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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.

House of Lords

Wednesday 4 May 2016

3 pm

Prayers—read by the Lord Bishop of Peterborough.

Royal Assent

3.06 pm

The following Acts were given Royal Assent:

Enterprise Act,

Northern Ireland (Stormont Agreement and Implementation Plan) Act,

Bank of England and Financial Services Act,

Trade Union Act,

Transport for London Act.

Poverty Programmes: Audit

Question

3.07 pm

Asked by ***Lord Bird***

To ask Her Majesty's Government whether they will conduct audits of the poverty programmes they support, and publish the results; and if not, why not.

The Minister of State, Department for Work and Pensions (Lord Freud) (Con): We have a range of programmes across government to transform lives, from the troubled families programme and the pupil premium to our flagship reform, universal credit, and we audit the majority of these. Work is the best route out of poverty and this Government are committed to transforming lives by providing people with the support they need at all stages to get into work.

Lord Bird (CB): Is it not a verity of poverty that one of the big problems with poverty itself is that a lot of the support goes to enabling people to live in poverty and very little is spent on dismantling poverty? So I ask the Minister whether it is possible to create a new way of measuring poverty statistics that asks the question: does this get people out of poverty? There is too much emphasis on keeping people in poverty.

Lord Freud: My Lords, that question goes along exactly the lines that we are going along in trying to transform the welfare system. We aim to create programmes that promote independence among people and the centrepiece of that is universal credit. Within universal credit we have developed what we call a test and learn approach, which monitors the behavioural responses very closely.

Baroness Lister of Burtersett (Lab): My Lords, the Minister referred to work as the best route out of poverty. Can he explain how salami-slicing financial support for low-income workers, including in the flagship universal credit scheme, is contributing to reducing poverty through paid work, noting that the welcome increase in the minimum wage will not and cannot compensate for such cuts?

Lord Freud: The design of universal credit, which the noble Baroness is looking at, is very different from existing legacy benefits. It incorporates real incentives to work more and we are already seeing people who are on universal credit looking to work more, looking to do more hours and looking to earn more in a way that they were not on legacy benefits. At the same time as we have those reductions to which she referred, we are moving the basic national living wage up and increasing childcare very substantially in order to go to a low-welfare, low-tax environment.

Baroness Manzoor (LD): My Lords, the Minister will appreciate the poverty issues that are likely to affect BHS employees if the enormous shortfall in the pension fund is not met. What assurance will the Government give on ensuring that this gap is closed for around 11,000 BHS employees and around 20,000 pensioners?

Lord Freud: We have a strong safety net for pensioners in failed companies, as the noble Baroness will be aware. It is important that we have a strong pension regulator behind that. I also observe that this story has shown the importance of having effective pension trustees when there is a change of ownership.

Baroness Watkins of Tavistock (CB): My Lords, what effect does the Minister think the extra health visitors who have been trained under the Prime Minister's initiative, and the proportion who will actually be employed, will have on poverty in the future?

Lord Freud: The key thing in tackling poverty is life chances—in the end, transforming people's lives—not income transfers. To the extent that the extra support helps children in their early years and in their education, it will be of great value.

Baroness Stedman-Scott (Con): My Lords, now that universal credit is in every jobcentre in the country, how is it helping the poverty agenda?

Lord Freud: I am really pleased to confirm that universal credit is now a national programme right across the country. We have real evidence that it achieves its aims: 13% are more likely to be in work at the nine-month point than if they were on JSA. It is already a good benefit by international comparisons. Many more of those in work are looking to do more hours, and many more are looking to increase their earnings than would be the case if they were on JSA.

Baroness Sherlock (Lab): My Lords, I wonder whether the Minister has read the report just out by the Resolution Foundation, which is chaired by the noble Lord, Lord Willetts. Universal credit was meant to tackle working poverty by making work pay. However, the report found that more than 1 million working families will

[Baroness Sherlock]
lose all in-work support, and that that will not be made up by tax cuts, living wage rates or childcare. The report said that the cuts,

"risk leaving UC as little more than a vehicle for rationalising benefit administration and cutting costs to the exchequer. Any ambition for supporting and rewarding work and progression looks very hard to achieve".

It is now rolled out around the country. It has cost billions, and wasted billions. Was it worth it?

Lord Freud: I am absolutely confident that the core architecture of universal credit is doing what it is designed to do, which is to encourage people to move towards greater independence. I simply do not agree with many of the conclusions of the Resolution Foundation.

Lord Roberts of Llandudno (LD): My Lords, does the refusal to let asylum seekers work until they have been here for 12 months—and for them to be in poverty during those 12 months—enhance the Ministers?

Lord Freud: My Lords, there is a different process for asylum seekers. However, once they have the right to remain, they are entitled to our welfare support.

Lord Watts (Lab): My Lords, will the Minister guarantee that the anti-poverty measures which the Government have put in place will be measured independently, that those independent reports will be published, and that if the Government's measures are found to be failing, they will change policy?

Lord Freud: The noble Lord will be aware that we publish an enormous number of reports, many of which are independent. Indeed, many of them have been developed at the request of this House.

Lord Lawson of Blaby (Con): My Lords, does my noble friend not agree that the fact that we have the lowest level of unemployment of any country in Europe is testament to the success of the Government's policies?

Lord Freud: I think that we have a very flexible labour market. We are developing programmes and a culture that encourages work in a way that we did not have in the early years of this century.

Railways: Open Access Applications

Question

3.15 pm

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government whether they plan to amend the Railways Act 1993 in order to oblige the Office of Rail and Road, when deciding an open access application, to take into account the interests of passengers, of the public purse and of subsequent franchise competitions.

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, the Office of Rail and Road has to take account of passenger interests and the public purse, including the impact on subsequent franchise competitions.

Lord Bradshaw (LD): I thank the Minister for that reply, but he will be aware that two franchises have failed on the east coast main line, at great expense, and a third is now in operation by Virgin Trains, which won the competitive tender. However, the duties of the ORR, stated in statute, are to promote competition. There are no parentheses in the law stating that it has to take account of the effect on the public purse, the benefits that arise to passengers, and the vitiating of the franchising process itself. I wonder whether the Minister will comment at more length on those things.

Lord Ahmad of Wimbledon: I agree with the noble Lord; he is quite right to raise the issues that have arisen. Equally, on the issue of open access, I share his concerns and that is why my right honourable friend the Secretary of State has written directly to the ORR to underline that any changes and reforms put the customer at their heart and, indeed, that we ensure equity of access and, most importantly, taxpayer return on the investment made.

Lord Berkeley (Lab): Will the noble Lord explain the Government's policy on competition in the passenger sector? The operators of the open access services pay a much-reduced track access charge compared with the franchises. How can that be fair on either the travelling public or the operators?

Lord Ahmad of Wimbledon: I agree with the noble Lord, because open access has raised this very valid issue of the inequity of application of track fees and the associated costs. Notwithstanding the reports that have been done by, for example, the CMA, which highlighted the importance of competition, the Government's position remains that we of course support competition but need to ensure equality of access, both for those operating the franchise and for those who come in through open access.

Lord Rosser (Lab): This Question refers to taking into account the interests of passengers and the Office of Rail and Road. At the end of last year, the consumer group Which? lodged a "super complaint" to the Office of Rail and Road, calling for major improvements to make it easier for passengers to claim refunds for delays and cancellations. The Office of Rail and Road called for an improvement in passenger compensation arrangements by this October, under the provisions of the Consumer Rights Act 2015. However, this has now been delayed by the Government via a statutory instrument until October 2017. Can the Minister explain how delaying improved passenger compensation arrangements is an example of taking into account the interests of passengers?

Lord Ahmad of Wimbledon: On the whole issue of franchises, as I have already indicated, my right honourable friend the Secretary of State has written to the ORR on ensuring that customer benefits are put at the heart of this. Another issue that we are looking at is how fares are allocated to different operators across the network through ORCATS. The issue about ensuring equity of fares and sensible fares across the network is well made. I have not seen the specific Which? report; I will certainly read it through and, if there is any issue that I need to pick up on, I will write to the noble Lord.

Lord Spicer (Con): My Lords, why do we not hear more about the success of privatisation of the railways? We were talking 10 years ago about the closure of lines and now we do not know how fast to expand them—certainly on the Cotswold line.

Lord Ahmad of Wimbledon: I think we do talk—certainly, the Government are talking—about the success of the railways in terms of where we are now and their future operation. That is why the Government have committed to £38 billion of investment in the rail network, which is the greatest investment since the Victorian age.

Baroness Randerson (LD): My Lords, under the terms of the east coast franchise, Virgin has agreed to reinstate services to Lincoln. Does the Minister agree that Virgin will be unable to do that if the proposed new open access services are granted and agreed, because they will fill all the spare capacity—all the spare slots available—that Virgin intends to use for the Lincoln services?

Lord Ahmad of Wimbledon: The noble Baroness is quite right to raise open access. That is why my right honourable friend the Secretary of State has written to the ORR to say that we wish to see the recommended changes to the current open access charging structure before the granting of any new open access agreements.

Lord Cormack (Con): Further to that point, will my noble friend assure us that these much-needed extra services to Lincoln are not going to be cancelled or withdrawn?

Lord Ahmad of Wimbledon: When I saw "Lincoln" in my briefing, I assumed that my noble friend would raise this issue. I assure him that under current plans for Lincoln there will be an additional six trains from and five trains to London from May 2019, and upgraded train interiors are being introduced between 2015 and 2017. I reiterate that any open access agreements will be reflective of the changes that my right honourable friend the Secretary of State deems necessary in the charging arrangements.

Lord Harris of Haringey (Lab): The Minister agreed with the noble Lord, Lord Spicer, about the benefits of privatisation. In that case, can he answer the question from my noble friend Lord Rosser about why the Government are conniving with the train operating companies to delay a proper arrangement for the compensation of passengers as a result of delays?

Lord Ahmad of Wimbledon: I could not disagree more. On the contrary, we are not conniving. Through privatisation, we have ensured greater accountability of the train operators and will continue down that route. The noble Lord, Lord Rosser, referred to a particular report by Which? and I have already said that I will write to him in that respect.

Apprenticeships

Question

3.22 pm

Asked by ***Lord Lennie***

To ask Her Majesty's Government what measures they are taking to improve access to apprenticeships that offer career progression and high-skill employment, particularly for those under 26 years old.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con): We have a major focus on improving apprenticeship quality through our employer-led reforms and the new Institute for Apprenticeships. We are supporting young apprentices in smaller businesses through the apprenticeship grant for employers. We have removed the requirement for employers to pay national insurance contributions for apprentices aged under 25. From April next year, when employers take on an apprentice aged 16 to 18, they will receive an additional payment.

Lord Lennie (Lab): I thank the Minister for that slightly unenthusiastic Answer. However, the Government's own social mobility commission rightly expressed its alarm that 90% of current apprenticeships go to those aged 25 and over, and as a direct consequence young people are becoming ghettoised in low-skill and low- or minimum-wage areas of the economy. Does the Minister accept that this evident imbalance, which embeds a lack of opportunity, mobility and aspiration among young people, is bad for the economy and the nation as a whole? Can she tell the House what specific measures the Government are going to take to address this mounting problem?

Baroness Neville-Rolfe: I have never been accused of not being enthusiastic so I celebrate that day. The changes we are making to apprenticeships will make a huge difference, including to younger people, for exactly the reasons I gave in my first reply.

Baroness Berridge (Con): My Lords, on the Social Mobility Select Committee we heard excellent evidence, particularly from engineering companies, of 18 year-olds who join and go all the way up to the board of directors. We also heard that some City firms are addressing their recruitment needs by moving from

[Baroness Berridge]
recruiting only graduates to recruiting a proportion at 18. Can my noble friend the Minister please outline how the 750 or so Whitehall Civil Service apprenticeships, including the Civil Service Fast Track, are put into the system so that young people who join at 18 have the structures and the encouragement that they can go all the way to being a Permanent Secretary in the Civil Service?

Baroness Neville-Rolfe: My noble friend is absolutely right to emphasise what is happening in companies right across the board, and the way that accountancy firms and retailers are moving to attracting people at 18. In the Civil Service, we have set a target so that by 2020 2.3% of new staff will have to be apprentices. I have an apprentice in my own team and I am absolutely clear that this will provide that second path to opportunity, which we see in other countries such as Germany and Switzerland but so far we have not had here.

Baroness Meacher (CB): My Lords, I applaud the Government for seeking to provide more apprenticeships for young people. Those are certainly badly needed but is the Minister aware of the number of apprentices who leave their jobs as soon as their apprenticeship comes to an end, only to be replaced by another set of apprentices? In other words, employers are simply using apprentices as a source of cheap labour, with little or no benefit to the apprentices themselves? Do the Government have any plans to resolve that problem?

