ensure that nobody is left behind. For example, we have committed up to £80 million to help those affected by the closure in Redcar and we stand ready to support any steel community facing redundancies. But that is something that I am doing everything in my power to prevent.

Britain's steel industry is a vital part of our economy. I want to secure its long-term future. I want to see "Made in Britain" stamped on steel used around the world. And I want to protect the jobs of the skilled men and women who work in the industry. The people of Port Talbot, of Scunthorpe and of steel-making communities across the UK deserve nothing less. I commend this Statement to the House".

My Lords, that concludes the Statement.

6.51 pm

Lord Stevenson of Balmacara (Lab): My Lords, I am grateful to the Minister for repeating the Statement made earlier in another place.

Steel is the foundation of many of the UK's most important manufacturing sectors, including aerospace, defence, automotive and construction, and the threats facing it show no sign of abating. Countries such as China are engaging in ruthlessly uncompetitive practices which are destroying our steel industry. Central to ensuring that our steel industry survives and thrives is the urgent need for an industrial strategy, which has not yet been apparent.

The Chancellor has declared that Britain will be,

"carried aloft by the march of the makers",—[*Official Report*, Commons, 22/3/11; col. 966.]

but manufacturing exports have slumped and manufacturing output is still below its level of seven years ago, before the crash. Since this House rose for the Easter Recess, the problems in the UK steel industry have turned into a full-blown existential crisis.

I welcome the long overdue admission from this Government that it is their duty to help find a future for UK steel making. I also welcome the Secretary of State's warm comments about the role played by the unions, in particular by Community—which, of course, points up the absurdity of the Government's proposals in the current Trade Union Bill. I also note the reference in the Statement to the invaluable work being done by the First Minister of Wales, which we echo.

Our thoughts need to be focused on the uncertainty and distress now being felt in Port Talbot and, despite the welcome news of a conditional agreement between Tata and Greybull, in other steel plants in the UK and the host of small and medium-sized businesses which depend on them. The Secretary of State mentioned his respect for the hard-working men and women of this vital industry who need help. I hope that what is now happening and prompting this response by the Government today is not too little, too late.

I have some questions for the Minister. Given that the Scunthorpe deal took nine months to reach, and in light of the reference in the Statement to Tata as "a responsible seller", can the Minister tell us how long Tata is willing to keep the Port Talbot plant operational while a buyer is found? Will she confirm that it is the Government's intention to ensure that any sale is of the integrated operations there? Will she also confirm that the pension arrangements, both current and future, entered into by Tata with its staff will be part of the sale? This is important for those affected.

Can the Minister confirm that the Secretary of State will contact all the present customer base and reassure them that these plants have a viable future and will remain open for business so that they can be confident enough to continue placing orders? In that respect, can she confirm that the IP held by Tata will be part of the deal?

On procurement, will the Government finally accept that future public sector procurement arrangements, from defence to construction, need to do more to support the British steel industry? It should not just be "easier" to buy British; it should be mandatory.

Lord Stoneham of Droxford (LD): My Lords, six months ago—I was slightly surprised that it was six months ago—these Benches advocated the Government setting up a Minister-led steering group to look at the whole range of problems of steel and develop a strategy to save what we could of this great industry. All the impression of the past few weeks is that the Government have been running around like a rabbit in the headlights, with the local MP knowing that Tata was going to make a key decision on Port Talbot but the Minister responsible not knowing so. Have the Government used the past six months to develop a strategy for steel and, if not, why not? What is the Government's industrial strategy towards steel?

Baroness Neville-Rolfe: My Lords, I welcome the comments made by the party opposite, particularly in relation to the role of the unions, the staff and the First Minister of Wales.

To answer the point made by the noble Lord, Lord Stoneham, we have been doing a great deal. Some of the things that have been said today are a travesty of the truth. The Secretary of State and the Business Minister have been working day and night on the steel issue for many months. Without our intervention, we believe that Tata would have moved to shut Port Talbot. Now it is up for sale on a basis that gives us the prospect of success.

On the attitude of Tata, we have been in discussion with it over many months and it has made it clear that it will be a responsible seller. We are working with it to find a sustainable solution.

The pension arrangements are extremely important and we have made it clear that they are part of the discussions we are having. Both the UK and the Welsh Governments—because they are working together in relation to Port Talbot—stand ready to engage with commercial investors to help provide a package of support on commercial terms to help ensure the long-term future of our steel industry. We will consider support in the area of pensions but also of plant and power supply, and any other areas for which potential buyers believe the Governments can provide support. We need a solution on pensions not only to help any buyer but to help the steel workers.

The noble Lord, Lord Stevenson, asked about intellectual property. Certainly, since that is an area for which I have ministerial responsibility, I will think

[Baroness Neville-Rolfe]
further about that. Procurement is one of a number of areas where this Government have tried to change the situation fundamentally. We have moved to change the future procurement rules so that it will be much easier to buy British. We have a splendid supply chain of possible steel projects: not only HS2 but we are now finishing the Elizabeth line; there is the Intercity Express Hitachi factory in Newton Aycliffe; and 98% of the steel used by Network Rail is from the UK. Then, obviously, there is defence and aircraft carriers. The noble Lord rightly drew attention to the success of our industries, which brings me on to the question of industrial strategy.

The key point about industrial strategy is to promote growth and innovation and to get the country back on its feet. The Government have done that. Car production has flourished, up 60% since 2010; manufacturing is up 18.7%; and we are now working well with the supply chain. We have a Steel Council, which is bringing together all the different stakeholders involved and keeping in contact with customers. As the noble Lord said, we need to give the supply base confidence for the future, as I know from being in business.

Lord Lawson of Blaby (Con): My Lords, the Statement repeated by my noble friend said that we have taken action on power—and, indeed, the Government have taken action on power. To boast that they are leading the world in the battle against climate change, they have deliberately introduced an energy policy designed to push up the price of electricity in this country so that it is far higher than in any of our major competitors. This is a major reason for the difficulties of the British steel industry today. The Statement also says that the Government have paid some compensation to the steel industry partially to offset their own policies, which have pushed energy and electricity prices up so high. Might it not be more sensible to abandon that energy policy and to cease pushing up energy prices deliberately as an active policy? We have seen, with the problems of the steel industry, precisely what the result of that is.

Baroness Neville-Rolfe: I have some sympathy with the points made by my noble friend but we are where we are. Of course, the majority of the measures were taken when the party opposite was in power. The steel industry has found it very difficult, which is why we have made the substantial compensation payments to which my noble friend referred, including £50 million to Tata since 2013, £9 million of it in the past three months, with tens of millions more in the pipeline. More importantly, however, the Chancellor announced in the Autumn Statement that we will exempt energy-intensive industries from renewable policy costs, saving them an estimated £400 million up to 2020. This is a difficult area and we have sought to find a way through.

Lord Jones (Lab): My Lords—

Lord Wigley (PC): My Lords—

The Earl of Courtown (Con): My Lords, I do not want to interrupt the debate but we should hear from the noble Lord, Lord Wigley.

Lord Wigley: My Lords, the Minister referred to the close working that she has had with the Government of Wales. She also emphasised, quite rightly, the importance of keeping steel making going in Port Talbot until a buyer can be found. Can she confirm that the Government will at least match the £60 million put forward by the Welsh Government—proportionately more, we hope—to ensure that? Can she clarify what she said about the United Kingdom not opposing putting tariffs on steel from China? There are reports that the European Commission had been considering this and that the UK was one of a dozen countries that blocked it.

Baroness Neville-Rolfe: On the question of money, I am glad to clarify that we are open to discussions on the level of support. I articulated earlier what we have been telling investors today. I am also glad to have the opportunity to set out what we have been doing about anti-dumping in Brussels. Thirty-seven anti-dumping measures have been taken—15 against China—and another nine areas are being looked at. As a result, as I said in the Statement, rebar imports from China have gone down by 99 percent, wire rod by 90 per cent and there has been a similar effect in other areas. The noble Lord is talking about tariff policy more broadly—the so-called lesser duty rule. In general—I have dealt with trade pretty well all my life—that rule gives the right balance between industry, industry users and, ultimately, consumers. There is a wish in some protectionist member states to use the opportunity to change that fundamental principle which ensures that users and consumers benefit as well industry. However, changing that rule could have ramifications in other areas, from candles to screws to shoes—there has been a lot of debate on anti-dumping of shoes. We need good anti-dumping measures. We are working with the Commission on those and trying to improve the logistics so that we can have more success with anti-dumping. Above all, we need to move with speed.

Lord Howell of Guildford (Con): Further to the question posed by my noble friend Lord Lawson, is it still the case that German steel-making electricity costs are 40% below those in the United Kingdom? If that is the case, and if it arises from differences in climate change and carbon reduction policies, are we not obliged under Section 2(2) and (4) and Section 6(2) of the Climate Change Act to take account of that? In failing to make the necessary amendments to the Climate Change Act, are we not in breach of that Act? Should not action be taken to correct the situation urgently?

Baroness Neville-Rolfe: My noble friend is a great expert in this area and I hesitate to make assertions. It is clear that we have been moving latterly to change our approach to make sure that our climate change obligations are met and that we help the energy-intensive industries, especially steel, which is such a strategic industry, at the same time. I shall certainly look into the points that he has raised and perhaps talk to him further.

Lord Hain (Lab): My Lords, I do not question the diligence or sincerity of the noble Baroness. However, I must report to her bluntly a view that I share after

talking to voters from Neath, Port Talbot, Swansea and Llanelli these past few days. They treat with absolute derision her statement that the Government have done everything they could. Five years ago, as the Member of Parliament for Neath, I wrote to the Government informing them that the chief executive of Tata Steel Europe, Karl Köhler, had said that unless energy costs were massively cut for Tata Steel and procurement was actively pursued by the Government to get British steel into capital investment contracts, Tata Steel would close its Port Talbot plant. He said that five years ago. I wrote to the Secretary of State but nothing was done. Why can Sweden, Spain, Germany, France and the Netherlands have successful steel industries and we cannot? It is because the Government do not have an industrial strategy.

Baroness Neville-Rolfe: I cannot agree with that. We have done a lot to change the rules on procurement and on emissions, as we have already discussed. The last Labour Government did nothing other than reduce the number of jobs in the steel industry under their stewardship. There are deep-seated forces at work here. Chinese surplus capacity is several times EU output at 35% of global production. Of course the points mentioned by the noble Lord matter, but so do these big global factors. That is why we are trying to do all we can for Port Talbot, day and night.

Lord Scriven (LD): My Lords, two plants in South Yorkshire have not been mentioned—one in Rotherham and one north of Sheffield in Stocksbridge. What interventions are the Government making in those plants and what is the latest status? Those communities have been waiting but have heard nothing yet from the Government about their Tata steel plants.