Baroness Neville-Rolfe: The latest *Apprenticeships Evaluation* survey found that nine in 10 of recent completers of apprenticeships were either in part-time or full-time employment after finishing their apprenticeships, so we are seeing people getting into the labour force. The reason that I love apprenticeships is that they give a portfolio or skillset which you can take elsewhere. That allows people the opportunity to move around. The whole point about the changes in apprenticeships is to make the employers lead. If they decide what is needed, it ensures that people stay in the workforce—and often with the employers that they first started with.

Lord Flight (Con): May I draw the Minister's attention to the contribution made by the Baker-Dearing university technical colleges? They are teaching both vocational skills and standard O-levels and A-levels. This enables the people attending and coming out of them to do much higher-quality apprenticeships, in the spirit of the noble Lord's Question.

Baroness Neville-Rolfe: My noble friend is completely right. These colleges are extremely useful. Of course we need to upskill and uptool for the changing economy that we have.

Lord Harrison (Lab): The original Question sought to understand why the young were discriminated against so that 90% of apprentices were 26 or over. Can the Minister please answer why it was that that first tranche was so disenfranchised?

Baroness Neville-Rolfe: I am not sure that I agree with the noble Lord but, looking forward, we are clear that younger apprenticeships matter a lot. That is why the system tries to encourage them. We also want to give the younger people the jobs, without stopping older employees being able to apply for apprenticeships as well, but I agree that the cliff edge between the younger apprenticeships and the older apprentice is an important issue.

Baroness Burt of Solihull (LD): My Lords, the apprenticeship levy that is coming in next year is in danger of having some unintended consequences. Imposing a cap on what can be claimed per higher apprenticeship may drive employers towards more low-level apprenticeships, so that they can claim more of their own money back. Making the levy exclusively for apprenticeships may deter them from offering a wider range of training opportunities for their staff. Do the Government recognise those dangers, and what are they going to do to address them?

Baroness Neville-Rolfe: We will be publishing further proposals on funding and the logistics of this scheme in June. I note the noble Baroness's points but we should focus on apprenticeships. I am a great one for focusing on an area and getting it done right, rather than trying to extend it right across the board of training, as she suggests. But of course we can learn from our experience.

Lord Aberdare (CB): My Lords—

Baroness Nye (Lab): My Lords—

Lord Tebbit (Con): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, I think that it is the turn of the Cross Benches and then we need to move on.

Lord Aberdare: My Lords, Carolyn Fairbairn, the director-general of the employers' organisation, the CBI, said last week that a radical rethink of the plans for the apprenticeship levy is needed if the Government are to meet their target of 3 million new apprenticeships, and that they need to be trialled before a full rollout. What is the Minister's response to these concerns?

Baroness Neville-Rolfe: We have of course been trialling them through our trailblazer scheme, but the suggestion from the CBI that we should delay the levy and the new apprenticeships is a mistake. The year 2017 is a long way away. For decades, no Government, including ours, have sufficiently addressed the fact that business invests too little in skills development. Frankly, it is time we made the change.

Jan Böhmermann

Question

3.30 pm

Asked by ***Lord Robathan***

To ask Her Majesty's Government what representations they have made to the Government of Germany about the case of Jan Böhmermann.

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, the UK Government are aware of the case of Jan Böhmermann; however, we have not made any representations to the Government of Germany. We consider this case to be a matter for the German Government. The UK Government remain committed to encouraging and upholding freedom of speech and media expression around the world.

Lord Robathan (Con): My Lords, I know the whole House will agree that freedom of speech and the right to poke fun at our political leaders are part of being British. Indeed, freedom of expression is enshrined in Article 10 of the European Convention on Human Rights, and the court has said that it is,

"one of the essential foundations of a democratic society".

This man, if I might say so, showed rather poor taste and perhaps he should be prosecuted for obscenity but it appears—my noble friend may contradict me on this—that Chancellor Merkel, under pressure from President Erdogan, has agreed that this prosecution can go forward because she is desperate for Turkish assistance on the migrant issue.

We are told we have great influence in the EU, so could Her Majesty's Government use that great influence to ensure that this prosecution does not take place? Will they tell Chancellor Merkel and the Germans to resist any pressure, to resist blackmail and to not kow-tow to President Erdogan, whose record on human rights and free speech is, frankly, lamentable?

Baroness Anelay of St Johns: My Lords, ultimately it is for the Government and people of Germany to set and implement their own laws. The Chancellor has referred the matter, as is proper, to the prosecuting authorities for them to make the decision. Under paragraph 103 of the German Criminal Code, insulting a foreign head of state carries a maximum jail term of three years. It is a matter for the prosecutor now to decide whether a prosecution will go ahead. As for the thought of Chancellor Merkel kow-towing, I have met her—in your dreams.

Lord Collins of Highbury (Lab): My Lords, arcane laws do exist, and I understand the Chancellor is committed to removing that law. In fact, there are similar laws in Greece, the Netherlands, Portugal and Romania. Does the Minister agree with me that encouraging all European countries to remain a member of the European Court of Human Rights is a vital prerequisite for democracy in our communities?

Baroness Anelay of St Johns: My Lords, the noble Lord raises the extremely important point—that there are laws around the world which do inhibit freedom of expression. Yesterday, I made it clear that we want to continue to persuade countries around the world to remove those barriers. Indeed, the Chancellor, Angela Merkel, has made it clear that she wants to remove the very legislation which it appears Jan Böhmermann has now fallen foul of—if that is the decision of the judicial authorities. She said that will happen by 2018, and her coalition partners have agreed with her that this legislation should be removed. That is what we can do around the world: use our influence both as a member of the European Union—which magnifies our voice around the world—and through the United Nations to remove bad law.

Lord Elystan-Morgan (CB): My Lords, the President of Turkey is using a crude sledgehammer to crush a comic. In so doing, and in seeking to exert pressure upon Angela Merkel, he is making it clear that he presents himself more as the head of a medieval caliphate than the leader of a modern country that desperately aspires to be a member of the European Union.

Baroness Anelay of St Johns: My Lords, I did not quite detect a question there, but what I can say is that our Prime Minister, David Cameron, underlined the importance of protecting a free press and human rights to Turkey's Prime Minister Davutoglu when they met on 7 March, and my right honourable friend the Foreign Secretary also set out his concerns when he met his Turkish counterpart on 12 March. That is what we do: persuade others to recognise the importance of freedom of expression.

Baroness Smith of Newnham (LD): My Lords, the lesson here is surely that Germany is free to have its own laws, whether we like them or not: it is not constrained by the European Union, just as the UK is not. Does the Minister agree that this episode demonstrates that, despite the scare stories of the Brexiteers, the European Union does not interfere in the domestic rulemaking of its member states?

Baroness Anelay of St Johns: I agree entirely with the noble Baroness.

Viscount Ridley (Con): Will my noble friend confirm that it is not a crime in this country to insult a foreign head of state, as it seems to be in Germany? Will she also restate in the most forthright terms the principle of untrammelled freedom of speech, along the lines usually attributed to Voltaire but actually coined by Beatrice Hall: that we may not like what you say, but we will defend to the death your right to say it?

Baroness Anelay of St Johns: My noble friend has raised a critical point: that whenever we have freedoms, we also have responsibilities. There is no law to prevent us saying things about foreign heads of state that they may find uncomfortable, but we do have laws to prevent incitement against individuals, groups and religions. That is the right approach.

Lord Tomlinson (Lab): My Lords—

Lord Pearson of Rannoch (UKIP): My Lords—

The Lord Privy Seal (Baroness Stowell of Beeston) (Con): My Lords, I will take up time myself in order to adjudicate, if we are not careful. I think that the House is calling for the noble Lord, Lord Pearson.

Lord Pearson of Rannoch: My Lords, does not this shameful story and its related prospect of 85 million Turks being free to enter the whole Schengen area show us yet again that the project of European integration has failed and should be abandoned? As I have asked the noble Baroness and others several times—and never had a satisfactory answer—what is now the point of the European Union?

Baroness Anelay of St Johns: My Lords, the point of the European Union is to give great strength to democracy, which is what it is doing, on a regional basis. The noble Lord refers to this as a shameful incident; there are many ways of describing it. I just point out, while not interfering with the German process, that when Jan Böhmermann started to read out the poem, he recognised that what would follow would be deliberately offensive and forbidden in Germany. When we do not like the law, let us change the law.

Faversham Oyster Fishery Company Bill [HL]

Haberdashers' Aske's Charity Bill [HL]

New Southgate Cemetery Bill [HL]

Motions to Resolve

3.37 pm

Moved by ***Lord Laming***

Faversham Oyster Fishery Company Bill [HL]

That this House resolves that the promoters of the Faversham Oyster Fishery Company Bill [HL], which was originally introduced in this House on 25 January 2016, should have leave to suspend any further proceedings on the bill in order to proceed with it, if they think fit, in the next session of Parliament according to the provisions of Private Business Standing Order 150A (Suspension of bills).

Haberdashers' Aske's Charity Bill [HL]

This House resolves that the promoters of the Haberdashers' Aske's Charity Bill [HL], which was originally introduced in this House on 25 January 2016, should have leave to suspend any further proceedings on the bill in order to proceed with it, if they think fit, in the next session of Parliament according to the provisions of Private Business Standing Order 150A (Suspension of bills).

New Southgate Cemetery Bill [HL]

That this House resolves that the promoters of the New Southgate Cemetery Bill [HL], which was originally introduced in this House on 25 January 2016, should have leave to suspend any further proceedings on the bill in order to proceed with it, if they think fit, in the next session of Parliament according to the provisions of Private Business Standing Order 150A (Suspension of bills).

Motions agreed.

Housing and Planning Bill

Commons Amendments and Reasons

3.38 pm

A message was brought from the Commons, That they agree to certain of the amendments made by your Lordships to the Housing and Planning Bill without amendment; they agree to certain other amendments with amendments to which they desire the agreement of your Lordships; they disagree to other amendments but have made amendments in lieu thereof to which they desire the agreement of the Lords; and they disagree with the remaining amendments, for which they have assigned reasons.

Motion A

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

That this House do not insist on its Amendment 1 and do agree with the Commons in their Amendments 1A, 1B and 1C in lieu.

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,"

Commons Amendments in lieu

1A: Clause 2, page 1, line 15, at end insert "(for more about regulations under this paragraph, see section (*Power to require payments or discounts on resale (subject to tapering) etc*)"

1B: Clause 2, page 2, line 21, at end insert the following new Clause—

"Power to require payments or discounts on resale (subject to tapering) etc

(1) The restrictions on sale that may be specified by regulations under section 2(1)(e) in relation to a dwelling that has been sold to a qualifying first-time buyer include, in particular, restrictions —

(a) requiring a person who sells the dwelling within a specified period to make a payment to a specified person in respect of the starter homes discount, or

(b) prohibiting a person from selling the dwelling within a specified period unless the dwelling is sold to a qualifying first-time buyer at a discount.

(2) Regulations made by virtue of subsection (1) must—

(a) set out how the amount of the payment or discount is to be determined, and

(b) provide for reductions in the amount of the payment or discount according to the length of time since the dwelling was first sold to a qualifying first-time buyer.

(3) The person specified in regulations under subsection (1)(a) may be the Secretary of State, a local planning authority in England or any other person.

(4) Regulations under section 2(1)(e) may impose restrictions that require a person selling the dwelling to sell it subject to any restrictions to which he or she is subject.

(5) Regulations under section 2(1)(e) may include provision about the legal mechanism by which any requirement is to be imposed.

(6) The Secretary of State may by regulations make provision about the use of sums that are paid to a person in accordance with a requirement imposed by regulations made by virtue of subsection (1)(a) (including provision permitting or requiring the payment of sums into the Consolidated Fund).

(7) In subsection (1)(a) "starter homes discount" means the discount mentioned in section 2(1)(c) or subsection (1)(b) above."

1C: Page 99, line 32, at end insert—

"( ) regulations under section (Power to require payments or discounts on resale (subject to tapering) etc)(6);"

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, I shall speak to Amendments 1A, 1B and 1C, which provide a power to implement a tapered approach to the resale of a starter home, in lieu of Amendment 1, the approach which was accepted in this House. The amendments provide that the Secretary of State can make regulations on the length of the taper period and on the details of how the taper will operate. These amendments were agreed by the other place without a vote, demonstrating a clear mandate. The Government have listened to the concerns of this House and have responded. We want to ensure that starter homes are sold to those who are genuinely committed to living in an area, and not to those who simply want to secure financial uplift by selling on quickly—something that has been much debated in your Lordships' House—but we also want to support mobility, so a balance needs to be struck. I therefore ask that the House do not insist on its Amendment 1.

The Government are committed to introducing a tapered approach so that the longer the individual lives in the property, the more value they gain. Our amendment sets out two possible models for the operation of a taper. First, when a starter home is sold within a restricted period, the owner must pay a proportion of the discount to a specified body. This is the broad approach that was proposed by this House at Report and, with this amendment, could now be implemented. We are keen to continue our dialogue with developers, lenders and local authorities to reach agreement on the best mechanism for achieving our aims, and I am very happy to discuss how the model might work with interested Peers over the next few weeks. The detail will be set out in affirmative regulations for both Houses to consider. I am confident that this is the best way for us to ensure that we deliver a workable taper, supported by those working with it.

Turning now to Amendment 10A, which would reinstate the nationally set starter homes requirement on housing sites but allow councils to have local discretion on rural exception sites, I made a commitment, following discussions during the passage of the Bill on Report, to recognise that rural exception sites may require additional discretion on starter homes. I have listened to concerns that a compulsory requirement could disrupt the supply of rural exception sites coming forward. This amendment has been accepted by the other place with a clear majority of 115 and an even higher majority, of 121, of votes cast by Members for constituencies in England.

I recognise the strength of feeling behind the amendments to have a locally set requirement, which this House accepted. However, they would totally undermine our manifesto commitment to build 200,000 starter homes by 2020. We made this commitment to address the real and urgent problem of declining home ownership among the under-40s. The electorate has every right to expect the Government to deliver, and the other place has been clear in its support to deliver our starter homes commitment and deliver the number we promised quickly. Many honourable Members commented on the popularity of starter homes within their constituencies and their importance for sustainable communities.

It is a ground-breaking move to require that starter homes will be built on all reasonably sized and viable sites, but it is necessary and justified to ensure that these homes are delivered, and delivered soon. We cannot wait for each of the 336 planning authorities to undertake local needs and viability assessments before action on starter homes is taken; given that 30% of councils have not adopted a post-2004 plan, the risks to delivery are simply too high. The amendments would hit hardest the very people whom we are trying to help, and first-time buyers would yet again see their chance of home ownership undermined. We are consulting so that we get the percentage requirement right, including on exemptions from the requirement for certain types of development, and Parliament will be able to scrutinise the resulting affirmative regulations. The amendment in lieu is needed to help a generation into home ownership. I therefore ask that the House considers the manifesto commitment for starter homes and do not insist on its Amendments 9 and 10 but accept Amendment 10A in lieu.

3.45 pm

Turning now to Amendment 109, this House amended the Bill to exempt small sites and rural areas from the Secretary of State's power to make regulations restricting the enforceability of Section 106 planning obligations for affordable housing. The Government have listened to the concerns of noble Lords about how restrictions may affect rural areas in particular. The Minister for Housing and Planning last night set out, on the Floor of the other place, that the Government are happy to work with noble Lords and address through regulations the issues raised about rural areas. I know that Members of this House have made clear to me their desire to see recognition in this Bill that certain rural areas will be exempted from this power. The Government are therefore proposing an amendment in lieu that specifically excludes rural exception sites, national parks and areas of outstanding natural beauty from the Secretary of State's power under Clause 143. We recognise that rural areas have unique housing needs, and this approach would align with our approach to the starter homes requirement I have just set out.

The Government recognise the particular issues that face a wider range of rural areas than those that will be set out in the Bill through this amendment. The regulation-making power allows us to address this by providing for restrictions or conditions to be varied by type or size of site. To address the concerns of this House, we will make clear through regulations those rural areas where restrictions will not apply. The Government believe it is right that we consult on how any restrictions might apply. Therefore I reaffirm that we will work with noble Lords in making clear those areas where restrictions will not apply and in considering how other rural areas can seek exclusion from any restrictions. Regulations imposing restrictions or conditions will be subject to the affirmative procedure. The Delegated Powers and Regulatory Reform Committee agreed with our proposals for the affirmative procedure. Noble Lords will therefore have an opportunity to scrutinise how this matter is addressed.

I hope that the amendments accepted by the other place will mean that this House does not insist on its amendments. We have a clear mandate to deliver 200,000

[Baroness Williams of Trafford]
starter homes and to improve housing delivery. We recognise that rural areas have different housing needs and so we have amended the Bill to recognise this. I beg to move.

Lord Best (CB): My Lords, I shall speak to Motion A. First, I thank the Minister for the series of concessions that relate to rural areas, some of which are subject to further negotiations, always knowing that there is an affirmative resolution required, giving this House a chance to do some more work if we do not reach agreement in the discussions that will follow. I am very grateful for a number of concessions that relate to starter homes and rural areas.

I moved the amendment about repayment of discounts for starter homes, which was agreed by a very large majority on Report and has subsequently been rejected by the other place. My concern was that, to cover the cost of discounts for those purchasing starter homes, funding was to be taken from the housing programmes for those on lower incomes for whom affordable renting was the only option. The Government estimate that starter homes 20% discounts will cost on average around £43,000 each. They want to see 200,000 of these homes sold by the end of this Parliament, so the total cost of the discounts will be some £8.6 billion. Since starter homes represent a manifesto commitment, the Lords amendment did not attempt to undermine the Government's policy but instead to require a proportion of the 20% discount, on a diminishing taper, to be repaid when the lucky buyer sells their starter home. The amendment passed by your Lordships would require a simple repayment of the discount, reduced by one-20th for each year of occupation. So if a first-time buyer stayed there for 20 years, the discount—£43,000 on average—would be retained in full, but if they left after 10 years they would repay half the discount, or £21,500 on average. If they moved after five years, as might be quite typical, they would repay a sum equivalent to three-quarters of the discount—£32,000. My point was that, after giving the first-time buyer a leg up when they sold, a worth-while proportion of the cash would be repaid and available for recycling into genuinely affordable housing.

The Government's original proposal was an all-or-nothing arrangement whereby the buyer had to repay 100% of the discount if they left within five years but could keep 100% of it if they sold after five years. This could represent a significant windfall for the buyer. In London, for example, discounts could be worth as much as £110,000, contributed by the taxpayer in respect of the buyer's means. Ministers have been persuaded that this cliff-edge would not work. It would probably mean that the vast majority of buyers would stay for five years and then sell to maximise their gains, creating big distortions in the market. So the principle was accepted during the Lords stages of the Bill that a taper should be introduced to spread the benefits of the discount more gradually over a number of years.

Under the Government's original scheme, the next buyer would then acquire the home with a tapered discount, which the Government's consultation paper suggested would be over eight years. So the first-time buyer who left after eight years would keep all the discount, but if they sold after four years the next buyer would get half the discount—that is, they would purchase with a 10% discount. If they left after six years, the discount for the next buyer would be 5%, and so on. A bureaucratic process would have to be put in place to value the property at each subsequent sale and ensure that it was at the correct reduced discount, to ensure that the new purchaser was another first-time buyer under the age of 40, and so on. All this seemed very cumbersome and meant that money from the original discount would never be repaid or returned.

I am grateful to the Minister in the other place, Brandon Lewis, for listening patiently to the arguments against these arrangements and accepting the merits of the alternative concepts embodied in our earlier amendment. He has proved willing to place the taper approach in the Bill and to commit to a system for repayment of the discount so that the funds—hard cash—can be recycled for new affordable housing. Whether the tapering runs in equal instalments over eight years or over a longer period—perhaps even over 20 years, as in the earlier amendment agreed by your Lordships—remains for further negotiation, but the principles here seem to be agreed.

With a taper, and with funds going back into the affordable housing pot, either via the local authority or through the Homes and Communities Agency and the Greater London Authority, there should be a recycling of a serious proportion of the £8.6 billion to be spent on starter homes discounts. If first-time buyers tend to move after an average of five years, and if Ministers are agreeable to the taper being for 10 years, then half the money should come back into affordable housing provision under the new deal. That means restoring £4.3 billion to the affordable housing project. So with appreciation to the Ministers concerned, I for one am very willing to accept the amendments in lieu of the Lords amendment. I look forward to working with Ministers on the details in the negotiations, and I believe that we have much improved the process.

Lord Kerslake (CB): My Lords, I shall speak to Motion B1. In doing so, I declare my interests as chair of Peabody and president of the Local Government Association.

I welcome the Government's movement on the taper, which I believe to be an entirely sensible way to reframe the starter homes product. However, there remains an outstanding issue that needs to be addressed, and I hope the Government will listen again and make changes. The amendment before us does not seek to insist on Amendments 9 and 10, which have previously been considered, but instead adds an additional clause to the Government's own Amendment 10A. This gives the local authority the opportunity, if it can demonstrate a need, to meet part or all of the so-called starter homes requirement through alternative forms of affordable home ownership. It will do so within the general duty set out in the Bill to promote starter homes as part of its planning functions. This does not go as far as my previous amendment, which gave complete flexibility to local authorities across both affordable home ownership and affordable rents in making their planning decisions.

In a genuinely localist world, this remains the right approach. However, in keeping with the spirit that this House does not simply seek to reverse the decisions of the other place at this stage of the Bill, I have proposed an alternative, more restricted amendment, and I shall briefly outline my reasons for doing so.

First, the Bill gives the Secretary of State quite unprecedented power: namely, to prevent a local authority granting permission on an individual planning permission unless that planning application contains a specified proportion of a particular type of housing—starter homes. This is a degree of centralist imposition that has never before been contemplated and its consequences are completely unknown. Moreover, we are imposing a product that is entirely new and indeed, as we have just heard, is still being designed. Not one starter home has yet been sold. It has gone from being an interesting and positive prototype to the main type of provision of sub-market housing without going through any of the essential stages of product development in between. Allowing alternative types of affordable home ownership products, such as shared ownership and rent to buy, within the starter homes requirement would provide vital local flexibility while we learn how the starter homes product works.

My second reason is that, as a result of the starter homes requirement, other forms of affordable housing will be squeezed out of Section 106 planning agreements. There will be far less opportunity to include social or affordable rented housing as part of the planning approval. This will, in turn, reduce the supply of such properties at a time when they are desperately needed, especially as affordable housing grant will largely cease from 2018. To be clear, the issue with starter homes has never been about providing a new offer to young first-time buyers; it has been that we should not do so at the expense of those on lower incomes who are in even greater need. We do not know precisely what the impact of the Government's proposals will be. However, the draft regulations, which have just been referred to, propose a figure of 20% starter homes in each application.

On the Government's own assessment, the average cash value of affordable housing in planning agreements is 22%. It does not take a great mathematician to see that, even if the average cost of starter homes is less than that for other types of affordable housing, there will be little or no remaining flexibility left for local authorities. The starter homes requirement will consume almost all the available value. I have no doubt that starter homes will work well in some parts of the country; I am equally clear that in other areas they may not. In London, we know that Shelter has calculated that it will be possible to buy a starter home only with an income of £77,000 and a deposit of £97,000. At best, this applies to no more than 20% of those in London who currently rent. In other higher-value areas, such as the south-east, Shelter has calculated that more than half of those currently renting will be unable to take advantage without parental help. This disparity is why many local authorities are saying to me—and, I suspect, to the Government—that they must have the flexibility to do local deals and develop the low-cost home ownership products that meet their local needs. One size does not fit all, yet this is what the Government are seeking to impose. The amendment would provide local authorities with a greater ability to get the mix right in their area.

My third and final reason is that giving greater local flexibility will work better to deliver what should be our overriding ambition—to build more housing of all types and tenures. It will give a much greater incentive to local authorities to approve planning applications quickly if they can secure the type of affordable housing that they believe will generally meet the needs of their local area. There would be less dependency on straight market sale and more scope to adjust the mix if market conditions should change.

4 pm

The net effect of all of the above is a more localist, market-driven approach that will get more houses built, and maybe even get more starter homes built. The Government will no doubt argue that having a rigid requirement on local authorities is the only way to deliver the 200,000 figure for starter homes. I challenge whether that is the case. Local authorities will have a duty to promote starter homes. The Government have put £2.3 billion into the 2018 to 2021 affordable housing programme to support the delivery of starter homes. This amount alone will deliver at least 60,000 starter homes. We still have no proper rationale for why 20% was chosen as the figure. If indeed starter homes are the right housing solution for local authorities, they will not need persuading to take them up.

From the point of view of the young buyer, what matters is that they get into home ownership at a price they can afford. Whether it is the Government's version of a starter home or a different, more locally appropriate product is of secondary importance to them. This amendment would provide a more flexible, market-responsive approach that goes with the grain of localism. I hope that, when we reach the vote on Motion B1, noble Lords will support it.