Baroness Neville-Rolfe: My Lords, perhaps the noble Lord can help me on this but I think the conditional agreement between Tata and Greybull that was announced on Friday also covered the Tata Rotherham mills, and we have offered government-backed commercial funding if it is needed. Perhaps I may follow up on this and write to the noble Lord on the other points. I would make the general point that we now have the Steel Council, where the industry, the unions and other stakeholders have come together to examine all of these issues, and that is very important. Further, Tata has today put up for sale pretty well the whole of its operations. I will look at that further and write to the noble Lord.

Lord Naseby (Con): Is it not encouraging that the workforce and the management say that they have a turnaround plan and require only medium-term financing? That is not dissimilar to what happened at Rolls-Royce. Against that background, in Canada and Holland there are large mutual organisations capable of turning around and running steel organisations. Should we not think along those lines as well?

Baroness Neville-Rolfe: I thank my noble friend for his question and for writing to me about the role of the mutual, which I have passed on to the Ministers and officials responsible for this challenging area. We should be looking not only at opportunities for support but at the supply chain, and into the uses for steel at the higher end as well as the more-volume end of production.

Lord Rowe-Beddoe (CB): My Lords, I am sure the Minister would like to amplify something I believe would be of interest to many noble Lords; namely, the possibility of co-investing with a buyer—I think that that was the term used. As I recall, some 10 days to two weeks ago, taking steel temporarily into state ownership was totally rejected. Can she amplify what co-investing would be?

Baroness Neville-Rolfe: As I said in repeating the Statement, we are ready to look at pretty much all the options. I think that the Secretary of State has made clear that he sees nationalisation as problematic, not least because all the most successful, leading steel operations across Europe are not nationalised. But we are keen to find a way through this so co-investment with an element of government support for a period, and indeed the sort of arrangement that we had in Scotland, where there has been some sort of interim cover, can be advantageous.

Lord Jones (Lab): My Lords, will the Minister acknowledge the huge contribution made in north-east Wales by Shotton steelworks, which is still highly profitable, very high-tech and a centre of excellence in steel making? Perhaps I may remind her that in 1980 Shotton steelworks was an integrated plant employing 13,000 people. It lost overnight, in Europe's biggest single redundancy exercise in living memory, some 8,000 steelworkers' jobs. It is fair to say that the Shotton steelworks has made its sacrifices already. Further, does the Minister understand the impact of mass unemployment? It affects many families, schools and satellite steel townships? Communities remain scarred and now, when they are in a profitable state, do not wish to suffer further redundancies or closures.

My last point is this. If our nation is to have any idea of national greatness for the future, how can we survive without the seedcorn industry that is steel? It is a folly to consider sending atomic-powered submarines armed with nuclear-tipped missiles abroad if we do not have the industry that enables any nation to make war—which is steel. We must retain our steel industry.

Baroness Neville-Rolfe: I applaud the work of the noble Lord both as a Member of Parliament in that area and indeed as shadow Secretary of State, and of course I acknowledge the sacrifices that have been made by steelworkers and their families in Wales and more generally across the UK. These things are very difficult. Indeed, that is one of the reasons we are taking the measures that we have set out today. We have said that we are willing to provide a much broader degree of support for Port Talbot and that in the future, procurement rules will allow a greater degree of buying British than has been possible in the past. The noble Lord is right to say that steel is a core industry for any country.

Viscount Ridley (Con): My Lords, could my noble friend remind the House which party was in power when the Climate Change Act 2008 that was referred

[Viscount Ridley]
to by my noble friend Lord Howell and which was responsible for the high energy costs mentioned by the noble Lord, Lord Hain, was passed?

Baroness Neville-Rolfe: As my noble friend knows well, the legislation was passed largely under a Labour Government. As I have already set out in reply to my noble friend Lord Lawson, we see things differently. It has had quite a serious impact and there are a number of things that we are doing, most importantly the change announced in the Autumn Statement that we will exempt energy-intensive industries from renewables policy costs. These are difficult issues and arguably the balance has not been quite right, but we are moving to change it.

Lord Howarth of Newport (Lab): My Lords, the Secretary of State said in his Statement that he stands ready to help and to support steel-making communities. I appreciate that on behalf of my former constituents in Newport East making steel at the Llanwern steelworks, working in many businesses associated with the steel industry and working in the economy of south-east and south Wales, which is so crucially dependent on the fortunes of the steel industry. As the Government analyse the costs and benefits of alternative possible policies, including co-investment and perhaps temporary nationalisation, will they fully factor in the costs to society and to the communities in question of allowing any steelworks to demise? The social trauma as well as the economic trauma will not just be for the near term or for a year or two; it will be for generations. It is hard to quantify what the costs would be to the public purse, but they will be very high indeed and they need to be weighed up and taken fully into account as against any short-term budgetary pressures about which the Government may be nervous.

Baroness Neville-Rolfe: The noble Lord is right. We always need to look at the wider costs, especially in such difficult areas of public policy. That is one of the reasons we have said that we will look at things like co-investment and further support. Of course, if people are out of work the benefits costs and the broader social costs to families in not having a working member and the consequent effect on their children and so on can be devastating. That is why a succession of Governments—I do not think that this is a party point—have sought to do really good work where there are closures. That has happened right across the UK, most recently in places like Redcar where the task forces have been working really well in very difficult circumstances.

Lord Forsyth of Drumlean (Con): My Lords, what are we to make of what is going on when for the second Forth crossing, which is a £1 billion project, some 95% of the steel had to be imported from China, or when Germany is a major exporter to the UK? Is not the truth of the matter that the European Union's rules on state aid and its rules on trade have shackled the hands of whichever Government are in power and that no Government will be able to deal with this matter while still in membership of the European Union?

Baroness Neville-Rolfe: I have already explained that we changed the procurement rules with the approval of the EU and I think that should help us to get a better result on something like the Forth Bridge. I agree with the noble Lord that that is not a happy state of affairs. We made it clear that we plan to do what is necessary in the current crisis and ensure that the state aid rules are complied with but which need not stop us doing the right thing. I have a different conclusion from the noble Lord. On trading and anti-dumping, working together with 27 other member states can be helpful because our production of steel is now quite small in global terms on a percentage basis.

Housing and Planning Bill

Report (1st Day) (Continued)

7.21 pm

Clause 13: "Banning order" and "banning order offence"

Amendment 14

Moved by ***Baroness Evans of Bowes Park***

14: Clause 13, page 9, line 15, leave out "companies" and insert "bodies corporate"

Baroness Evans of Bowes Park (Con): My Lords, the measures in this part of the Bill and Part 5 mark the Government's commitment to tackle rogue landlords and agents as well as poor practice and standards in the private rented sector.

The amendments in this group respond to issues raised in Committee when we debated Part 2 of the Bill. They clarify issues that were of concern to your Lordships. Later this evening I will be moving further government amendments to address electrical safety in the private rented sector, which has also been of concern to your Lordships, as the House debates property standards in the sector.

Although he is not in his place, I thank the noble Lord, Lord Campbell-Savours, for raising in Committee issues around companies being subject to banning orders. To clarify matters, Amendments 14 and 16 to 19 replace the word "company" with "body corporate", which has a wider meaning and includes bodies that are incorporated legal entities, such as an association, non-government organisation or corporation—but also includes a company.

The amendments ensure consistency in the terminology used in this part of the Bill and that any incorporated body, not just a company, which commits a banning order offence can be subject to a banning order. Now that he has returned to his place, I will repeat my thanks to the noble Lord, Lord Campbell-Savours, for raising the issue that the amendments are trying to address.

Amendment 31 to Clause 54, which is concerned with definitions in Part 2 of the Bill, explains that a body corporate includes a company or other body incorporated outside England and Wales. This clarifies that the banning order provisions extend to companies and other bodies registered abroad. During Committee we had a useful debate about the nature of banning

order offences and the degree to which such offences should be subject to parliamentary scrutiny. As was explained, we have not included the specific offences on the face of the Bill because we want the flexibility to add further, or remove existing, offences as the new law beds in, and beyond, to ensure that the offences are relevant and up to date.

However, Clause 13(4) explains what matters may be taken into consideration when setting out in regulations what are banning order offences. The banning order offences will all be existing offences which already have serious consequences for those convicted, such as those involving fraud or violence as well as offences under the Housing Act 2004. We will consult on the proposed offences to be included in the regulations. We have noted the concerns of the DPRRC and the strong feelings expressed by Members of this House about the need for parliamentary scrutiny of those offences. While we do not think that it is appropriate to include such offences on the face of the Bill, for the reasons I have just explained, we see force in the argument that before the offences become law they should be laid and debated in both Houses of Parliament. Amendment 133, therefore, provides that regulations under Clause 13(3) describing banning order offences will be subject to the affirmative procedure.

The Committee also debated the standard of proof that should apply where a local housing authority imposed a financial penalty for the breach of a banning order or for certain offences under the Housing Act 2004, as an alternative to initiating a criminal prosecution for those offences. The noble Lord, Lord Beecham, was concerned that it was unclear whether the authority could apply the civil standard and, therefore, effectively act as prosecutor, judge and jury in its own case. I can confirm that the local housing authority will need to apply the criminal standard of proof.

Amendment 20 makes the standard of proof to be applied absolutely clear on the face of the Bill. A local housing authority which intends to impose a financial penalty must serve a notice of intent setting out both the reason for imposing the penalty and the amount. The reason must reflect that the local housing authority is satisfied beyond reasonable doubt that the offence complained of has been committed. The department will issue guidance to local housing authorities on financial penalties, including the circumstances in which a local authority should consider imposing such a penalty.

Amendment 21 clarifies how the First-tier Tribunal will deal with an appeal against the imposition of a financial penalty, in relation to both penalties imposed for a breach of a banning order and those imposed for offences under the Housing Act 2004. On appeal, the tribunal must consider the local housing authority's financial penalty decision afresh and in reaching its own decision may take account of matters which the local authority was not aware of when it made its decision. The tribunal, therefore, does not review the authority's decision and decide whether it is reasonable but must instead re-determine the case itself, applying the criminal standard of proof on the facts known to it.

Amendment 29 is concerned with appeals under Part 2 of the Bill from the First-tier Tribunal. Essentially the new clause provides that an appeal to the Upper Tribunal cannot be made unless permission is granted by either the First-tier Tribunal or the Upper Tribunal, but any such appeal is not limited to a point of law only. This mirrors the situation in other housing legislation involving appeals to the Upper Tribunal, such as the Housing Act 2004 and the Mobile Homes Act 1983. I beg to move.

Baroness Gardner of Parkes (Con): My Lords, my Amendment 15 has been popped into the middle of all these government amendments, so now is the moment when technically I must speak to it. It has been tabled in the same way as it was before: simply to ask the House to comment on how well it now thinks our regulations are beginning to show through in the form of amendments to this Bill. We have been very dissatisfied that the regulations have not been published and believe that much has to be put on the face of the Bill that could otherwise have been covered in regulations. I do not need to go into further detail as I spoke to this in Committee.