Baroness Royall of Blaisdon (Lab): My Lords, I rise to speak to Motion L. I am disappointed that the Government rejected my Amendment 109. Government Amendment 109B is but half of my amendment and will be a great disappointment to those working in the rural housing sector, who best understand the need for affordable housing in rural communities. My amendment was designed to ensure that the majority of new affordable housing in those communities which are in developments of 10 units or less and which were developed thanks to Section 106 agreements would be safeguarded. I regret that the amendment before us today simply does not provide that reassurance, but I am glad that the Minister recognises that the particular issues faced by rural areas other than national parks and areas of outstanding natural beauty still have to be addressed.

Yesterday, the noble Lords, Lord Best and Lord Cameron of Dillington, and I were in discussion with the Minister and her officials. Apart from a drafting inconsistency, which could have been amended, the main reason for not putting the wider reference to rural areas in the Bill was that there was no agreement on the definition of "rural areas" and a consultation is

[Baroness Royall of Blaisdon]
necessary. This means that until the consultation has been concluded, and regulations drafted and agreed, developments of 10 units or fewer in settlements with a population of fewer than 3,000 people could be agreed with no affordable housing. This would be truly detrimental to small communities, and I trust that the Government will do everything possible to ensure that this does not happen.

At Second Reading on 26 January, I said I hoped that,

"we will be able to agree on a definition of a rural community which can be supported by the majority of stakeholders and used for housing and other purposes".—[*Official Report*, 26/1/16; col. 1198.]

If the Government had acted then by launching a consultation, affordable housing in small Section 106 developments could have been safeguarded by inclusion in the Bill. I regret that that did not happen, but I also regret that I did not diligently pursue the Minister to ensure that it did. But regrets do not bring positive results, so I will move on to the very positive speech by the Minister, which I warmly welcome. I am grateful for her recognition that rural areas have unique housing needs and I look forward to working with her to craft the important consultation on the definition of a rural community and then on the regulations. However, although I do not for one moment doubt the integrity of the Minister, I do not have absolute confidence in the Government to deliver what is needed. I therefore give notice that, if the regulations when they are laid before this House do not meet the needs of rural areas in relation to the provision of affordable housing on Section 106 developments of 10 units or fewer, I will not hesitate in tabling a fatal Motion.

I do not wish to end on an antagonistic note, so I again thank the noble Baroness, Lady Williams, for all that she has done on this issue. The two of us, together with the noble Lords, Lord Best and Lord Cameron, are in complete agreement about what needs to be done. As ever, it is the machinery of government that gets in the way. However, as a woman whose glass is always half full, I am pleased to support the government amendment that gives us half of what is needed, and I will, on this occasion, diligently pursue the remainder of our objectives.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I rise to speak in support of Motion B1 in this group and remind the House of my interests as a vice-president of the LGA and a South Somerset district councillor. I note that Amendments 1A, 1B and 1C give a commitment to a taper and that the affirmative procedure will be used, as is only right and proper.

I shall be brief, as all arguments have been fully made previously. However, I have one query and ask the Minister to clarify what the Minister of State in the other place meant yesterday when he said in response to one of his honourable friends:

"As the discount is proportional, the difference in values will be dealt with by the way in which the percentages will work".—[*Official Report*, Commons, 03/5/16; col. 63.]

On Motion B1, these Benches support the noble Lord, Lord Kerslake, in his wish to ensure that types of home ownership other than the Government's starter homes programme are available to residents. We fully support the Government in their wish to see an increase in the supply of housing across the country—it is much needed—but we are concerned that there should be a true mix of alternative forms of affordable home ownership. This amendment would go some way towards meeting that requirement.

Finally, I thank the Minister, the noble Lords, Lord Best and Lord Cameron, and the noble Baroness, Lady Royall, for securing Amendments 10A and 109B on rural exception sites. These are to be welcomed and give some reassurance on the future of rural communities across the country, including national parks and AONBs.

I note that consultation is continuing on what constitutes "rural"; I hope it will be short and productive. Given the discussion we had in this House about the meaning of "rogue" in the context of rogue landlords, I hope we will not go down rabbit holes in defining what is meant by "rural" community.

Baroness Warwick of Undercliffe (Lab): My Lords, I speak in support of government Amendment 10A, which safeguards the provision of affordable homes on rural exception sites, as well as Amendment 10B in the name of the noble Lord, Lord Kerslake, which would add to it. I declare an interest as chair of the National Housing Federation, which represents England's 1,000 housing associations. As many noble Lords will be aware, housing associations work with local authorities across the country to deliver the homes and services needed by each local community.

The Government have a manifesto commitment to deliver 200,000 starter homes by 2020, which will help many people on to the housing ladder. They have also shown a welcome commitment to shared ownership. However, as the Bill allows developers to deliver starter homes as part of their Section 106 obligations, this puts the supply of all other forms of affordable homes at risk. I welcome the Government's Amendment 10A, as it allows local authorities to protect rural exception sites, making sure that the housing delivered will be affordable in perpetuity for the local community. It recognises the value that rural exception sites bring to our rural villages.

Unfortunately, however, the rejection of Lords Amendment 9 by the other place puts the much needed delivery of all forms of sub-market rent at risk by undermining local authorities' power to plan to meet objectively assessed local housing need, as they are required to do by the National Planning Policy Framework. Local authorities should have the freedom to plan for the different tenures that people living in their area might need. In many cases, these will include starter homes, but local people may also need affordable or social rented homes, or homes for shared ownership.

I understand that the Government are not willing to grant this flexibility given their focus on delivering starter homes. Although I stand by my position that local authorities should retain the freedom to plan for all local housing need, I voice my support for Amendment 10B in the name of the noble Lord, Lord Kerslake, which would enable starter homes to be built while giving local authorities flexibility to deliver other forms of low-cost home ownership products to meet the needs in their area. This would include shared ownership

—an affordable way for those on low incomes to own their own home which was originally pioneered by housing associations.

Local authorities know best the housing needs of the people in their areas. They are in the best position to determine the right mix of homes in their areas. This amendment is an elegant way to enable the Government to meet their manifesto commitment to boost home ownership, while giving local authorities some flexibility to serve their communities by planning sensibly for the homes that meet those communities' needs.

Lord Kennedy of Southwark (Lab): My Lords, as this is my first contribution today to consideration of the Commons reasons and amendments to the Housing and Planning Bill, I draw noble Lords' attention to my declaration of interests and further declare that I am an elected councillor in the London Borough of Lewisham. Generally, it is disappointing that we are back here today following the rejection by the other place yesterday of a number of amendments proposed by your Lordships' House. There has been some movement in the Government's position on the taper but they have not gone as far as we would have liked, and I think the noble Lord, Lord Best, got this one right. Nevertheless, we are pleased that there has been some movement. Recycling a proportion of the discount through a taper if the property is sold is a much better way of delivering this policy and I am pleased that the Government have accepted that.

On Motions B and B1, proposed by the noble Baroness, Lady Williams of Trafford, and the noble Lord, Lord Kerslake, respectively, the latter amendment gives local authorities the ability to demonstrate the case for delivering other forms of low-cost home ownership to the Secretary of State along with their general duty to deliver starter homes. That is all the amendment does: it gives the local authority the ability to demonstrate the case. If that is not done to the Secretary of State's satisfaction, approval will not be given. I cannot see why the Government want to resist that. Again, it is disappointing that the other place has not accepted Amendment 109 proposed by my noble friend Lady Royall of Blaisdon, but there has been some movement, which is to be welcomed. Like my noble friend, I will be looking carefully at what emerges from future discussions, and we will press the Government further in that regard.

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have spoken to this group of amendments. I welcome the debate on the starter homes amendments and rural issues; I hope it has been productive. I am trying telepathically to understand what the Minister in the other place meant last night by "proportionate" discount. As I understand it, as the discount is a percentage rather than a cash sum, it is proportionate to the total cost rather than fixed, which is probably fairer. That is my understanding of what he meant.

On Amendment 10B, proposed by the noble Lord, Lord Kerslake, I understand why it seems attractive to allow local authorities to meet their starter homes requirement with other products. However, in reality, the requirement for starter homes would become something entirely different. This change to the requirement would again undermine the Government's ability to meet our manifesto commitment to 200,000 starter homes. We have been very clear on why we want a requirement for starter homes. This is a new product, designed to address a specific gap in the market for young, first-time buyers, as we have discussed on many occasions during the passage of the Bill. Starter homes will give young people the chance of full home ownership, allowing them to move onwards and upwards over time. We have a clear manifesto mandate to deliver this product, and that is why we are legislating for starter homes alone.

The starter home requirement will be straightforward and developers will understand it from the outset. It does not remove councils' ability to deliver other affordable housing and home ownership products alongside starter homes, and we fully expect them to do so. Nor does it remove their local plan policy. The Government believe that shared ownership and other affordable home ownership products have an important role to play as part of a diverse and thriving housing market. They will help those who aspire to home ownership but cannot afford outright discounted purchase.

The spending review has committed £8 billion to deliver a further 400,000 new affordable housing starts. We have published a prospectus that invites housing associations and other providers such as developers to bid for £4.1 billion to deliver 135,000 shared ownership homes and £200 million to deliver 10,000 rent-to-buy homes. However, our legislation focuses on starter homes to ensure that it has the necessary attention to secure delivery.

I have listened carefully to the debate, and I hope that the amendments I have set out mean that there is no need to divide your Lordships' House. With these reassurances, I ask that the amendment to the Motion be withdrawn.

Motion A agreed.

Motion B

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

That this House do not insist on its Amendments 9 and 10 and do agree with the Commons in their Amendment 10A.

9: Clause 4, page 3, line 2, 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."

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

Commons Amendment in lieu

10A: Clause 4, page 3, line 4, at end insert—

"( ) Where the Secretary of State makes regulations under this section, the regulations must give an English planning authority power to dispense with the condition requiring the starter homes requirement to be met where—

(a) an application is made for planning permission in respect of a rural exception site, and

(b) the application falls to be determined wholly or partly on the basis of a policy contained in a development plan for the provision of housing on rural exception sites."

Motion B1 (as an amendment to Motion B)

Moved by ***Lord Kerslake***

At end insert ", and do propose Amendment 10B as an amendment to Amendment 10A—

10B: "( ) If a local authority so wishes, and can demonstrate a need for other kinds of low cost home ownership in its area, the authority may meet part or all of the starter homes requirement through the delivery of alternative forms of affordable home ownership.""

Lord Kerslake: My Lords, I have listened carefully to the debate and I am grateful for the contributions this afternoon. I believe that this amendment does not in any sense challenge the Government's manifesto commitment but provides the necessary local flexibility for alternative low-cost home ownership. In many ways it will help with the delivery of the Government's agenda. In these circumstances, regretfully, I will test the opinion of the House.

4.16 pm

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Motion B1 agreed.

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4.29 pm

Motion C

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

That this House do not insist on its Amendment 37, to which the Commons have disagreed for their Reason 37A.

37: Clause 67, page 29, line 27, after "may" insert "by regulations"

Commons Reason

37A *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Baroness Williams of Trafford: My Lords, we now turn to vacant higher-value local authority housing. The manifesto was clear:

"We will fund the replacement of properties sold under the extended Right to Buy by requiring local authorities to manage their housing assets more efficiently, with the most expensive properties sold off and replaced as they fall vacant."

That is what the Bill will deliver. It will increase housing supply through the delivery of affordable homes and will extend home ownership by funding the discounts for the ground-breaking voluntary right-to-buy agreement.

Following your Lordships' scrutiny, there have been improvements to the way that the policy will be implemented. For example, building one new home for each higher-value dwelling we expect to be sold is now in the Bill, as is making the regulations in respect of the definition of higher value subject to affirmative resolution and excluding housing in national parks and AONBs when calculating the payments. However, the other place has voted emphatically, by 288 to 172, to disagree with other changes made in your Lordships' House. It cited financial privilege, recognising that it is a manifesto commitment. I understand that point and I have to say that I agree.

Amendments 37 and 184, originally proposed by the noble Lords, Lord Lisvane, Lord Kerslake and Lord Beecham, would have put the determination of payments into regulations. This would have led to considerable delay in receiving payments from local authorities in respect of their higher-value vacant housing, and would have delayed the delivery of our manifesto commitments.

I agree with the other place that a determination is the most appropriate way of setting out the information about the payment that a local authority will be expected to make. The nature and amount of information to be contained in the determination means that it is appropriate to use a determination rather than a statutory instrument.

I am pleased that the other place has recognised the case made by noble Lords, and has proposed in Amendment 184A that the definition of higher value should be subject to the affirmative procedure. Recognising the will of the other place, I urge noble Lords to accept Commons reasons at 37A, and to agree Amendment 184A.

The other place has also considered Amendment 47, proposed by the noble Lord, Lord Kerslake, and has again cited financial privilege. This amendment would have been extremely restrictive, taking discretion from the Government to ensure that new housing will be delivered through agreement.

The noble Lord, Lord Kerslake, has tabled Amendments 47B and 47C, which are very similar, and therefore I will save the rest of my remarks for my response to our debate. However, as we discussed at Third Reading, Amendment 47 would not be suitable and therefore, recognising the will of the other place, I urge noble Lords not to insist on these amendments. I beg to move.

Lord Lisvane (CB): My Lords, your Lordships' Amendments 37 and 184 taken together would make the Secretary of State's determination in respect of vacant high-value housing be introduced by regulations that are subject to the affirmative procedure for matters of principle and the negative procedure for matters relating to a single authority. I do not accept the Minister's argument that a determination has to be, as it were, a single operation. I believe that it is technically possible to separate the issues and apply a different procedure to each one. Without these amendments, Ministers would have absolute freedom to make decisions in this area subject only to judicial review, as my noble and learned friend Lord Hope of Craighead pointed out on Report.

This is an issue of the level of parliamentary control. Your Lordships wish to see that level raised. It appears that the House of Commons did not. However, I welcome Amendment 184A, which would make the definition of higher-value housing subject to affirmative regulations although, as I said on Report, this is slightly less than half the loaf. I was for a while slightly puzzled by the fact that Amendment 37, relating to the level of parliamentary control, should be designated as one attracting financial privilege. I thought, on reflection, that the judgment must have been made that a delay in achieving the end would mean a delay in receipts and so I accept that judgment. Not least because we have been given the privilege reason, I do not think that on Amendments 37 and 184A there is a case for asking the Commons to think again twice.

Lord Kerslake: My Lords, I rise to speak in favour of Motion D1, in my name. These amendments take on board the debate that we had about the perceived restrictive nature of the previous amendments and are changed in some important and significant ways. The first part of the Motion, Amendment 47B, is new and simply confirms that, where a local authority enters into an agreement with the Secretary of State on the one-for-one replacement of a vacant council property that has been sold off, it will be able to retain the funding needed to build a new affordable home. An affordable home would, under the Government's definition, encompass social rented, affordable rented, shared ownership and, indeed, starter homes. It would be for the local authority to decide whether it wished to enter into an agreement with the Secretary of State and, under this amendment, for the Secretary of State to agree whether they wish to do this—no restriction on either side. If it does so, the local authority will be required to replace one property sold with one new one, which was a welcome addition during the debate on the Bill. However, it will also be for the local authority to consider whether the new affordable property is for rent or for sale, based on the assessment of local needs. The amendment puts beyond doubt in the Bill that the local authority will be able to retain the funding required to deliver this replacement. As such, it is entirely consistent with the Government's manifesto and I hope, therefore, that the Minister can readily accept it.

Amendment 47C builds on this issue and seeks to put beyond doubt that, where a local authority can make the case—this is in addition to the Secretary of State—on the basis of its particular needs, it will specifically be able to fund the provision of the new dwelling as social housing on a like-for-like basis. Again, the choice is there for the local authority to

make its case to the Secretary of State and it is for the Secretary of State to take a view on that case. If they both conclude that there is already sufficient social rented housing in the area, the local authority can choose to build affordable housing for sale or affordable rented housing at a higher level of rent. However, if they conclude that they want to replace with a social rented property, the local authority can make the case on the grounds of its particular need and this amendment will give it the opportunity to do so.

Why is this amendment needed? First, because the other routes to deliver social rented and affordable rented housing will be severely curtailed by other actions that the Government propose taking, both under this Bill and outside it. The new starter homes requirement that we have just discussed will squeeze new social rented housing out of Section 106 planning agreements. Grant funding for new affordable rented properties by the Homes and Communities Agency will almost entirely cease after the current affordable housing programme ends in 2018. The reduction of rents by 1% per annum over the next four years will make it much harder for housing associations and local authorities to deliver viable schemes with social rented housing in them. Taken together, these changes present a formidable challenge to the continued delivery of affordable and social rented housing. Therefore, the ability to replace the forced sale of vacant council houses represents one of the few routes that will be available to secure new social rented supply.

My second reason for these amendments is to provide some protection for local government against the huge unresolved issues in this policy. Since Third Reading, the Public Accounts Committee has published its report on the extension of right to buy. It makes for sobering reading, to say the least. I will quote a small part of it:

"Despite the implications and complexity of this policy, the Department has not published a detailed impact assessment to inform Parliament's consideration of its legislative proposals. Many key policy details have not been clarified, with the Department offering only vague assurances as to how this policy will be funded, without producing any figures to demonstrate that additional funding from central or local government will not be required".

It is worth noting in this context that Shelter has issued research today which suggests that local authorities will need to sell off some 23,500 properties a year—30% of their vacant stock—if they are to deliver the level of receipts set out in the Conservative Party manifesto. Given the potential scale of the impact and the verdict of the Public Accounts Committee, it is not unreasonable to look to provide some protection for local authorities in the Bill. The risk otherwise is that proper replacement will be the first thing to go.

My third and final reason for these amendments is the desperate need for more housing for those on low incomes. In some low-demand areas, social rents are little different from market rents, but in other areas, particularly London and the south-east, the problems are acute. Average market rents in London are now some £1,400 per month, or £16,800 per year, making it pretty tough for the median earner in London on a salary of £30,000. They are completely beyond the range of those on lower incomes. Rents for social housing are typically one-third of that level, making it accessible to ordinary people. But we are simply not building enough new social rented housing, and just one consequence of that is that some 3,400 families with children in London are living in temporary accommodation. This is a scandal and something that all political parties are committed to ending. The forced sale of higher-value properties—typically bigger family properties—in the highest demand areas without proper like-for-like replacement will make these problems even greater.

I have gone through these issues at length to emphasise just how much is at stake and why these amendments are so important. They confirm the funding of one-for-one replacement and provide the opportunity to deliver new like-for-like social housing where a local authority wishes and where it can make a persuasive case to the Secretary of State on grounds of need. These are not restrictive amendments, they are enabling amendments to address a very serious issue. I hope the Government will recognise this issue and that noble Lords will support Motion D1 when we come to vote on it.

Lord Porter of Spalding (Con): My Lords, I rise to speak against Motion D1. Again, that is very difficult to do given that the sentiment that is supposed to be behind it is something I am trying to support, but it is written in a way that I cannot. I refer noble Lords to my interests in the register, which have not changed since I last referred to them.

I seek the Minister's confirmation that the Government intend to stick to their manifesto commitment. To avoid any doubts about what the manifesto commitment was, this time I am going to read it, because nobody else has referred to it, just to make sure that we are all talking about the same thing. The intention behind it was that we would retain sufficient high-value asset sale receipts to replace the units sold. That was confirmed by the Prime Minister, who said:

"As the most expensive council properties fall vacant, we are going to require councils to sell them off ",

which is fine as stock management,

"and we'll replace them with new affordable housing in the same area".

That should deal with it being affordable, which just leaves us with the argument about what "affordable" is.

4.45 pm

The manifesto also went on to say that we will require,

"local authorities to manage their … assets more efficiently, with the most expensive properties sold off and replaced as they fall vacant".

If it is "their … assets", my assets are social rented units so I will be replacing my assets, as it says in our manifesto commitment, so long as that is what we are sticking to. Further to that, the press release accompanying the manifesto launch said that those units would be,

"replaced in the same area with normal affordable housing as they fall vacant",

which goes back to my "affordable". It went on:

"After funding replacement affordable housing on a one for one basis, the surplus … will be used to fund the extension of right to buy".

I require, at the least, confirmation from my noble friend the Minister that we intend to stick to our manifesto commitment.

[LORD PORTER OF SPALDING]

While I am up, there are two reasons why I object to Motion D1. The first part would allow the Secretary of State to change that manifesto commitment, which they should not be allowed to change as it would let them off the hook by having the ability to disagree with it. I did have a reason on the second part but I have now lost it, so I will have to apologise for not finishing off with some big piece of glory. But again, we should have had greater collaboration on writing the amendments and made sure that we had one which would deliver what both the noble Lord and I need, rather than one of us charging off with it.

Lord Mackay of Clashfern (Con): My Lords, the form of Motion C is slightly puzzling as compared with the previous Motion put to the House, where it was suggested that:

"If a local authority so wishes, and can demonstrate a need for other kinds of low cost … ownership",

and so on. There was no reference to anybody having to be satisfied or to whom the demonstration was to be made, whereas the second amendment proposed on this occasion would require that demonstration to be to "the Secretary of State". It does not say to what extent or with what satisfaction, or anything like that. I do not know what difference there is between this Motion and the words used in Motion B1, which has just been accepted.

The main point I want to make is that the House of Commons has rejected the proposal from here for interfering with the financial arrangements that it has made. We are all aware of the fact that it is the House of Commons which is responsible for the financial arrangements. Those of your Lordships who have been here a little time will know that I have suffered somewhat strongly from this form of answer to an amendment which was passed here with a large majority some years ago, so this is not something which I am particularly keen on having. On the other hand it is some restriction on the powers of this House, which we must respect and understand.

The House of Commons has the right to make these financial arrangements. It is responsible and elected. If its financial arrangements are not satisfactory to people, then in due course they may have a chance to voice that at the polling booth. In the mean time, in my submission to your Lordships, it would be quite wrong for us to seek to overturn the financial arrangements made by the House of Commons. No doubt the House of Commons has considered this matter and I have no reason to suppose that it would be altered on a return there. The situation seems to be that if this Motion were passed, we would be seeking to defy the financial control of the House of Commons.

Lord Kerslake: My Lords, perhaps I may just say a few words on that point. The amendment before you today differs in some significant aspects, which I believe do not cut across the financial prerogative of the House of Commons. In the first instance, it makes it clear that any agreement has to have the agreement of the Secretary of State. That is the additional point that the noble Lord, Lord Porter, objected to, but it makes it quite clear that both parties have to agree to this before money can be retained.

In the second leg of my amendment to the Motion, there has to be a "particular need" and it has to be demonstrated to the Secretary of State. Again, the Secretary of State has the ability—

Lord Trefgarne (Con): My Lords, I apologise for interrupting the noble Lord, but the rules of Report apply at this moment and I think the noble Lord is going a little far.

Lord Kerslake: My apologies. I was simply trying to explain why I do not believe that this amendment cuts across the financial prerogative.

Lord Lansley (Con): My Lords, I will just briefly add to what my noble friends have said. In the first instance, it is always important to remember that when the Commons sends us its reasons for disagreeing with your Lordships on an amendment, and financial privilege is invoked, as I understand it they are obliged not to add any other reason. That does not mean there is no other reason; it just means they are obliged only to state financial privilege. In truth, I think there were other reasons. Not only is financial privilege involved; there is a strong sense that the original amendment which was sent to the Commons, Amendment 47, considerably fettered the Secretary of State's discretion in relation to the nature of the agreement that the Secretary of State would enter into with local authorities in terms of reducing the payment to support the replacement of the high-value housing sold with new affordable homes.

What I find very strange now is that what is being suggested to your Lordships in the first limb—that there must be "a new affordable home"—seems to add absolutely nothing new to what was sent to the other place from this House and has already been accepted in Amendment 44. Your Lordships will recall what Amendment 44 said about the agreement with the Secretary of State:

"Where the agreement is with a local housing authority outside Greater London, it must include terms and conditions requiring the authority to ensure that at least one new affordable home is provided for each old dwelling".

That is therefore already accepted and established, so it seems to me that the first limb of the amendment to the Motion—Amendment 47B—is redundant, as its provisions are already incorporated.

This is really about Amendment 47C, which goes back to the point of fettering the Secretary of State's discretion and requiring closely linked, like-for-like replacement as opposed to arrangements being made between the Secretary of State and the local authority. This stuff about demonstrating to the Secretary of State does not really change that—if it means anything, it means the Secretary of State may enter into an agreement and may not. That power is in the Bill already, so why would we need to change the Bill to make that happen?

I will also just add to what my noble and learned friend was just saying. This matter relates exclusively to England, and in the other place they voted to reject Amendment 47—this point itself—by 279 to 158, which is a very substantial majority indeed.

Lord Shipley (LD): My Lords, first, I remind the House of my vice-presidency of the Local Government Association. I have listened very carefully to what has been said, but I think there is still a problem and want to support amendments proposed by the noble Lord, Lord Kerslake—Amendments 47B and 47C. I have read very carefully what the Government have said and noted their views, but the fact of the matter is that, as a consequence of the Bill, there will be a loss of around 180,000 social homes for rent. In addition, the Institute for Fiscal Studies has previously pointed out that the cut of 1% annually in rents for the next four years will lead to a failure to build some 14,000 social homes that otherwise could have been built and occupied.