Lord Kennedy of Southwark (Lab): My Lords, as this is the first time I have spoken during today's Report stage consideration of the Housing and Planning Bill, I refer noble Lords to my declaration of interests and declare that I am an elected councillor in the London Borough of Lewisham.

Perhaps I may also thank Members from all sides of the House for their kind remarks after I was taken ill as we entered the last day of Committee before Easter. I received emails, notes and cards, and noble Lords were very generous in their remarks about me and in wishing me a speedy recovery. I am also very grateful to my noble friend Lord Beecham and all other noble Lords from the Labour Benches who, at short notice—or no notice at all—came forward to assist the Front Bench efforts. I am truly grateful to everyone.

The Government will have seen that we have divided the House a number of times already this evening, and I think it is inevitable that we will continue to divide the House today and on future days on Report as we proceed with our consideration of the Bill. It is not just that we object to or do not like parts of this Bill; it is the wholly inadequate and poor way the Bill has been brought forward with ill-thought-out, half-baked proposals, inadequate preparation and a general disregard for Parliament, local authorities, charities, campaigners, tenants and anyone else affected by these proposals. The noble Baroness, Lady Williams of Trafford, has done her very best in the circumstances, and we are very grateful to her and her colleagues for that. I thought it important to put that on the record again.

Amendments 14, 16, 17, 18, and 19 replace the word "companies" first, and subsequently "company", with the words "bodies corporate" in the first instance and "body corporate" subsequently, so as to include bodies incorporated outside England and Wales. This widens the scope of the banning order, which is to be welcomed, and is in response to points made by my

[Lord Kennedy of Southwark]
noble friend Lord Campbell-Savours in Committee, as the noble Baroness, Lady Evans of Bowes Park, mentioned in her remarks.

Amendment 20 raises the standard of proof to the criminal standard and we welcome that proposal. If someone is to be subject to a penalty, then being satisfied to the higher standard of proof seems sensible to me, and this amendment makes that crystal clear for everyone.

Amendment 21 will add a new sub-paragraph into paragraph 10 of Schedule 1, again clarifying that, under the appeals procedure, the appeal can have regard to matters that the local authority was unaware of. Amendment 29 provides for an appeal from the First-tier Tribunal to the Upper Tribunal, other than on a point of law. My noble friend Lord Beecham made that point in this regard in Committee, and, as the noble Baroness, Lady Williams, advised us all in her letter of 6 April, these matters were also raised by the First-tier Tribunal and we support them.

Amendment 15 in the name of the noble Baroness, Lady Gardner of Parkes, is one with a lot of appeal to us. It would stop the regulations coming into force until at least one year after the publication of the draft regulations to be made under the subsection. It would certainly leave us with a proper time for reflection. That can only be a good thing when we look at the Bill and consider how the Government have acted in their general handling of it so far. If the noble Baroness wishes to test the opinion of the House, I can assure her of the support of these Benches.

7.30 pm

Baroness Evans of Bowes Park: I thank my noble friend Lady Gardner for Amendment 15, and the noble Lord for his comments. As I explained in my opening remarks, we have considered the issues raised in Committee and by the DPRRC concerning banning order offences. This is why we are moving an amendment that regulations prescribing banning order offences will now be subject to the affirmative procedure and therefore cannot be brought into law until both Houses of Parliament have debated them. In effect, this would mean that Clause 13 could not become operational until after your Lordships had approved the regulations. As we also said in Committee, we will consult on the proposed banning order offences before the regulations are laid in Parliament.

I hope that, with these assurances, my noble friend will not press her amendment and I commend the government amendments in this group.

Amendment 14 agreed.

Amendment 15

Moved by ***Baroness Gardner of Parkes***

15: Clause 13, page 9, line 25, at end insert—

"( ) This section shall not come into force until at least one year after the publication of a draft of regulations to be made under subsection (3)."

Baroness Gardner of Parkes: I did not declare my interest earlier because I had declared it the first time I spoke to the Bill, but as this is the first time I have spoken on Report, I should have declared it again. I would also like to say that I think we are making progress. The two votes earlier have done something significant in putting different items in the Bill. For that reason, I do not propose to press the amendment.

Amendment 15 withdrawn.

Clause 17: Content of banning order: company involvement

Amendments 16 to 19

Moved by ***Baroness Evans of Bowes Park***

16: Clause 17, page 10, line 38, leave out "company" and insert "body corporate"

17: Clause 17, page 11, line 1, leave out "company" and insert "body corporate"

18: Clause 17, page 11, line 2, leave out "company" and insert "body corporate"

19: Clause 17, page 11, line 3, leave out "company" and insert "body corporate"

Amendments 16 to 19 agreed.

Clause 22: Financial penalty for breach of banning order

Amendment 20

Moved by ***Baroness Evans of Bowes Park***

20: Clause 22, page 12, line 28, after "satisfied" insert ", beyond reasonable doubt,"

Amendment 20 agreed.

Schedule 1: Financial penalty for breach of banning order

Amendment 21

Moved by ***Baroness Evans of Bowes Park***

21: Schedule 1, page 103, line 26, at end insert—

"( ) An appeal under this paragraph—

(a) is to be a re-hearing of the local housing authority's decision, but

(b) may be determined having regard to matters of which the authority was unaware."

Amendment 21 agreed.

Clause 37: Access to database

Amendment 22

Moved by ***Baroness Bakewell of Hardington Mandeville***

22: Clause 37, page 18, line 31, at end insert—

"( ) A local housing authority is required to give access to the database to a tenant or a person seeking a tenancy."

Baroness Bakewell of Hardington Mandeville: My Lords, this group of amendments is about giving tenants and those seeking tenancies access to the rogue landlord database. I will speak to Amendments 22 to 25. I also support Amendment 26.

I fully support the Government's intention to require local housing authorities to compile a register of rogue landlords. However, there seems little point in the Secretary of State imposing this requirement on local housing authorities if the very people affected by the treatment meted out by such landlords have no idea that their landlord is on the list, or that their potential landlord should be avoided if at all possible.

Tenants of rogue landlords are extremely vulnerable to poor and inadequate housing and have little protection in securing their tenancy or improving the quality of their accommodation. However, the simple measure of giving them access to the register would transform their ability to have some sense of control over their accommodation. They would be able to see just who is on the register and thus avoid repeatedly ending up at the mercy of poor landlords.

We heard detailed description in Committee of the plight of some of the tenants of landlords who are extremely likely to end up being added to the register of rogue landlords. I am afraid that I cannot understand the logic which says that the register, once produced, would be anonymised so that tenants would, presumably, know only the number of rogue landlords but not who they were or the properties that they owned. Ensuring that all accommodation is fit for human habitation, watertight, capable of being heated in winter and safe are basic rights for all tenants. Unless the register is open for tenants to check that their landlord is indeed looking after their best interests in return for the rent that they pay, there seems little point in compiling the register in the first place.

I trust that the Minister will be able to respond positively to this group of amendments and I beg to move.

Lord Kennedy of Southwark: My Lords, Clause 37 will require the Secretary of State to give every local authority in England access to information in the database of rogue landlords, which is fine as far as it goes. Amendment 22 in my name and those of the noble Baroness, Lady Bakewell of Hardington Mandeville, and the noble Lord, Lord Shipley, would put a requirement on every local authority for a tenant to also have access to that list. This is a sensible provision as these prospective tenants are the people who need to be aware who the rogue landlords are so that they can make an informed choice when seeking rented accommodation. The noble Baroness made that point in her contribution.

Of course, we are talking about only England in this clause, but there is nothing to stop rogue landlords operating elsewhere in the United Kingdom. Perhaps when the noble Baroness, Lady Evans of Bowes Park, responds she can tell us, notwithstanding the amendment, how the information will be disseminated beyond England and how it will be handled by the devolved institutions, because you will not be a rogue landlord in England and a model landlord in Scotland, Wales and Northern Ireland at the same time if you have properties there.

Amendments 23 and 24 would remove the requirement for anonymity when the information is used for research purposes. This is important as it can help to identify trends and patterns that may need to be addressed by the Government. The anonymity afforded here risks something being missed. Amendment 25 to the same clause would make it clear that the information can be used for the protection of tenants. If that is not the purpose of this whole part of the Bill, then what is its purpose?

The final amendment in this group, in my name and that of my noble friend Lord Beecham, would enable a housing authority not to grant a house in multiple occupation licence to someone on the database of rogue landlords. As we are all aware, occupants of HMO properties are often the most vulnerable of tenants. This seeks to afford some protection where the property is of sufficient size and number of people to require an HMO licence. I hope that the Government Front Bench can see the intent behind these amendments—to protect tenants—and will give the House a positive response.

Baroness Evans of Bowes Park: My Lords, during the passage of the Bill we have debated extensively the question of who shall have access to the database, in which form and for what purposes. The noble Baroness, Lady Bakewell, and the noble Lords, Lord Shipley and Lord Kennedy, have sought, through Amendments 22 to 25, to require that tenants or potential tenants should have access to the database, that the Secretary of State should be able to disclose information held in non-anonymised form, and that local authorities may use the information held on the database for the protection of tenants.

Giving tenants, or potential tenants, access to the database would be fine if its purpose was to blacklist landlords and to drive them out of business, but that is not its purpose. The proposed database is primarily for the purpose of ensuring that those landlords and property agents who have committed banning order offences, or who have received two or more civil penalties as an alternative to prosecution for such offences, can be monitored by local authorities to ensure future compliance with the law, and, where necessary, those authorities can target enforcement against them. The database will help local authorities drive up standards in their areas and ensure that those landlords entered on to it raise their game so that their properties are safe and well managed for the benefit of tenants.

As with penalty points on a driving licence, a person will remain on the database for a specified period—a minimum of two years. Also as with someone who has incurred penalty points, continuing to breach the law may result in a ban. While it is important, as I said, that people who commit banning order offences should be liable to be monitored through their entry on to the database, this does not mean that the public at large should have a right to know about those offences if they are not so serious as to warrant the local authority immediately obtaining a banning order. Again, there is an analogy with driving offences because there is no right for the public at large to know whether a person has received penalty points on their licence. Indeed, allowing such access to the database would arguably breach the landlord's human rights by making sensitive personal information about their convictions publicly available and effectively banning them from operating without an independent tribunal determining whether they should be banned.

[Baroness Evans of Bowes Park]

Amendment 26 in the names of the noble Lords, Lord Kennedy and Lord Beecham, is unnecessary. Under existing provisions for HMOs, which we are proposing to strengthen through Part 5 of the Bill, a local authority can grant a licence only if it is satisfied that the proposed licence holder is a fit and proper person. In doing so, it must have regard to, among other matters, whether the applicant has contravened housing law or been convicted of certain criminal offences such as those relating to violence, drugs or fraud. These offences that the authority must have regard to will likely be banning order offences for which a person can be entered on the database. It follows that a person who has been entered on to the database could be refused an HMO licence.