The Bill should be addressing not just owner-occupation but how we house people who cannot afford to buy and who cannot afford market rents. That is why these amendments proposed by the noble Lord, Lord Kerslake, matter so much. As he explained, Amendment 47B enables a local housing authority, by agreement with the Secretary of State, to retain enough money to fund a new affordable home. The replacement one for one has already been agreed—two for one in London, but one for one outside—but the money has to be there to build the new affordable home.

I listened carefully to what the noble Lord, Lord Porter, said on the matter. He read out parts of the Conservative Party's manifesto from the previous election, but the manifesto and the particular expression which accompanied it was extremely vague on the issue of replacement. It uses the terminology that there will be a replacement with "a normal affordable home" without ever defining what a normal affordable home is. As we know, in the Bill, the definition of an affordable home has been altered to include a starter home for sale, so in practice, government targets for building affordable homes can be delivered by owner-occupation through the starter home route, as opposed to building for social rent.

I am very keen to hear from the Minister what the Conservative Party meant at the previous election by a normal affordable home. Will she confirm that, in agreeing a one-for-one replacement outside London and two for one inside London, there will actually be the money for the local housing authority to fund that additional home?

That was Amendment 47B; there is also Amendment 47C, which enables a local housing authority, where it identifies a need for new social housing, to have the funding to build a new dwelling to let on terms similar to those on which the existing dwelling was let—in other words, like for like, not just one for one.

These are reasonable amendments. The housing crisis is getting worse, not better. Given that social housing can make a profit after about 20 years, more social homes could be built, thus reducing social inequality, child poverty and homelessness. For the Bill to address only owner-occupation remains a serious failing. It excludes so many people who may aspire to owner-occupation but can never achieve it. It will lead to a reduction in the social housing stock, to the detriment of all those on low incomes who will depend on social housing for rent for their homes.

Lord Beecham (Lab): My Lords, I strongly endorse the sentiments of the noble Lord, Lord Shipley, and refer to my local government interests. He is quite right to point to the issue of tenure, which has, frankly, been avoided by the Minister and the Government as a whole in discussion of this aspect of their policies.

In speaking to his amendments, the noble Lord, Lord Kerslake, referred to the Shelter report. I do not know whether the Minister has studied it, but it raises a good many questions. As the noble Lord said, the report indicates that to reach the Government's assumed target, which is estimated at £4.6 billion, to be raised by this process, 23,000 houses a year would have to be sold. Shelter calculates on that basis that the average cost to every council would be £26 million a year. That is an extraordinarily high amount to be raised. It ranges from a figure for Birmingham of just under £145 million, which would involve the sale of just under 1,200 houses a year, down to that for Hartlepool, at the bottom of the list, which would have to sell off only two houses a year, raising something under £200,000.

There is an interesting pair of authorities in the middle of the list, one of which is Newcastle—in which, as Members will be aware, I have an interest—where some 400 houses would have to be sold every year, raising just under £53 million. Immediately below it is Kensington and Chelsea, which would raise virtually the same amount of money from 41 houses. So there is a clear issue here about the expectations of how many houses will be sold and what will be raised—but there is also an issue about what will happen to the proceeds. In addition to the overriding requirement, which we understood to be the funding of the right to buy in the housing association sector, there will be some replacement of whatever kind of tenure emerges. What estimate have the Government made of the amount that will be available for their apparent primary objective of funding the right to buy? Presumably they have an estimate, but I do not think that we have ever had the benefit of hearing what it might be. It would be helpful to do so.

5 pm

There is another question, of course. As I understand it, the Government can insist on in effect a payment on account of future sales before those are actually effected. If that is the case—and I understand it to be the case—what estimate do the Government make of the impact on housing authorities? How will they raise the money, if the expected average of £26 million a year, or whatever the figure might be for an individual authority, is not raised? How much will they be required to pay and where will they get the money from to do that?

This is an extremely unsatisfactory way of dealing with a critical issue of housing supply. I strongly endorse the amendments tabled by the noble Lord, Lord Kerslake, and I hope that he will test the opinion of the House.

Baroness Williams of Trafford: My Lords, I begin by thanking my noble friend Lord Lansley for explaining the process of financial privilege; he has the privilege of coming from the other place and explained to us that no other reason needs to be given other than financial privilege, although there may be others.

[Baroness Williams of Trafford]

Let me be clear: this Government will get our social housing working as efficiently and as effectively as it can, not only so that more people own their own home but to increase the affordable housing supply. A guarantee of one affordable home to replace one sold, and two affordable homes in London, is what our higher-value vacant housing provisions will deliver.

Amendments 47B and 47C have been proposed by the noble Lord, Lord Kerslake, in lieu of Amendment 47, which the other place emphatically voted against, as my noble friend Lord Lansley pointed out. These amendments mean that, when a local authority can demonstrate a need for social housing, it will be able to retain the receipts that it needs to fully fund the provision of that housing. They prevent government from considering whether local authorities can deliver the housing required, and they could significantly reduce the funding available for the voluntary right to buy, preventing the Government from fulfilling their manifesto commitment—a manifesto that they fully intend to implement, as my noble friend Lord Porter says. By focusing solely on social housing, they prevent the agreement process from recognising that flexibility will be needed to respond to diverse housing needs in the country. They also fail to recognise that other different types of housing may better meet local housing need. This feels restrictive and like a top-down approach. Instead, I believe that a localist approach to the agreement process would be better for everyone. Local authorities with particular housing needs in their area should be given the opportunity to reach bespoke agreements about the delivery of different types of new homes in their areas. If local authorities can demonstrate, for example, a clear need for new affordable homes, we should aim to make an agreement with them, subject, of course, to value-for-money considerations and evidence of a strong track record on housing delivery.

The noble Lord, Lord Kerslake, talked about the Secretary of State having all the power in the new agreement proposal. The principle that local authorities have the right to come to an agreement with the Secretary of State is not a new concept. The key word here is agreement, with discussion between local areas and the Secretary of State with a national mandate to deliver the voluntary right to buy and new affordable homes.

The noble Lord, Lord Beecham, asked how much money we expect to raise from the policy. Receipts will depend on a number of factors and decisions. The Bill sets out a framework with further detail to be provided through secondary legislation. It has flexibility through the formula approach which enables us to continue working the detail through with the sector. Once we understand what the data tell us, we will be able to consider what the detail will be and subsequently how this will fund the two aims of the policy: right-to-buy discounts for housing association tenants and funding the building of new homes.

Lord Beecham: Do I understand the Minister to be saying that the Government do not have an estimate of the amount that is to be raised? What do they say about the Shelter estimate of £4.6 billion?

Baroness Williams of Trafford: I will come to that question in a few seconds.

The noble Lord, Lord Shipley, talked about this resulting in fewer socially rented homes. We need more homes, full stop, across all tenures and across the country. At the heart of the policy is the building of more homes, funded in part by receipts from the sale of vacant high-value council housing.

Before I move on to the question asked by the noble Lords, Lord Kerslake and Lord Beecham, about the Shelter report, the noble Lord, Lord Kerslake, talked about the PAC saying that there are key questions that need answering. It is regrettable that the PAC has chosen to publish its latest report part-way through the parliamentary process. We have always said that further detail regarding the sale of higher-value council housing will be developed and shared. The regulations defining "higher value" will be subject to the affirmative procedure. Parliament will have the opportunity to scrutinise this in more detail.

The noble Lords, Lord Kerslake and Lord Beecham, referred to the Shelter report that HVAs would raise £4.5 billion each year. We are in that process. I know that noble Lords will be sighing with exasperation, but we are in the process of analysing more than 16 million pieces of information about the housing stock of local authorities in England. We have collected these data as we want to ensure that the policy is informed by current information, and it would not be prudent for the Government to pre-empt what the data will tell us.

The noble Lord, Lord Kerslake, talked about the increased pressure on council housing and the increase in homelessness. We are committed to supporting the most vulnerable in society to have a decent place to live. Since 2010, we have invested more than half a billion pounds to help local authorities to prevent more than 935,000 households becoming homeless. Time spent in temporary accommodation ensures that no family is without a roof over their heads. Households leaving temporary accommodation now spend on average less time in it than they did in 2010. We need new homes to be built in this country and Amendments 47B and 47C would limit the ability of central and local government to ensure that the right mix of housing is delivered as quickly and efficiently as possible. I therefore urge noble Lords to respect the will of the other House, and I urge the noble Lord, Lord Kerslake, not to press his amendments.

Motion C agreed.

Motion D

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

That this House do not insist on its Amendment 47, to which the Commons have disagreed for their Reason 47A.

47: Clause 72, page 31, line 42, at end insert—

"( ) If a local housing authority so wishes, and that authority can demonstrate, whether by reference to its local housing plan or otherwise, that there is a need in its area for social housing of the kind that it proposes to build, the Secretary of State shall enter into an agreement with that authority whereby it shall retain such part of the payment as may be required to fund the provision of a

new dwelling to be let as social housing on terms (as to tenure, rent or otherwise) which are similar to those on which the old dwelling was let."

Commons Reason

47A: *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Motion D1 (as an amendment to Motion D)

Moved by ***Lord Kerslake***

At end insert ", and do propose Amendments 47B and 47C in lieu—

47B: Clause 72, page 31, line 35, at end insert—

"( ) If a local housing authority so wishes, and the Secretary of State agrees, the Secretary of State shall enter into an agreement with that authority whereby it shall retain such part of the payment referred to in section 67(1) as may be required to fund the provision of a new affordable home."

47C: Clause 72, page 32, line 2, at end insert—

"( ) If a local housing authority can demonstrate to the Secretary of State, whether by reference to its local housing plan or otherwise, that there is a particular need in its area for social housing, the authority shall retain such part of the payment referred to in section 67(1) as may be required to fund the provision of a new dwelling to be let as social housing on terms (as to tenure, rent or otherwise) which are similar to those on which the old dwelling was let.""

Lord Kerslake: My Lords, I am grateful for all the contributions to this debate. I shall keep my comments short.

The first point to be clear on is that the amendment would in no way restrict either the Government or local government. It is foursquare with bespoke agreements that meet local need, and that is absolutely clear within the text. It is also clear that the Secretary of State would not need to reach agreement with a local authority if he was not persuaded by the arguments.

The amendment would do two crucial things. First, it would make clear that, where an agreement was reached, funding could be retained from the receipt. That is something on which the provisions are silent within the overall Bill at the moment but, given the uncertainties about funding, it seems to be a crucial point. Secondly, it would give a local authority not the right but the opportunity to make its case for social rent replacement. In no sense is that restrictive. In the end, the Secretary of State could decide whether to reach an agreement and whether he concurred with the view of the local authority on social rent. It is hard to see how that would cut across financial privilege or restrict the choices for a Minister, or indeed for a local authority.

I have listened very carefully to the arguments, but I believe that this is such an important issue for local government that, with regret, I wish to test the opinion of the House on this issue.

5.11 pm

Division on Motion D1

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Motion D1 agreed.

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5.23 pm

Motion E

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

That this House do not insist on its Amendment 54, to which the Commons have disagreed for their Reason 54A.

54: Clause 78, page 34, line 9, leave out "must" and insert "may"

Commons Reason

54A: *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Baroness Williams of Trafford: My Lords, we return again to the issue of the Government's policy for high-income social tenants. I realise that this is an area where there are strong feelings on both sides of the House and I hope today to be able to provide some further reassurances so that the Government can move forward with their commitment to establish a fairer position on rents between the social and the private rented sector.

As noble Lords will know by now, we committed in the 2015 Budget to introduce a policy whereby social tenants who are able to pay more for their rent should be expected to do so. Social housing should be for those who are the most in need. This position was reinforced during the debates yesterday, and the other place declared its position, loud and clear, with a considerable margin of victory in resisting amendments put forward by this House. I was struck by some of the arguments my colleagues put forward on this aspect during the debate in the Commons yesterday. It is simply not right that social tenants who are no longer in housing need should take up valuable social housing when there are families in much greater need on waiting lists. If these higher-earning tenants wish to remain in their property, which is their choice, then it is right that they contribute more.

I remind the House about the significant opportunities that the Government are offering tenants on higher-than-average incomes. If they do not wish to pay a fairer rent, many tenants will be able to explore the opportunity to buy their home under the extended right-to-buy scheme, or they may be able to take up shared ownership offers.

We have brought forward a package of amendments which significantly improves the operation of the policy by protecting work incentives and vulnerable tenants. I am very grateful to your Lordships' House for recognising this and accepting the government amendment to enable the creation of exceptions for high-income social tenants. This power will be used to make an exception for any tenant in receipt of housing benefit or universal credit, which is clearly its most sensible use.