I should make it clear that just because a landlord has a conviction or received financial penalties under the new regime that will not automatically mean that they are an unfit person and not able to hold an HMO licence. It would, of course, depend on the nature of the offence, the circumstances surrounding it and whether the landlord was a prolific offender. Indeed, if the conviction or financial penalty was in respect of a minor infringement which had subsequently been put right, it would be disproportionate to refuse that person an HMO licence.

There is no blanket rule excluding persons who have criminal convictions or received financial penalties from holding HMO licences. It will depend on the individual circumstances of the case. However, this amendment would introduce such a blanket rule, even though such a person could continue to operate other types of private rented properties as the database is not a register of banned persons. Provisions are made in the Bill already to deal with HMOs operated by people subject to banning orders, namely that neither they nor any agent may hold such a licence. That is of course right because such a person has been banned from operating as a residential landlord.

As I have said, local authorities will be able to use the information on the database for the protection of tenants by using it to assist with exercising their functions under the Housing Act 2004 and to investigate contraventions of housing law and promote compliance with such law. In particular, authorities can use the information held to decide whether to apply for a banning order against a person entered on the database, whether or not he or she holds an HMO licence. It will then be for local authorities to decide whether to publicise information on those subject to banning orders in their local area, considering whether such publication can be justified as the most proportionate means of ensuring that banning orders are successfully enforced and that tenants in the area are properly protected.

These amendments would effectively result in many cases of landlords being put out of business, or at least suffering harmful reputations that would make trading more difficult, without any case being made out by the local authority to an independent tribunal to stop them trading through the banning order procedure. I hope that, with that explanation, noble Lords will not press their amendments.

On the question from the noble Lord, Lord Kennedy, about how information on the database will be disseminated to devolved Administrations, we will consider taking powers to facilitate this and will explore that further with the devolved Administrations.

Lord Kennedy of Southwark: I thank the Minister. I had only just thought of that. Clearly, where somebody can operate across other parts of the United Kingdom, if they will be a rogue in England they will be a rogue elsewhere. It is an issue that needs to be looked at.

Baroness Bakewell of Hardington Mandeville: I thank the Minister for her response and the noble Lord, Lord Kennedy, for his contribution on HMO licences. I remain unconvinced by the Government's response. While the Government may feel that it would be unfortunate if banned rogue landlords went out of business, I am sure that tenants would not feel that way. If you are the tenant of a rogue landlord, or live in an HMO run by somebody on the rogue landlord register, I think you should be entitled to know that. If, as a result of that, some landlords went out of business, only very poor landlords would suffer that fate. Yet if good landlords are judged in the same way as bad landlords—apart from being on the rogue landlords register, which nobody will know about except the local authority—that seems a bit of a nonsense, and a disincentive to those landlords who are extremely diligent and vigilant about looking after their tenants. However, I accept that, at this late stage, I will probably not get the Government to change their mind. I beg leave to withdraw my amendment.

Amendment 22 withdrawn.

7.45 pm

Clause 38: Use of information in database

Amendments 23 to 26 not moved.

Amendment 27

Moved by ***Baroness Bakewell of Hardington Mandeville***

27: After Clause 38, insert the following new Clause—

"CHAPTER 3A

PRIVATE RENTED SECTOR

Private rented sector: code of practice

(1) The Secretary of State shall issue a code of practice for the letting and management of private rented sector housing in England.

(2) A code of practice under subsection (1) shall contain provision designed to ensure—

(a) the provision of homes for rent which are of a good quality;

(b) consistent and high standards of management; and

(c) choice for the consumer.

(3) Before issuing a code of practice under this section, the Secretary of State shall consult—

(a) the Royal Institute of Chartered Surveyors;

(b) the Association of Residential Letting Agents;

(c) the British Property Federation;

(d) the National Landlords Association;

(e) the Property Redress Scheme;

(f) the Residential Landlords Association;

(g) the Deposit Protection Service;

(h) the Property Ombudsman;

(i) the UK Association of Letting Agents; and

(j) any other persons or organisations as the Secretary of State considers appropriate."

Baroness Bakewell of Hardington Mandeville: My Lords, I will also speak to Amendment 28. We heard from the Minister in Committee that the Government's aim is to move tenants out of local authority housing and housing association accommodation and into the private rented sector. It follows that the private rented sector must be fit for purpose so that tenants are not disadvantaged by being moved from public sector housing into the private market.

The Secretary of State has an obligation to ensure that private landlords step up to the mark and provide accommodation that tenants would wish to move into. A code of practice for letting and management of the private rented sector is now essential to provide protection for tenants, some of whom will be vulnerable. Homes must be of good quality, have consistent management and provide choice for the consumer. It would not be unreasonable for the Secretary of State to consult with a number of professional bodies in drawing up the code of practice to ensure it is fit for purpose. The list in the amendment, from proposed new paragraphs 3(a) to 3(j), would ensure that all necessary views are obtained and have input into the code. This should help guarantee that tenants, as well as landlords, are protected.

Amendment 28 is consequential on Amendment 27. As we all know, both landlords and tenants make use of letting agents. These are an essential part of renting in the private sector. Letting agents bring the two sides of the equation together, helping landlords to find suitable tenants and tenants to find suitable homes and accommodation. However, regulation is also needed for this sector to provide security for both the landlord and the tenant. A nationally held register of letting agents, available for all interested bodies to view, should be an essential element of the Government's policy in moving tenants into the private sector. The register in the form of a database should be clear, have all relevant information required as listed in the amendment and be easy to access and use by both landlords and tenants.

Many of us will have seen the story of the housing association in Walthamstow that sold off whole streets of its properties to an investor but did not inform its tenants of the change of ownership and hence the change of their landlord. The housing association had employed a company to do all routine repairs and maintenance. It was only when tenants rang up this company to report faults that they discovered they were no longer covered by the contract as their landlord had changed. It later transpired that the new landlord was likely to give all tenants notice to quit as they wished to sell the properties on the open market.

If the Government wish tenants to seek accommodation in the private sector, they must assist in ensuring that correct and relevant information is available to aid tenants in their choice of move. Moving home is one of the most stressful events in any person's life, and to be moving often and unnecessarily is unlikely to ensure that tenants maintain their employment and their children have access to a continued education. Both a code of practice for the private rented sector and a register of letting agents readily accessible by tenants are essential to achieving the Government's aim. I look forward to a positive response from the Minister. I beg to move.

Baroness Gardner of Parkes: My Lords, I have mixed views on this because I recall the great victory of the noble Baroness, Lady Hayter, which ensured that all residential letting agents were obliged to be registered. I think that measure, which has been in force for a few years, is working very well. It seems to me that this is far too belt and braces and that the proposed measure would be so onerous and costly that it would end up costing tenants who want to rent these properties extra money. Is the noble Baroness aware of the Association of Residential Letting Agents and the registrations that are now applicable? I well remember the noble Baroness, Lady Hayter, arguing at the time that there was no way of getting the bad agents to register. However, when the relevant amendment was passed and they had to be members of the relevant body, the situation changed.

I am slightly puzzled when I see glossy magazine advertisements letting properties which give the name of the agent and add in brackets "Fees apply". I am not sure whether that means an extra fee is being levied on people when it should not be. It might be worth investigating that. However, I believe that tenants are good judges of whether a property looks reasonable and the cost suits their needs. We should be more concerned about the cases featured in newspapers in the last couple of weeks in which people are paying £70 a night to sleep in three-tier beds and all the rubbish in the world ends up outside because there are no proper toilet facilities. That is a different field which requires very careful consideration and attention. However, the everyday letting process used by ordinary tenants and agents seems to work reasonably well.

Lord Kennedy of Southwark: My Lords, we are supportive of both Amendments 27 and 28 in the name of the noble Baroness, Lady Bakewell of Hardington Mandeville. Amendment 27 would require the Secretary of State to issue a code of practice for the letting and management of private rented sector housing in England. As often with legislation, you are legislating to deal with the end of the market that wants to cut a few corners. The fact of the matter is that the overwhelming majority of private sector landlords do a very good job and provide tenants with a better choice, better management standards and better homes than the code would allow for. However, the proposed code would afford an additional layer of protection and help to lift up those landlords who are not always the best in the business and raise standards generally. The list of organisations is comprehensive in nature and would allow the Secretary of State the flexibility though proposed new paragraph 3(j) to consult "other persons or organisations" as he considers appropriate, which is sensible as organisations come and go, and needs and requirements change.

[Lord Kennedy of Southwark]

Amendment 28 would require the Secretary of State to keep and publish a register of letting agents. This, again, is a very welcome move and would bring a sensible and proportionate measure to this part of the housing market by requiring a register to be maintained. These agents facilitate agreements between landlords and tenants. There is a proper role for local authorities in maintaining the register as they will be aware who is operating in their area. The amendment prescribes what information is to be held on the register. Proposed new subsection (8) of the amendment would allow the Secretary of State to,

"make further provision about the register".

It is a sensible move to take this power. I hope that the noble Baroness, Lady Evans of Bowes Park, will accept the amendment. However, if she will not, I hope that she will explain carefully to the House why that is the case.

Baroness Evans of Bowes Park: I thank the noble Baroness, Lady Bakewell, and other noble Lords who have contributed to this short debate. If enacted, Amendment 27 would require the Secretary of State to issue a code of practice for the letting and management of private rented sector housing in England. A code to promote best practice in the letting and management of private rented sector housing in England already exists. A cross-sector code for the letting and management of private rented sector housing in England was originally published in September 2014. A wide range of industry members was involved, including all the stakeholders referenced in the noble Baroness's amendment. The department also contributed to the wider stakeholder consultation and Brandon Lewis, Minister of State for Housing and Planning, provided the foreword. Although the code does not currently have statutory force, which would mean that a court or tribunal would have to take it into account when determining relevant cases, in practice, a court or tribunal would already be likely to take the contents of the code into account, where relevant. The code has been in operation for a year and a half, and was last updated in July 2015. The Government are continuing to work with industry to monitor the effectiveness of the code and organise any necessary revisions to ensure that it is relevant and remains up to date. In addition, since October 2014, all letting and property management agents have been required to join a redress scheme, offering a clear route for consumers to pursue complaints. This, in conjunction with the code, protects the consumer and supports good agents.

Amendment 28 seeks to introduce a mandatory national register for all letting agents in England that would be maintained and operated by the relevant local authority. As the noble Lord said, the vast majority of letting agents provide a good service to tenants and landlords and the Government do not believe that a mandatory register is the answer to tackle a minority of irresponsible agents. As my noble friend Lady Gardner said, the Government believe that this could add excessive red tape to the sector which would push up the cost of rents and reduce choice. The Government believe that providing routes for redress and ensuring full transparency is the best approach by giving consumers the information they want and supporting good letting agents. As I mentioned, that is why we recently required all agents to join a redress scheme and prominently display a breakdown of their fees and statements about redress and client money protection. This allows landlords and tenants to vote with their feet when looking to let or rent a property. Each redress scheme also displays a list of members, fully accessible to the public, on its website. What is also important is to help local authorities focus their enforcement action on the rogue agents who knowingly flout their responsibilities and leave the majority of good agents to get on with running their business. As we have just discussed, that is why we plan to introduce a database of rogue property agents and landlords.

In addition, we are also including provisions to allow local authorities to issue civil penalty notices of up to £30,000 as an alternative to prosecution for certain housing offences, which will support their capability to enforce action on rogue agents.

In response to the question from my noble friend Lady Gardner about letting agency fees, from May 2015 letting agents have been required to publish a full tariff of their fees on their websites and in their offices. Anyone who does not comply will face a fine of up to £5,000. Given the commitments I have mentioned and the action that we have already taken that I have outlined, I hope that these amendments will not be pressed.

Baroness Bakewell of Hardington Mandeville: Given that the Government have ensured that there is a register, will the noble Baroness explain why it is not a statutory requirement?

Baroness Evans of Bowes Park: As I mentioned, we believe that although it does not have statutory force, in practice it will be taken into account by a court or tribunal where it is relevant. Therefore, we do not believe that that further step is necessary.

Baroness Bakewell of Hardington Mandeville: I thank the noble Baroness for her remarks. I am pleased to hear that there is a register and a code of practice, but I am somewhat mystified about why there is no statutory enforcement. There are, therefore, loopholes through which tenants will fall. A large number of tenants will now be looking for accommodation in the private sector, having had their tenancies in the public sector ended under the removal of lifetime tenancies. There will be vulnerable people who have not been used to renting in the private sector who are being displaced, perhaps because their rents have been increased or their tenancies not renewed by housing associations or local authorities. They will be looking for accommodation in the private sector and need protection.

8 pm

The noble Baroness spoke about transparency—that letting agencies have to say which redress scheme they belong to and publish that in their windows. So there is transparency for letting agencies, but there is none for rogue landlords. There seems to be a discrepancy here between the Government's aims and the requirements they are making for the various people operating in this sector. I am not convinced, I am afraid. This is a

really important issue. If it were not for the fact that the Government are trying to move large numbers of communities out of the public rented sector and into the private one, I would probably let this go. However, as this is the case, the code of conduct should be a statutory requirement. I would therefore like to test the opinion of the House.

8.01 pm

Division on Amendment 27

Contents 83; Not-Contents 169.

Amendment 27 disagreed.

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8.12 pm

Amendment 28 not moved.

Amendment 29

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

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

"Appeals from the first-tier tribunal

(1) A person aggrieved by a decision of the First-tier Tribunal made under this Part may appeal to the Upper Tribunal.

(2) An appeal may not be brought under subsection (1) in relation to a decision on a point of law (as to which see instead section 11 of the Tribunals, Courts and Enforcement Act 2007 (right of appeal to Upper Tribunal)).

(3) An appeal may not be brought under subsection (1) if the decision is set aside under section 9 of the Tribunals, Courts and Enforcement Act 2007 (review of decision of First-tier Tribunal).

(4) An appeal may be brought under subsection (1) only if, on an application made by the person concerned, the First-tier Tribunal or Upper Tribunal has given its permission for the appeal to be brought.

(5) In any case where the Upper Tribunal is determining an appeal under subsection (1), section 12(2) to (4) of the Tribunals, Courts and Enforcement Act 2007 (proceedings on appeal to the Upper Tribunal) apply."

Amendment 29 agreed.

Amendment 30 not moved.

Clause 54: General interpretation of Part

Amendment 31

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

31: Clause 54, page 25, line 16, at end insert—

""body corporate" includes a body incorporated outside England and Wales;"

Amendment 31 agreed.

Amendment 32

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

32: After Clause 54, insert the following new Clause—

"Implied term of fitness for human habitation in residential lettings

(1) Section 8 of the Landlord and Tenant Act 1985 (implied terms as to fitness for human habitation) is amended as follows.

(2) For subsection (3) substitute—

"(3) Subject to subsection (7), this section applies to any tenancy or licence under which a dwelling house is let wholly or mainly for human habitation."

(3) After subsection (3) insert—

"(3ZA) Subsection (1) does not apply where the condition of the dwelling-house or common parts is due to—

(a) a breach by the tenant of the duty to use the dwelling-house in a tenant-like manner, or other express term of the tenancy to the same effect; or

(b) damage by fire, flood, tempest or other natural cause or inevitable accident.

(3ZB) Subsection (1) shall not require the landlord or licensor of the dwelling house to carry out works—

(a) which would contravene any statutory obligation or restriction; or

(b) which require the consent of a superior landlord, provided that such consent has been refused and the landlord or licensor has no right of action on the basis that such refusal of consent is unreasonable.

(3ZC) Any provision of or relating to a tenancy or licence is void insofar as it purports—

(a) to exclude or limit the obligations of the landlord or licensor under this section; or

(b) to permit any forfeiture or impose on the tenant or licensee any penalty or disadvantage in the event of his seeking to enforce the obligation under subsection (1).

(3ZD) Regulations may make provision for the exclusion of certain classes of letting from subsection (1).

(3ZE) In this section "house" has the same meaning as "dwelling house" and includes—

(a) a part of a house, and

(b) any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it."

(4) Omit subsections (4) to (6).

(5) In section 10 of the Landlord and Tenant Act 1985 (fitness for human habitation), after "waste water" insert "any other matter or thing that may amount, singly or cumulatively, to a Category 1 hazard within the meaning of section 2 of the Housing Act 2004".

(6) Regulations may make provision for guidance as to the operation of the matters set out in section 10 of the Landlord and Tenant Act 1985 which are relevant to the assessment of fitness for human habitation.

(7) This section shall come into force—

(a) in England at the end of the period of three months from the date on which this Act is passed and shall apply to all tenancies licences and agreements for letting made on or after that date; and

(b) in Wales on a date to be appointed by the Welsh Ministers."

Lord Kennedy of Southwark: My Lords, Amendment 32 is in my name, with the support of my noble friend Lord Beecham and the noble Baroness, Lady Grender. It puts a duty on landlords to ensure that the properties they let are fit for human habitation and remain so during the course of the tenancy. It gives the tenant power to take action: to go to court, to get an injunction and to get an order requiring the landlord to make good the repair and carry out necessary works.

If the Government do not accept this amendment, as I suspect they will not, they need to tell us why it is not needed and why they believe that tenants have adequate protections already. They will have to do better than Mr Marcus Jones, the Minister in the other place, who said that he believed that homes should be fit for human habitation but did not want to pass a law that specifically requires that. What complete and utter nonsense. That is not good enough, and we are seeking to put in the Bill a proposal to update the law and improve tenants' ability to take action against their landlord where necessary to bring their home up to a state that is fit for human habitation.

It strikes me as odd that the Government are not embracing this amendment wholeheartedly. The private rented sector is growing. People need to be able to live in properties that are safe, warm and dry. The updating of the law will, in the end, be used only against those landlords who do not play fair and who have been

compelled to carry out repairs to their properties. We are all aware of the health problems associated with living in a property that is damp, has condensation, suffers from poor ventilation and has mould or other problems. This is a sensible and much-needed device to give tenants the power to ensure that the property they rent is properly maintained and fit for human habitation. I very much hope the House will support it. I beg to move.

8.15 pm

Baroness Grender (LD): My Lords, we support this amendment. I remain at a loss as to why the Government do not support this simple measure, for the following three reasons. First, this is not new legislation; it is updating older legislation, so there is no additional bureaucracy. Secondly, it reduces reliance on local government and puts the power into the hands of the consumer—the tenant. Thirdly, it will not cost a good landlord anything; it will give them cover. It will add costs only for bad landlords.

I am delighted that we had a much more detailed debate in Committee here than in the other place. However, the Government were reluctant to give tenants legal rights to take action through the courts. My question is: why? In Committee, it was clear that the Government believe that local authorities should be responsible for human habitation. Of course, it is only right that the council is there to step in where needed to take action and drive up conditions. But we should empower renters who can to challenge their landlords through civil means, so they do not have to rely on the state unnecessarily. Currently, in most cases of poor conditions, the tenant's only practical remedy is through environmental health departments at their local council. A complaint to the council will trigger a health and safety inspection, which can then lead to the council requiring the landlord to make improvements under the Housing Act 2004.

Of course, the government safety net should be there. Much of the Bill is very welcome in strengthening the incentive for councils to operate that safety net. However, this is an opportunity for renters to feel more able to raise the alarm in the first place. We know from Shelter's survey that more than 10% of renters feel either that their issue is not serious enough to take to the council, or that nothing will change as a result. Bringing back to life this legislation as a means of civil redress for private renters, as this amendment would, would free up local authorities to focus on those who really need help.

This is important because local authorities, as we all know, are struggling to manage the demands on their environmental health officer teams as the private rented sector balloons. We argued this in Committee and to back this up, data indicate that only a fraction of complaints result in investigations. There were 51,916 complaints about housing conditions to the responding councils in 2013-14, but only 14,043 inspections of private rented properties, so the rate is very low. The follow-up is about one prosecution per council per year at the moment.

In Committee, the Government argued that tenants have all they need in the publication of the *How to Rent* guide, which is on their website, so I looked it up. The Government's guide provides a general overview of what to expect as a renter—that you should expect your landlord to provide a gas safety certificate, for example. But it is not a detailed consumer guide to renting and for the most part it advises renters to seek help via their local authority rather than empowering them to take action for themselves, which is what this amendment is all about. Of course, those who critically need help should be signposted to a local authority.

Finally, in Committee the Government argued that this would cost landlords more money. For the vast majority of landlords who are compliant with the law and keep their property in good condition, nothing would change once this law was introduced. What it would do is to underpin the right of the tenant as a consumer. The fitness for human habitation reform can easily be linked to the existing health and safety requirements. This is not about creating new burdens for landlords, so my central question remains: why are a Conservative Government not leaping at the opportunity to give greater power to the customer—the tenant? This is that opportunity.

Lord Polak (Con): My Lords, everybody is of course entitled to live in a decent and well-maintained home that is safe and free from harm. Where someone rents a home from a private landlord and it does not meet the standards, and if complaints to their landlord are not dealt with, as I understand it, tenants can report this to their local authority, which can indeed take action. It is important that tenants raise such problems with their local authority, otherwise it will not know.

What I found interesting in doing the research is that the party opposite seemed to have most of this covered in the Housing Act 2004. If a property is dangerous or in a state of disrepair, a local authority can enter and inspect the home or premises and demand that the hazard is removed—and in some cases, ban the property from being used until it is fixed—under the 2004 Act. If rooms are too small, a local authority can enter and inspect the property and assess whether their size is suitable; again, that is in the Housing Act 2004. If a property is overcrowded, a local authority can enter and inspect the property and decide the number of persons allowed to live there. I could go on. In other words, the Housing Act 2004 seems to cover most of this and I do not understand why this amendment will help in any shape or form.