Lords Amendment 54, which would make the policy voluntary for local authorities, simply cannot be supported. It was rejected by the other place yesterday. Local authorities have been able to put in place a voluntary policy for some time, but have not done so, as far as we are aware. I recognise the point made in the Commons yesterday about the interest from Westminster Council and want to take a moment to respond to that. Its concern is that the cost of operating the policy may exceed the money collected. We have accepted that local authorities should be reimbursed a reasonable amount of the administrative costs, and we do not expect those to exceed the money received. However, we recognise that rents vary and are working with local authorities to look carefully at the approach in areas where market rents may be close to social rents. We will bring forward further detail in the affirmative regulations.

Remaining on the issue of a voluntary approach, I have concerns about what this would mean for tenants. We want a consistent approach for all, and it does not seem right or fair to have certain tenants subject to the policy while others are not.

Lords Amendments 55 and 55B concern the operation of the proposed taper. The Government have been clear that our preferred approach is to have a taper set at 20%, which balances fairness with work incentives. We cannot accept a rate of 10% as proposed by Amendment 55, as it is simply too low. The other place has overwhelmingly rejected this and I support its reasons for doing so.

Amendment 55B would limit this rate to the first £10,000 above the income threshold. While I recognise the intention here, there are wider considerations about the impact on local authorities of operating a two-stage taper, which I am concerned will only add to the burden and complexity for them. Instead, I propose a standard taper rate of 15%, which would apply to all incomes above the threshold. This meets noble Lords half way on this issue and I hope that we can agree to it today without the need for a vote. It will mean that tenants will contribute 15p in rent for every pound they earn above the income thresholds. It is a fair rate that protects work incentives while ensuring that higher-earning tenants make a fairer contribution.

Lords Amendment 57 sought to raise the income thresholds to £40,000 outside London and to £50,000 in London. Again, this was rejected by the other place. The Government maintain that the thresholds of £31,000 and £40,000 are the right starting point for social tenants to contribute a little more in rent. We are not

[Baroness Williams of Trafford]
saying that these household incomes make people wealthy, but it is right that people on these incomes start to contribute a little more if they wish to remain in much-in-demand social housing. The operation of the taper, set at 15% as I have offered, would mean that a household earning above these thresholds would contribute a few pounds extra in rent each week. It is worth reinforcing that point again, as we must dispel the myth that all social tenants would see their rents raised straight to market rate.

5.30 pm

Finally, Lords Amendment 58 and proposed new Amendment 58A concern the uprating of the income thresholds by the consumer prices index. While this idea was rejected by the other place yesterday, I can confirm that we have been thinking carefully about the idea and the best way of implementing it. It is a good idea and one that we can support. In fact, we are willing to go further. I can make a commitment today to review and uprate the thresholds each year in line with the consumer prices index. That would mean that households with two adults each working 35 hours a week on the national living wage would be below the thresholds and, on current forecasts, they will continue to be so over the course of the Parliament. Our intention is to put this, together with the income threshold, in regulations that are subject to the affirmative procedure. I am sure that we will return to these important aspects of the policy when we have the debate on the regulations.

I hope that that has been helpful. We now have a package of measures for this policy that go far further than originally intended. I will recap the Government's position. The income thresholds will remain at £31,000 nationally and £40,000 in London, but a taper of 15% will be applied to ensure that rents rise gradually and do not damage work incentives. These thresholds will then be reviewed every year to ensure that they are uprated in line with the CPI. We will define "income" as taxable income, which will ensure that any payments a household receives from tax credits, child benefit, disability living allowance and personal independence payments will not count towards establishing income. This will provide further protection for those households that need it.

The household will be defined as the two highest earners from the tenant, joint tenant and their spouses, partners and civil partners. Non-dependent children who are not on the tenancy will not have their incomes counted, enabling them to plan for the future. Of course, any household in receipt of housing benefit and universal credit will not be subject to the policy at all. On this basis I ask noble Lords who have tabled further amendments in relation to the taper and the proposal to uprate the thresholds not to press them. We will complete work on the regulations and return to this policy in due course. I beg to move.

Lord Best: My Lords, I rise to speak to Motion F1. I was grateful indeed to noble Lords throughout the House who secured a majority of over 100 votes for the pay-to-stay amendment now rejected by the other place. Our amendment would have reduced by half the penalty incurred by council tenants with household incomes of more than £31,000 per annum, or more than £40,000 in London, as a surcharge on their council rent. This levy—this rental hike—for two adults each earning £20,000 in, say, Brighton, would have been set at 20p in the pound for every pound over the £31,000 threshold. It would have meant an extra £2,000 per annum or £40 extra per week for a couple who are not terribly well paid.

The amendment that we passed would have halved this rental surcharge so that the family in Brighton, who barely get the national living wage, would pay an extra £20 per week not £40 per week. This is still a mighty increase, but it is half as much as the Government seemed determined to extract from people who, by definition, are hard working. We might all agree that those like Bob Crow, who earn way over £100,000 per year, could contribute significantly more for a council home. But I really wonder what we would be achieving by seriously penalising those on a third of his income.

The Chancellor has explained that the extra rent raised by councils will go not to the local authority, not towards meeting housing needs, but to the Exchequer, exclusively to reduce the deficit. By my rough calculations, it would take over 100 years for the receipts from the rental surcharge to reduce the nation's deficit by 0.1%. It does not seem worth upsetting the lives of some 350,000 council tenants to make an infinitesimally modest reduction in the deficit. Of course, extensive administrative costs will be involved in assessing tens of thousands of tenants' incomes and then collecting the rental surcharge. These costs will absorb a major part of the funds raised from the tenants.

We are where we are: the Government did not accept your Lordships amendment to reduce by half the extra burden on these hard-working council tenants, who, frankly, deserve our respect, not a financial penalty. As a compromise I have tabled in lieu the amendment before us, which proposes retaining the halving of the penalty—10p in the pound, not 20p—but just for those in the band of £10,000 above the threshold: that is, those earning from £31,000 up to £40,000, or in London from £40,000 up to £50,000. However, as of this afternoon the Secretary of State has proved willing to change the arrangements, as the Minister has explained. This is a helpful intervention. At this stage of the Bill, in the middle of ping-pong and with a substantial government majority in the other place voting against our amendments last night, I am realistic enough to know that if the Government offer any concessions, they should be accepted. They have offered a double-headed compromise of a rental surcharge of 15p in the pound for everyone with household earnings over the threshold, with no limit, and an annual uprating of the £31,000 threshold—£41,000 in London—that is in line with the appropriate index, CPI. Therefore, we have a levy of 15p in the pound, which is not as helpful as 10p but better than 20p, plus helpful indexation of the threshold. Of course, this pay-to-stay rental surcharge remains an entirely unwelcome imposition on hard-working council tenants, and I do not like it one bit. However, we have come a long way from the original proposal whereby any household over the threshold would immediately have had to pay a full market rent, meaning a ridiculously penal increase of £100 a week, sometimes £200. We are in a better place today.

On the basis of the progress that has been made, for which I am indeed grateful to Ministers, I shall not move this amendment.

Lord Kerslake: My Lords, I will speak briefly. I welcome the movement by the Minister on this issue, and there has been significant movement during the Bill's passage through this House, which is entirely to be accepted gratefully. However, I remain fundamentally concerned about the pay-to-stay policy, which is effectively a form of tax collection but done by people who are not tax collectors. The income comes back to the Chancellor and is not reinvested in housing.

It is important to be clear that that the people in question are not on high incomes. Given where the thresholds are, we are talking, in London, about people such as teaching assistants and caretakers, and household incomes, not individual incomes. We will catch a lot of ordinary people on fairly ordinary incomes through this change. That is why I moved the amendment—to get the threshold up—and why I would have supported the amendment to keep the taper at 10p in the pound for those at the lower rate. It is important to be aware that the bulk of the people who will be caught by pay to stay are in the £10,000 bracket. Those who earn over £60,000 number fewer than 40,000.

Therefore, through this measure we are effectively taxing households on slightly higher incomes. I believe strongly that it will be very difficult to implement and that it will cost more than it raises in income in many places. That said, I want to finish on a positive note: there has been movement, so I entirely support my noble friend Lord Best's decision not to move his amendment.

Baroness Bakewell of Hardington Mandeville: My Lords, I was going to speak passionately in favour of Motions F1 and H1. There is now no need to do so and I am delighted about that. I very much welcome the taper of 15%, which my colleague and I discussed yesterday with the Minister, but at that stage she was unable to commit to it. I am really pleased that there has been some movement on that. I also very much welcome the move towards accepting that the income limits will be raised in line with the consumer prices index. That is only right, given that everything else in life increases, such as pensions and the minimum and living wages. Therefore this should also increase.

However, I am still somewhat concerned about the costs of administering the so-called pay-to-stay policy. There are costs involved in assessing when tenants have reached the threshold, in assessing how much the tenant should pay in additional rent as they move towards the full market rent, and in collecting this rent. During our discussions with the Minister and her officials this week on the amendment on carbon-compliant homes there was much reference on their part to the cost-effectiveness of carbon compliance and the cost-benefit of such a policy. So we are somewhat surprised to find that there has been no such cost-benefit analysis of the implementation of the high-income tenant policy. There is some concern that the amount collected by the increased rents is likely to be outweighed by the costs involved in implementing the policy. I believe that this House should be concerned about this. Having said that, I welcome the movement by the Minister and the Government on these amendments.

Lord McKenzie of Luton (Lab): My Lords, like other noble Lords, I welcome the movement that has been made in this policy area, although, also like other noble Lords, I believe that it has all the hallmarks of an administrative nightmare. I ask the Minister to clarify one thing. In introducing these items she referred to the fact that people on housing benefit would be outwith the policy. I ask again a point I raised on Third Reading. I can see that somebody currently on housing benefit before the application of the policy is easy to spot and would not be assessed, but what is the position with somebody who is brought into the housing benefit regime because of the higher rents that could flow from this policy? Will they be out as well? That would be incredibly convoluted to deal with.

Baroness Williams of Trafford: I agree with the noble Lord—

Lord Beecham: The noble Baroness must be so pleased to be getting towards the end of this. I do not blame her at all for trying to push matters forward.

We are hearing a good deal today about financial privilege as the Government are deploying a tactic of pleading it as a reason to reject amendments passed in this House. The words must sound ironic to couples on the national minimum wage, who are deemed to be "financially privileged" if their household income exceeds £31,000 outside London or £40,000 in it, and therefore face, as we have heard, increases in their non-subsidised rent. They will no doubt contrast their position with the financial privilege extended to starter home buyers, who stand to benefit from discounts of more than £80,000 in London on the more expensive houses and tax-free capital gains when they eventually sell.

Nevertheless, I welcome the Government's modest concession on the amendment in the name of the noble Lord, Lord Best, again establishing that the best is the enemy of the ludicrous when it comes to legislation, and their acceptance at the last gasp, it must be said, of my amendment seeking to ensure updating of the thresholds on a regular basis—although I wish that they had listened to the noble Lord, Lord Lansley, who had a better idea than mine, which was to tie the formula to RPI. It may be, given that they have a discretion, that they will take that stance. If they did, I would applaud them even more. In the circumstances, I am very happy to support the amendments that the Minister indicated and I will not press Motion H1.

Baroness Williams of Trafford: My Lords, I apologise for—

Lord Beecham: Sorry, I have received a prompt from my noble friend Lady Hollis, to ask what the estimate is—I am sorry, I have even forgotten what the prompt was. Perhaps my noble friend can say.

Baroness Hollis of Heigham (Lab): I am grateful to the Minister. I was going to ask my noble friend to ask the Minister to make it clear that the proceeds will still

[Baroness Hollis of Heigham]
go to the Exchequer. Various contributors, including my noble friends, have said that they now doubt whether the money collected will exceed the costs incurred. I would like the Minister to tell us, in the light of today's amendment on 15p, what now is the current estimate of the annual net gains that will flow to the Exchequer from next year onwards, when this policy is embedded. One year will do—2019-20, if she likes, three years down the line. How much money, net, will go to the Exchequer from this policy after taking into account fiscal drag, now capped by CPI, the cost of the taper, now reduced by 15p, as well as the behavioural impact on tenants and the cost of administration? May we please have that figure?

5.45 pm

Baroness Williams of Trafford: I hope the noble Baroness will indulge me, because the Government have come to this policy position within the past 12 to 24 hours. I do not know whether she is worried that too little may go to the Exchequer—I doubt that—but I expect that those figures will be worked out in due course and I am sure they will be shared with your Lordships' House.

The noble Lord, Lord McKenzie, talked about people who have not been hit by the policy and suddenly might be hit, in terms of housing benefit. In the scenario to which he referred, the tenant would be taken out of this policy. Whenever housing benefit comes in, the tenant is taken out, as the result of the policy would otherwise be perverse.

I hope I have addressed the few points that were made. I thank noble Lords who have worked with me, with the Secretary of State and with the Housing Minister in the other place, and I ask that the amendments not be pressed.