Lord Campbell-Savours (Lab): My Lords, the answer to the noble Lord's point is quite simple. Local authorities are not carrying out their statutory responsibilities and there are people all over this country living in squalor because the authorities simply do not have the resource to follow up their responsibilities and deal with that squalor.

Baroness Gardner of Parkes (Con): I find the point just made by the noble Lord interesting. He is quite right that there are people living in squalor but, unfortunately, we have also taken away the right of regulation. Local authorities can no longer check now to see who is living in a property, how long they have been there and whether they are just flying in and out. The local authorities were willing to agree to 24-hour licences, so that people coming in for quick holiday

use could be accommodated because that is modern travel: people want to do something in 24 hours. But when I spoke on this issue they made it clear to me that, unless you know how many people are living there and for how long, there is no way to have it within the limited amount of time in the year. You cannot even have any idea what that limited amount of time would be. That is one of the problems.

We have seen articles in the press recently saying, "Watch out for all those piles of rubbish outside some property—it shows that it is occupied by many more people than there is the actual facility for. If you see triple-decker beds going in, they are let out at £70 a night to people". All that definitely has to be caught up with but I find some of the other points in this amendment very strange. I do not think that they are all appropriate. If we interfere too much in the private letting sector—oh! Exactly which amendment are we speaking to now? Is it Amendment 32?

Noble Lords: Yes.

Baroness Gardner of Parkes: Is that the amendment which wants to give everyone a minimum of 36 months' tenancy?

Noble Lords: No.

Baroness Gardner of Parkes: Well, I will want to speak to that when the time comes.

Baroness Evans of Bowes Park: My Lords, Amendment 32 aims to raise property standards for tenants: an aim that this Government support. The amendment will do two things. First, I am afraid I disagree with the noble Baroness, Lady Grender, as we believe that it will create new hoops for good landlords to jump through as they seek to prove their property meets the standards, creating unnecessary red tape and expensive bureaucracy, the cost of which will be passed on to tenants through higher rents. Secondly, it risks letting rogue landlords off the hook by expecting tenants—sometimes very vulnerable tenants—to accurately inspect the condition of their property and go to the expense and stress of taking their landlord to court where there are failings. This will not tackle rogue landlords and will not help vulnerable tenants who do not have the knowledge or resources, as to get really bad landlords banned you need a successful prosecution first.

This is not an argument about whether homes should be fit for human habitation, despite how the amendment is titled. It is one about how standards in the private rented sector should be enforced. The Government believe that there is strong enforcement by local authorities and that it is a role that they, on the whole, have fulfilled well to date. Their actions can lead to criminal prosecution, unlimited fines, rent repayment orders and even banning orders. This amendment suggests it should be just a civil matter—a breach of contract to be dealt with by a civil court, where the tenant is asked to prove the case against their landlord. We cannot support this.

As my noble friend Lord Polak outlined, local authorities already make good use of the existing framework that provides them with strong powers to require landlords to make necessary improvements to a property. The housing health and safety rating system assesses the health and safety risk in all residential properties and, under the Housing Act 2004, following a HHSRS inspection, local authorities can issue the landlord with an improvement notice or a hazard awareness notice. Where local authorities find a serious breach—a category 1—they are under a duty and must take action.

Lord Campbell-Savours: The Minister keeps giving us these assurances. Does she have any stats there, provided by the local authorities, on the number of actions they have brought to comply with the law?

Baroness Evans of Bowes Park: I do not think I have the statistics the noble Lord has asked for, but we have seen a significant reduction in the number of non-decent homes since we came into government in 2010—it is down by 64%. However, on the particular question, I do not have the figures to hand, so I may have to write to him following this debate.

We are strengthening the powers that I outlined previously by taking forward proposals through the Bill to enable local authorities to take further enforcement against rogue landlords, including through the database, banning orders, civil penalty notices and rent repayment orders. Noble Lords have argued that local authorities have limited resources to carry out inspections and take forward prosecutions but, through the new civil penalty measures outlined in the Bill, they would be able to retain those penalties, of up to £30,000, to use for housing-related activities.

The real problem is that tenants are often not aware of their rights when renting a home. To counter this, last year we published a short guide, *Renting a Safe Home*, which aims to help tenants recognise potentially harmful hazards in the home, such as damp, mould and excess cold, and to signpost them on what to do if something goes wrong. However, we understand the strength of feeling in the House on this and therefore commit to working with stakeholders to revisit this publication—to make it more user-friendly and to promote it further—to ensure that tenants are aware of their rights.

We believe that this proposed new clause would result in additional costs to landlords, which would deter further investment and push up rents for tenants. Of course we believe that all homes should be of a decent standard, and that all tenants should have a safe place in which to live regardless of tenure, but local authorities—

Lord Campbell-Savours: The Minister refers to this pushing up the costs and landlords passing those costs on to tenants. Is this the answer we are going to get when we consider the amendments dealing with electrical arrangements, which include the word "may"? In other words, when the Government say they "may" create electrical standards, do they have in mind the costs that they believe landlords are going to pass on to tenants? If that is the case, the legislation is going nowhere and we are not going to get it. We will not even get a statutory instrument.

Baroness Evans of Bowes Park: I will obviously respond to the electrical safety issue in due course. We have put down amendments, and I hope I will be able to address those in a few minutes.

As I have said, we are strengthening the measures already in place by taking forward further measures in the Bill that will protect tenants and ensure that landlords provide good-quality, safe accommodation. I hope in the light of these comments that the noble Lord will withdraw his amendment.

Lord Kennedy of Southwark: My Lords, I thank the noble Baroness for her response, although I feel that it is woefully inadequate. I do not see why the Government are resisting the amendment. It is just not good enough to say that tenants in those circumstances should be able to rely on their local authority. Local authorities are struggling to meet their statutory responsibilities in this respect, and we should protect tenants from rogues who abuse them by not providing a home fit for human habitation. The noble Lord, Lord Polak, completely missed the point. I do not know whether he has ever been elected to a local authority; I am happy to welcome him to Lewisham to look at what we do there and see the difficulties that we confront every day in dealing with these issues. In the circumstances, it is right that we test the opinion of the House tonight.

8.31 pm

Division on Amendment 32

Contents 64; Not-Contents 170. [The Tellers for the Not-Contents reported 170 votes; the Clerks recorded 168 names.]

Amendment 32 disagreed.

Division No. 4

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8.42 pm

Amendment 33

Moved by ***Baroness Hayter of Kentish Town***

33: After Clause 54, insert the following new Clause—

"Requirement to carry out electrical safety checks

(1) The landlord of a rental property shall ensure that the following are maintained in a safe condition so as to prevent the risk of injury to any person in lawful occupation of relevant premises—

(a) any electrical installations; and

(b) any electrical appliances supplied by the landlord.

(2) Without prejudice to the generality of subsection (1), a landlord shall—

(a) ensure that the electrical installation and any electrical appliances supplied by the landlord are checked for safety within 12 months of initial leasing and thereafter at intervals of not more than five years since they were last checked for safety, regardless of whether the check was made pursuant to this Act;

(b) in the case of a lease which commences after the coming into force of this Act, ensure that the electrical installation and each electrical appliance to which the duty extends is checked for safety either within a period of 12 months before the lease commences or within 12 months of any electrical installation or electrical appliances being installed; and

(c) ensure that a record of any check for safety in respect of an electrical installation or electrical appliance is made and retained for a period of six years from the date of that check, which record shall include—

(i) the date on which the electrical installation or electrical appliance was checked;

(ii) the address of the premises at which the electrical installation or electrical appliance is installed;

(iii) the name and address of the landlord of the premises at which the electrical installation or electrical appliance is installed (or, where appropriate, the landlord's agent);

(iv) a description of, and the location of, the electrical installation or electrical appliance that was checked;

(v) any defect identified;

(vi) any remedial action taken;

(vii) the name and signature of the individual carrying out the check; and

(viii) the registration number with which that individual's firm is registered with a Part P competent persons scheme approved by the Department for Communities and Local Government and certified as being competent in periodic inspection and testing.

(3) The landlord shall ensure that any work in relation to a relevant electrical installation or electrical appliance carried out pursuant to subsection (1) or (2) is carried out by a firm registered with a Part P competent persons scheme approved for the time being by the Department for Communities and Local Government.

(4) The record referred to in subsection (2)(c), or a copy thereof, shall be made available upon request and upon reasonable notice for the inspection of any person in lawful occupation of relevant premises who may be affected by the use or operation of any electrical installation or electrical appliance to which the record relates.

(5) Notwithstanding subsection (4), the landlord shall ensure that—

(a) a copy of the record made pursuant to the requirements of subsection (2)(c) is given to each existing tenant of premises to which the record relates within 28 days of the date of the check; and

(b) a copy of the last record made in respect of each electrical installation or electrical appliance is given to any new tenant of a premises to which the record relates before that tenant occupies the premises save that, in respect of a tenant whose right to occupy those premises is for a period not exceeding 28 days, a copy of the record may instead be prominently displayed within those premises.

(6) A landlord who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale."

Baroness Hayter of Kentish Town (Lab): My Lords, Amendment 33 is tabled in my name and that of the noble Lord, Lord Tope. It would introduce mandatory five-yearly electricity safety checks in private rented accommodation. Noble Lords may be surprised that, unlike those for gas, such checks are not already mandatory, given the danger of electrocution and of fires caused by faulty electrical installations. Indeed, according to Electrical Safety First, a charity that works to prevent electrical accidents, there are about 70 deaths a year involving electricity compared with 18 from gas. We can all work out that that is more than one a week. Tragically, one such death was that of the daughter of the noble Baroness, Lady Tonge, who is not in her place, but whose calls for greater electricity safety we should heed.

We are delighted that, following the debate on this amendment in Committee, the Government have recognised the need for intervention and have tabled their own amendment, Amendment 82, which allows for regulation to require safety checks. However, that power is only permissive, not mandatory. Hence Amendments 83, 85, 87 and 89, to Amendment 82, make the very smallest of changes—a mere "may" becoming a "must". As a result, the Government would have to bring forward regulations, for which the amendment makes provision, rather than leaving it to chance as to whether Amendment 82 was acted upon. Alternatively, as my noble friend Lord Campbell-Savours already warned us earlier today, we might find that the Government suddenly use the excuse of it costing landlords too much to bring in this permissive regulation. The cost is £2.50 a month—a five-yearly electricity check costs about £150, which comes to £2.50 a month—so we hope the Government are not going to use that excuse for not making this regulation mandatory.

8.45 pm

We are happy to accept that the Government are nearly there, and we welcome the beginning of that movement. They have moved from their earlier response that there is an existing legal duty on landlords to keep tenants' electrical installations safe. That of course allowed electrics in rented properties to go unchecked for many a year, and it guaranteed the prosecution of the landlord only after the event, rather than preventing electrocution or fires in the first place.

So while we welcome the Government's Amendment 82, it fails to meet the calls for mandatory five-yearly checks. Those calls come from the Local Government Association, Electrical Safety First, the Chief Fire Officers Association, Shelter, Crisis, the London fire brigades, British Gas and, perhaps most importantly, tenants. We hope the Minister will accept our Amendments 83, 85, 87 and 89 to her Amendment 82. That would put a bit of backbone and urgency into the permissive regulations.

The other amendments to the Government's Amendment 82 deal with the requirement, advised by experts, to ensure that the checks are by a skilled person competent in such work. Being qualified means nothing if it does not specify what this covers. Our Amendments 86 and 88 would effectively tie the test into the CLG's existing Competent Person Schemes, which ensure high guaranteed standards for this important work of checking for safety. The other amendments, though important, are drafting amendments that I assume the Government would accept. I beg to move.

Lord Campbell-Savours: My Lords, I do not intend to detain the House for very long on this subject, which I dealt with at length in Committee. The Minister's response on the previous amendment will send a shiver down the spine of many organisations outside this House which are relying on the Government to come forward with something more substantial than an amendment that includes the word "may". In the context of the last debate, "may" suggests to us that nothing meaningful is going to happen. I hope the Minister will give us a full explanation of why the Government felt it necessary to include the word "may" as opposed to "shall", "must" or whatever. We need that explanation, because I am sure that those outside who are lobbying on this issue will pore over her words with great care to try to establish what the Government's intention actually is.

My noble friend referred to NICEIC and NAPIT, the two organisations that currently have an installer registration scheme in place. If, in the end, the Government concede and go down this route, it is important that those organisations' schemes are the ones on which the new safety check arrangements are built, because the infrastructure they already have in place is perfectly adequate to deal with the substance of the amendment my noble friends are promoting today.

Lord Tope (LD): My Lords, my name is added to these amendments. I am very grateful to the noble Baroness, Lady Hayter, for her tribute to my noble friend Lady Tonge, who first introduced me to this subject and then told me that she was handing it over to me. I am not sure that she has completed the process, but that is what happened. This is the third Bill that I have attempted to amend in this way. The previous two were under the coalition Government, so I am very pleased that we are now making some progress.

I welcome the movement from the Government and their Amendment 82, but I echo all the points that have been made by the previous two speakers—particularly the noble Baroness, Lady Hayter, who introduced our amendments very well. It is good to see at least a positive step and a willingness to consider the issue, but I simply do not understand why the Government's amendment uses the word "may" and not "must"—why the provisions are not mandatory, as they should be.

Electrical safety has been left behind. Quite rightly, we have had regulations relating to gas and carbon monoxide; why not for electrical safety? I hope that the Minister will be able to indicate that the caution in the amendment does not reflect the Government's position and that they do intend to regulate on this issue and are not merely proposing a gentle amendment which they hope will buy us off at this stage.

I shall not repeat all the things that the noble Baroness, Lady Hayter, said but I want to add one that I do not think has been mentioned tonight. There are any number of examples of why electrical safety is important and of the dangers when proper checks are not made. Perhaps it is my age but I was shocked to read that nearly two-thirds of properties occupied by couples over the age of 60 do not meet electrical safety standards. From that it follows that in 2013-14 half the fatalities from electrical fires were of people aged over 65. Those statistics alone ought to be shocking enough to indicate that it is time for the Government to make this check mandatory.

We have dealt with the question of costs. According to Electrical Safety First, the five-yearly check being called for will cost in the region of £150. I accept the arithmetic of the noble Baroness, Lady Hayter, that £150 every five years works out at £2.50 a month. That is no argument at all against having the check, even if the cost were considerably greater.

Similarly, we feel that the term "qualified" in this context means nothing at all. Electrical Safety First certainly feels that, and in fact it says that it is meaningless. The person carrying out the check needs to be property-competent. Again, we would welcome reassurance from the Minister that the Government will take that on board when they draft the regulations, if indeed today they can give us a firm commitment not that they "may" produce regulations but that they "will" produce regulations.

Lord Mackay of Clashfern (Con): I am just wondering whether it is possible to have complied with subsection (2) of the proposed new clause and still be in breach of subsection (1).

Baroness Evans of Bowes Park: My Lords, Amendments 82 and 92, if approved by the House, will provide an enabling power that will allow the Secretary of State to set requirements for electrical safety in private rented properties, and their enforcement, through secondary legislation. I am conscious that

[Baroness Evans of Bowes Park]
this is an issue that many noble Lords feel strongly about, as we have heard again today, and it raised considerable debate in Committee. Following the words of the noble Baroness, Lady Hayter, I, too, extend my sympathies to the noble Baroness, Lady Tonge.

The Government are taking a measured approach to this issue. Should Amendments 82 and 92 be approved by the House, we will continue our research and work with the sector to explore further the detailed options for regulation. This will allow any regulations to be introduced once the policy has been finalised, ensuring that they are beneficial and strike the right balance. The Government's amendments have been welcomed by the sector, including Shelter, which said in its blog of 5 April:

"Put simply, they tabled a life-saving amendment",

which is,

"a striking signal from the Government that they are serious about tackling rogue landlords and poor conditions".

Amendment 33 would introduce requirements for landlords to organise regular electrical safety tests in their rental properties. As I have already stated, we have tabled an amendment to create an enabling power which would allow the Secretary of State to set requirements for electrical safety through secondary legislation at a later date. It will allow further research to be conducted and ensure that the requirements are balanced and beneficial to the sector as a whole. Should our amendment be approved, it will give us the time fully to understand all the potential impacts and assess all options.

Lord Campbell-Savours: The Minister referred to "a later date". Can we be given some idea as to the timescale? When are we likely to see the secondary legislation?

Baroness Evans of Bowes Park: As I said, we want some time to assess all the options, but I will try to come back to the noble Lord with a clearer timescale—I do not have one immediately to hand.

Lord Campbell-Savours: Can we be assured that there will be regulations dealing with this matter? Can we have that assurance at least?

Baroness Evans of Bowes Park: Yes, that is the Government's intention.

In addition, putting the regulatory provisions on the face of the Bill would prevent them being changed, should they be found not to work effectively in practice, and further primary legislation would then be required. The Government believe that regulations such as those proposed are better made by secondary legislation so that they can be amended more easily should that be necessary. It is important to ensure that any regulation of electrical safety can be kept up to date.

Amendment 84 would define electrical safety standards for the purposes of this legislation as standards regarding both the installations for the supply of electricity, and electrical fixtures, fittings or appliances provided by the landlord. Any requirements introduced for electrical safety standards in private sector properties will be based on the findings of our committed further research.

Amendments 86 and 88 would mean that any regulations would require someone who is "competent" to carry out any necessary checks or produce any required certification, instead of someone who is "qualified". Electrical safety is a very technical and potentially dangerous area, so it is important that the person who conducts any checks or produces any documentation has the necessary skills and experience to do so. This will be defined through any regulations and we believe that the term "qualified" allows for this.

Amendments 90 and 91 would allow requirements to be set for landlords to produce a certificate or a condition report, or both, instead of just a certificate. The amendments are unnecessary. A certificate will be defined through any regulations and will ensure that any documents provided are sufficient to tell the tenants that the property is safe and meets the required standards.

Amendments 83, 85, 87 and 89 would require the Secretary of State to introduce regulations for electrical safety in the private rented sector regardless of any of our findings from further work and discussions with stakeholders. The noble Lord, Lord Campbell-Savours, and others have talked about the difference between "must" and "may". "Must" precludes any discussion with stakeholders; "may" allows us to design the way forward as part of our research. It would not be appropriate to pre-empt the results of our planned further research. Any introductions must be balanced and will be determined following extensive investigations of the effects of such requirements and further engagement with the sector.

I hope that the steps I have set out show the importance of these amendments and the Government's commitment to protecting tenants. As I have said, we intend to bring regulations forward. With these assurances in mind, I ask that the government amendments be approved and that noble Lords do not press their Amendments 33 and 83 to 91.

Baroness Hayter of Kentish Town: My Lords, I thank both my noble friend Lord Campbell-Savours and the noble Lord, Lord Tope, for their interventions. I shall repeat what the Minister said to make sure that I, *Hansard* and everyone else have it absolutely right. I think she said that the Government intend to bring forward regulations. I see nods on the Government Benches. I think she answered yes to the straight question—I do like straight answers to straight questions—about our change from "may" to "must". I disagree that "must" precludes discussions with stakeholders; nevertheless, the assurance about intent and the word "yes" are great reassurances.

9 pm

I am delighted that—if I have understood correctly—the use of the word "qualified" in the government amendment would in the regulations mean "competent" and reflect the existing skilled person's competence in the particular task. That covers the issue we were worried about. Finally, the regulations would allow for a certificate to be produced.

The noble Lord, Lord Tope, is giving me the wink that we have got the assurances we were seeking. This is a collective these days, and we work in that way.

We look forward to hearing something about a date, which could be intimated either in writing or at Third Reading. We welcome the straight intention. With those assurances and our thanks to the Minister, I beg to withdraw the amendment.

Amendment 33 withdrawn.

Amendment 34 not moved.

The Deputy Speaker (Baroness Garden of Frognal): My Lords, I must announce a correction to the result of the fourth Division. The number voting content was 65 and not 64, as previously announced.

Amendment 35

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

35: After Clause 54, insert the following new Clause—

"Review of deposit protection

Upon the coming into force of this section, the Secretary of State must undertake a review of tenancy deposit schemes, as introduced under sections 212 to 215 of the Housing Act 2004 (tenancy deposit schemes), in order to ensure that tenants are treated fairly at the end of their tenancy."

Lord Kennedy of Southwark: My Lords, Amendment 35 seeks to put in the Bill a requirement for the Secretary of State to undertake a review of tenancy deposit schemes. The purpose of the review is to ensure that tenants are treated fairly at the end of their tenancy.

The Housing Act 2004 required every landlord or letting agent who takes a deposit for an assured shorthold tenancy to join a tenancy deposit scheme. The scheme was subsequently amended by the Localism Act 2011. The tenant pays over a deposit, which is usually one month's rent, when the tenancy agreement is signed, and within 30 days from receipt of the deposit the tenant has to be provided with the details of the scheme that is being used. If at the end of the tenancy there is no dispute, the deposit is returned; otherwise, the two parties can go into a dispute resolution process and are bound by the decision with no redress to the courts. Alternative processes can be taken through the courts but there is an underlying problem, in that the tenant is often at a disadvantage where they have paid a deposit and need to access that money to put down as a deposit on the next property they are seeking to rent.

This amendment would allow for a review to take place to see what can be done to level the playing field somewhat between landlords or letting agents and tenants. One of the things the review could look at is the viability of zero or no-deposit schemes run by insurance companies or some other mechanism. This is an area where tenants can be put at a disadvantage and it needs looking at. I beg to move.

Baroness Gardner of Parkes (Con): My Lords, this is an important subject of which I have had direct personal experience. I have found that the tenancy deposit schemes are extremely thorough, rapid in dealing with matters, and fair—or perhaps even anti the landlord in my case. My situation involved a solicitor who sent in 17 pages of issues he had raised, although he had been there for five years. He was Australian and cantankerous. It was a bit of a trial of strength, but it did convince me that the present system is working very well indeed.

The other reason this issue is important is that some cunning tenants do not pay their last month's rent. They pay all the rent until they get to the end of the tenancy and then do not make the final payment. Therefore, the deposit might be the only thing you have to pay that rent. I have often seen that happen, so the amendment really is not a good idea.

Viscount Younger of Leckie (Con): My Lords, if agreed, Amendment 35 would require a review of the tenancy deposit scheme under Sections 212 to 215 of the Housing Act 2004. The tenancy deposit schemes in England are currently protecting more than 3 million deposits on behalf of tenants, helping to raise standards in the private rented sector and ensuring that tenants are treated fairly at the end of the tenancy. Carrying out a review of the schemes would be a resource-intensive and costly exercise which would duplicate the department's ongoing and regular governance role in monitoring and reviewing the schemes. This is not the most effective way to spend taxpayers' money. We are satisfied that all three tenancy deposit protection schemes are providing high standards of service to tenants and landlords—and I appreciate hearing about the experience of my noble friend Lady Gardner in this respect.

Let me give some further detail. If tenants have complied with all their obligations, they will receive their deposit back within 10 days of the scheme administrator being notified of the end of the tenancy. If the landlord and tenant disagree on the amount to be returned, they can either use the alternative dispute resolution service offered by the schemes or go to court. Of the 11.5 million deposits which have been protected since the launch of the scheme, less than 2% have gone to adjudication. On average, 27% are awarded to tenants, 17% to landlords or agents—and, interestingly, 56% are split between the two sides.

Alternative dispute resolution cases are handled by independent, impartial and qualified adjudicators and decisions are made on the basis of the evidence provided by both parties. The tenancy deposit schemes are required to deal with disputed cases within 28 days and they have regularly met this performance target. I am also satisfied that the tenancy deposit protection schemes awarded contracts for new custodial schemes which commenced on 1 April have the necessary dispute resolution processes in place to ensure that tenants will continue to be treated fairly. This was a key evaluation criteria in our re-procurement exercise carried out last year.

I hope that in setting out some detail, this explanation will assure the noble Lord, Lord Kennedy, and other noble Lords that tenants' deposits are and will continue to be returned to them fairly and quickly at the end of the tenancy. However, I would be happy, along with my noble friend the Minister, to speak with noble Lords outside the Chamber about any specific issues they may have about the fairness of the scheme.

Lord Kennedy of Southwark: My Lords, I thank all noble Lords who have spoken in this debate. The noble Baroness, Lady Gardner of Parkes, made a very

[Lord Kennedy of Southwark]
good point. If tenants are acting in that way, it should be looked at, as it is totally not something that we would support. We want both landlords and tenants to be treated fairly.

The point I was making was that some tenants are not treated very fairly. They often need the deposit to put down on their next property and are under considerable pressure because of a lack of resources. So I do think that a review is necessary and I wish to test the opinion of the House on this.

9.08 pm

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9.19 pm

Amendments 36 and 37 not moved.

Amendment 38

Moved by ***Lord Beecham***

38: After Clause 54, insert the following new Clause—

"Standards for guardianship schemes

Terms as to fitness for human habitation and repairing obligations set out in sections 8 to 17 of the Landlord and Tenant Act 1985 for tenants of private landlords must also apply to guardianship scheme contracts."

Lord Beecham: My Lords, this amendment deals with property guardianship schemes, a term with which I was entirely unfamiliar until I read about them in, appropriately enough, the *Guardian* last December. The situation originally arose when the owners of properties—often commercial properties—who were unable to sell or improve them for the time being wanted them protected. The owners allowed people to go in unlicensed to live there on moderate terms until such time as they could proceed with redevelopment, demolition or whatever.

As a concept it was workable and satisfactory to many people. But latterly it has changed. It has now become a commercial enterprise in which, I have to say, a number of ruthless owners are exploiting people who are not tenants—they have no rights; they are merely licensees—charging quite considerable sums of money for them to live in places that are, very often, unsatisfactory from the point of view of the conditions in which they have to live, with absolutely no security of tenure of any kind.

This prompted me to put down an amendment in Committee, where I quoted the experience of some people who had been through this system. One guardian described rooms that were "like chicken coops" in a place in Kennington offered by a guardian company—that is the euphemistic phrase—for £500 a month. It was a single space with rows of plyboard walls and no natural light or ventilation. In another place, carpets had been worn and stained by thousands of shoes that had crossed the floor of what was a council's now defunct one-stop shop. Office furniture was piled high next to windows caked with soot, letting in the gloom from Commercial Road. The toilet light did not work. To wash, the guardian had to descend two flights of stairs to a dirty, windowless room, where the guardian company had installed a temporary shower. Other people in the property also used it. The Government should—this amendment seeks to compel them to—apply the same terms as to fitness for human habitation and repairing obligations that apply to proper tenancies under the Landlord and Tenant Act to these guardianship scheme contracts.

The Minister who is to reply to this debate is a different Minister from before. The buck has been passed and I sympathise with the Minister who is replying to this debate. The noble Baroness, Lady Williams, and I had an exchange of views—our usual civilised correspondence—in which she acknowledged that,

"property guardianship schemes have a range of drawbacks. The properties that are used are frequently derelict commercial or industrial buildings that were never intended to be used as accommodation and may be in an unsafe condition with inadequate physical security. Occupiers pay a fee to occupy part of the building, are responsible for securing it and preventing damage. However, they are not tenants and do not therefore have the right to exclusive possession of any part of the building. In addition, they can be required to leave at very short notice. The Government does not encourage such schemes but I do recognise that recent media reports suggest they are becoming more widespread. It is very important that anyone considering living in such a building clearly understands the limitations of these schemes and that they will have very limited rights. My department will therefore publish a short factsheet on its website which highlights the fact that the Government does not endorse these schemes, explains that buildings may frequently be unsuitable to be used as accommodation and that an occupier of such buildings has very limited rights".

With all due respect to the Minister and perhaps those in the department who produced this response, it is very unsatisfactory given the kinds of conditions that I briefly described by quoting just a couple of examples.

That follows a rather difficult exchange with the noble Baroness, Lady Williams, in Committee where she made much the same points about being sympathetic and concerned. She said then:

"The Government do not support the schemes, as the guardians can be asked to live in conditions which do not meet the standards expected in residential properties".

However, the reason given for not doing anything was that she did not believe—or, in all fairness, the Government did not believe—

"that it would be appropriate to require that Sections 8 to 17 of the Landlord and Tenant Act should apply to guardianship agreements".

I found that entirely puzzling. If the Government are sympathetic to the plight of the people in these places, applying Sections 8 to 17 would not convert them to the status of tenants but would simply apply to those people conditions which apply to the tenants of residential properties. When I challenged her on this, the Minister said,

"if the noble Lord is talking about the property guardianship schemes, it is because they are arrangements between a building owner and one or more individuals, and the arrangement is temporary. They are not intended to provide stable alternative accommodation".

However, that does not exempt the Government from protecting people in that position. I find it inexplicable that the Minister was falling back on her brief, which she is entitled to do, but that the brief in turn simply asserted that as there is no tenancy agreement, the Government did,

"not think that the Landlord and Tenant Act actually applies".—[*Official Report*, 9/2/16; col. 2223.]

Well, it does not and would not without the Government legislating for that purpose. That is the point of the amendment. As the Government are so clearly aware of this growing problem—there are now reckoned to be more than 4,000 people living in these dreadful conditions—I cannot think why they cannot simply accept that these people should benefit from the limited but essential requirements of the relevant parts of the Landlord and Tenant Act which would be applied specifically by legislation for this purpose. I cannot think why the Government have so far declined to do that.

Unless there is an assurance from the Minister that she will take this issue back and return to it at Third Reading, I will seek to test the opinion of the House. I hope that we can make progress on this issue. It is not a party or divisive point. It is a simple enough matter which the Government should respond to more constructively and helpfully than they have done hitherto. I do not blame Ministers for that. I suspect that someone in the department has not grasped the reality of the situation. I beg to move.

Lord Mackay of Clashfern: This is an extremely worrying situation, as the noble Lord, Lord Beecham, explained it. I am not at all clear about the fact that this provision appears to apply the tenancy provisions

that are applicable to all guardianship contracts. The noble Lord has already explained clearly that these are not all residential properties; some are commercial. I wonder whether the guardianship arrangements are suitable for people who live in the accommodation, which cannot be of a very high standard to come under the guardianship scheme. Therefore, I wonder whether it is possible to build something satisfactory on a foundation so unsatisfactory as a guardianship scheme for residential property.

Baroness Evans of Bowes Park: My Lords, I reiterate the point made by my noble friend the Minister during our previous debates. We as a Government do not endorse these schemes and do not have any plans to introduce new regulation in this area as we believe that doing so could be regarded as tacitly endorsing the use of property guardianship schemes as a legitimate housing option. As the noble Lord said, while there has been some suggestion in the press that these schemes are becoming more widespread, we do not have any evidence that this is in fact a growing sector, nor has there been any pressure from campaign groups and others to take action in this area. People are free to make their own housing choices and the Government do not have any plans to stop the use of property guardianship schemes. Occupiers pay a fee to occupy part of a building and are responsible for securing it and preventing damage. However, they are not tenants and do not, therefore, have the right to exclusive possession of any part of the building. In addition, they can be required to leave at very short notice. However, it is very important that anyone considering living in such a building clearly understands the limitations of these schemes and that they will have very limited rights.

As the noble Lord said, my noble friend has proposed that the department will publish a factsheet on its website which highlights the fact that the Government do not endorse these schemes and draws attention to their clear drawbacks, including the fact that the buildings may frequently be unsuitable to be used as accommodation and that an occupier of such buildings has very limited rights. With that explanation, I ask the noble Lord to withdraw his amendment.

Lord Beecham: I am sorry to say that I find that a completely unsatisfactory answer. Once again, I do not blame the Minister. That is clearly the department's line and it is utterly unacceptable. The noble and learned Lord says that all these arrangements should be barred, in effect. They were working reasonably well because there can be a fair degree of common interest when a responsible owner with a building on his or its hands treats people reasonably, on the understanding that it is short term, with no security of tenure, but there is at least a basic, decent standard of accommodation.

We now have people exploiting that situation partly on the basis, by the way, that the freeholders of the property no longer pay business rates because the property is not being used for business. That constitutes quite a significant financial loss to the local authority. That unfortunate consequence is a separate issue and one might not be too concerned about it.

We are left in the position that the Government are adamantly refusing to do anything other than warn people about the situation. That is, frankly, not good enough. I am sorry that the Government are taking that line. I wish to test the opinion of the House.

9.31 pm

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Consideration on Report adjourned.

House adjourned at 9.42 pm.

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