Motion E agreed.

Motion F

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

That this House do not insist on its Amendment 55, to which the Commons have disagreed for their Reason 55A.

55: Clause 78, page 34, line 10, at end insert—

"( ) The regulations must specify that the rent shall not equate to more than 10 pence for each pound of a tenant's income above the minimum income threshold."—

Commons Reason

55A: *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Motion F1 not moved.

Motion F agreed.

Motion G

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

That this House do not insist on its Amendment 57, to which the Commons have disagreed for their Reason 57A.

57: Clause 79, page 34, line 25, at end insert "which will not be below £50,000 a year per household in London, or £40,000 per household outside London,"

Commons Reason

57A: *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Motion G agreed.

Motion H

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

That this House do not insist on its Amendment 58, to which the Commons have disagreed for their Reason 58A.

58: Clause 79, page 34, line 37, at end insert—

"( ) make provision for the level of household income, for the purposes of defining "high income", to be increased every three years to reflect any increase in the consumer price index."

Commons Reason

58A: *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Motion H1 not moved.

Motion H agreed.

Motion J

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

That this House do not insist on its Amendment 97 and do agree with the Commons in their Amendment 97A in lieu.

97: After Clause 128, insert the following new Clause—

"Neighbourhood right of appeal

(1) After section 78 of the Town and Country Planning Act 1990 ("the 1990 Act") insert—

"78ZA Neighbourhood right of appeal

(1) Where—

(a) a planning authority grants an application for planning permission,

(b) the application does not accord with policies in an emerging or made neighbourhood plan in which the land to which the application relates is situated, and

(c) the neighbourhood plan under paragraph (b) contains proposals for the provision of housing development, certain persons as specified in subsection (2) may by notice appeal to the Secretary of State.

(2) Persons who may by notice appeal to the Secretary of State against the approval of planning permission in the circumstances specified in subsection (1) are any parish council or neighbourhood forum, as defined in section 61F of the 1990 Act (authorisation to act in relation to neighbourhood areas), whose made or emerging neighbourhood plan includes all or part of the area of land to which the application relates, by two-thirds majority voting.

(3) In this section an "emerging" neighbourhood plan means a neighbourhood plan that—

(a) has been examined,

(b) is being examined, or

(c) is due to be examined, having met the public consultation requirements necessary to proceed to this stage."

(2) Section 79 of the 1990 Act is amended as follows—

(a) in subsection (2), omit "either", and after "planning authority" insert "or the applicant (where different from the appellant)";

(b) in subsection (6), after "the determination" insert "(except for appeals as defined in section 78ZA (as inserted by section (Neighbourhood right of appeal) of the Housing and Planning Act 2016) and where the appellant is as defined in subsection (2) of that section)"."

Commons Amendment in lieu

97A: After Clause 128, page 71, line 42, at end insert the following new Clause—

"Local planning authorities: information about neighbourhood development plans

After section 75ZA of the Town and Country Planning Act 1990 (inserted by section 140 above) insert—

"75ZB Reports to contain information about neighbourhood development plans

(1) This section applies where—

(a) a report of the kind mentioned in section 75ZA(1) recommends the grant of planning permission or permission in principle, and

(b) the proposed development is in an area for which a neighbourhood development plan (made under section 38A of the Planning and Compulsory Purchase Act 2004) is in force.

(2) The report must—

(a) set out how the plan was taken into account in making the recommendation, and

(b) identify any points of conflict between the plan and the recommendation.""

Baroness Evans of Bowes Park (Con): My Lords, I recognise the clear support in this House for a neighbourhood right of appeal and the strong desire of noble Lords to ensure that the hard work of communities which have produced a neighbourhood plan is respected. However, the Government do not support the principle of a third-party right of appeal against a grant of planning permission in a system that is carefully geared towards delivering sustainable development. Last night, the other place supported the Government's position by unanimously agreeing to remove Lords Amendment 97 from the Bill. Your Lordships' House will have seen government Amendment 97A, again unanimously supported by the other place, which I hope will receive support from this House.

However, before I discuss Amendment 97A, let me once again reiterate that we absolutely understand the huge commitment it takes for communities to produce a neighbourhood plan. There is no stronger position for a community to hold than to have an up-to-date neighbourhood plan in place. In law, the starting point for deciding planning applications is the statutory development plan, which will include any made neighbourhood plan. Local planning authorities will also need to take account of a wide range of views and any other material considerations. If the elected members of the planning committee have found that the development is sustainable and appropriate, and they have clearly taken the plan into account alongside other considerations, we do not believe that there is benefit from repeated consideration of the issues raised. Indeed, if communities believe that the neighbourhood plan has not been respected, they can already ask the Secretary of State to intervene and call in the application for his determination. The Government believe that this provides ample opportunity for a local community to raise their concerns.

I also question whether a neighbourhood right of appeal would routinely change the outcome of locally made decisions. This is because the decision-taker on an appeal is faced with exactly the same plan and exactly the same considerations, and these ultimately push for sustainable development. We believe that a further appeal stage would add complexity and unpredictability to the system, undermining investor confidence and running against our manifesto commitment to speed up and simplify the planning system. It would significantly impact on the speed and cost of housing delivery. We cannot support an amendment that would see unnecessary additional bureaucracy slowing down much-needed housing development.

However, we have listened to the concerns of your Lordships' House and believe that local planning authorities could and should do more to demonstrate to communities how their neighbourhood plan has been taken fully into account. Amendment 97A prescribes in the Bill a requirement for a planning authority to set out in any report to a planning committee that recommends granting planning permission how any neighbourhood plan has been considered. It will also be required to identify in the report any conflict between its recommendation and the neighbourhood plan. This will ensure that the planning committee—the elected representatives for the area—cannot fail to appreciate how the development accords with the neighbourhood plan. Reports are published in advance of committees, allowing local people the opportunity to raise any further concerns directly with their local councillors or to attend and request to speak at the planning committee. This added level of transparency and explanation will ensure that local planning authorities are absolutely clear how they have balanced the neighbourhood plan against other material considerations that they are required to take into account.

This Government were elected to speed up and simplify the planning system. The many people who are in need of homes do not want added delays. While I can appreciate the spirit of the noble Baroness's amendment, the Government cannot support an amendment that would restrict our ability to deliver our wider commitments. I beg to move.

Motion J1 (as an amendment to Motion J)

Moved by ***Baroness Parminter***

Leave out from "97" to end and insert ", do disagree with the Commons in their Amendment 97A, and do propose Amendment 97B in lieu—

97B: After Clause 128, insert the following new Clause—

"Neighbourhood right of appeal

(1) After section 78 of the Town and Country Planning Act 1990 ("the 1990 Act") insert—

"78ZA Neighbourhood right of appeal

(1) Where—

(a) a planning authority grants an application for planning permission,

(b) the application does not accord with policies in a made neighbourhood plan in which the land to which the application relates is situated, and

(c) the neighbourhood plan under paragraph (b) contains proposals for the provision of housing development,

certain persons as specified in subsection (2) may by notice appeal to the Secretary of State.

[BARONESS PARMINTER]

(2) Persons who may by notice appeal to the Secretary of State against the approval of planning permission in the circumstances specified in subsection (1) are any parish council or neighbourhood forum, as defined in section 61F of the 1990 Act (authorisation to act in relation to neighbourhood areas), whose made neighbourhood plan includes all or part of the area of land to which the application relates, by two-thirds majority voting.

(2) Section 79 of the 1990 Act is amended as follows—

(a) in subsection (2), omit "either", and after "planning authority" insert "or the applicant (where different from the appellant)";

(b) in subsection (6), after "the determination" insert "(except for appeals as defined in section 78ZA (as inserted by section (Neighbourhood right of appeal) of the Housing and Planning Act 2016) and where the appellant is as defined in subsection (2) of that section)"."

Baroness Parminter (LD): My Lords, we all believe that neighbourhood plans deliver more homes. However, it is not just a belief; it is also the evidence that the Government accept. We heard them accept it in both Committee and on Report. Therefore, we wish to do all we can to encourage more neighbourhood plans to be produced in order to deliver the housing that we all know we need.

Our central contention is that we do not believe that local communities will go to the trouble of putting forward neighbourhood plans if they know that a local planning authority can drive a coach and horses through everything they have submitted by reaching a decision that conflicts with what is in the neighbourhood plan. The appeal that we propose in this amendment is extremely limited and would apply only to parish councils and neighbourhood forums. It addresses the issues that Members have rightly raised on this and previous Bills about the scope for a limited right of appeal to allow vexatious complainants to come forward. As I say, this measure is purely for parish councils and neighbourhood forums.

We have listened to what noble Lords said on Report. Eagle-eyed noble Lords will have noticed that this is an even more limited appeal than that for which we argued on Report. At that stage, we argued that it should be open to local councils and parish councils which were concerned about a policy in an emerging plan as well as a made plan. This amendment addresses purely a proposal which is contrary to a neighbourhood plan.

The government amendment does nothing more than what good planning officers should be doing anyway. Noble Lords who are local councillors will know that planning officers are already doing this. The measure does not address one of our fundamental concerns—namely, if a local planning authority opposes, and turns down, an application which is contrary to a neighbourhood plan, it cannot be called in. The Minister said that a call-in process applies, but it does not apply if a local council accepts a proposal which is contrary to a neighbourhood plan, so, effectively, under the government amendment, councils can just ignore it anyway.

As I say, we are proposing an extremely limited appeal. It had the support of the House of Lords Select Committee on the built environment and civic society groups. In addition, a considerable number of Conservative Members supported it last night in the other place. One went so far as to ask the Minister in the Commons to give further weight to neighbourhood plans. That is what this limited right of appeal would do. I beg to move.

Lord Kennedy of Southwark: My Lords, it is remiss of the Government not to accept the amendment agreed by your Lordships' House in respect of a neighbourhood right of appeal. The noble Baroness, Lady Parminter, has tabled a revised amendment which would restrict the right of appeal in certain circumstances only in those areas where there is an approved neighbourhood plan. As she said, this is a much narrower right of appeal than that originally proposed. If she wishes to test the opinion of the House, noble Lords on these Benches will support her. I support neighbourhood planning. This amendment would give a limited right of appeal, as has been outlined.

As I have told your Lordships' House before, the ward I represent in Lewisham—Crofton Park—is in the process of drawing up a neighbourhood plan. We have not yet obtained full approval for it, so this amendment would not apply to us. However, it would give impetus to our efforts to carry on consulting local people and getting the local community plan approved. Then we can help local people.

The noble Baroness's amendment would enable communities to be involved locally. The Government should support it. The Government have adopted a rather hokey-cokey approach to localism during the Bill's passage. When they agree with measures, they trumpet the fact that they are in favour of localism and letting local authorities decide things. However, when they do not like something, they say that local councils cannot obstruct the will of central government, which needs to decide these matters. The Government have no consistency—it is in; it is out; it is in; it is out. That shows no respect for localism, local people or local communities and is no way to formulate policy. It makes a mockery of the Government's own Localism Act, which was passed only a few years ago.

We heard the myth from the noble Baroness, Lady Evans, about local planning authorities holding up housebuilding. I tabled a Parliamentary Question on this. On 4 April, I was told by the noble Baroness, Lady Williams of Trafford, that there were permissions for 658,000 homes to be built in England that had been either not started or not completed. These are approved homes. Therefore, I do not think that local planning authorities are holding these things up. We need to get these homes built; the permissions are there.

Lord Rooker (Lab): I intend the following as a purely positive question because I have not read anything about this. However, I noted something the noble Baroness said when she moved the amendment. It is a technical question. Is this a precedent for third party rights of appeal? I am not clear whether third party rights of appeal in planning exist. I seductively proposed them when I was a Minister but subsequently had to oppose them at the Dispatch Box because I was yet to be convinced about them. In other words, is this a thin end of the wedge for third party rights of appeal or do

they already exist in other parts of the planning system? It is a perfectly reasonable question; I am just looking for the information.

Lord Kennedy of Southwark: As I understand it, this gives a right to the local parish council or neighbourhood forum to be involved in these things.

Lord Rooker: The point I was making is that it is a third party right of appeal. It is a fairly fundamental principle that I do not think exists—but it may do, I may be wrong. That is why I am asking.

Baroness Evans of Bowes Park: I think that the noble Lord is right but I might get clarification and come back to that before I sit down. I thank the noble Lord, Lord Kennedy, and the noble Baroness, Lady Parminter, for this further short debate. I think that we all want communities to be better engaged with the planning system and we all want communities to have more of a say about the future of their areas. That is why we all support neighbourhood planning.

We know that the quality of local planning decisions remains high. In 2015, only 1% of applications where development was refused were overturned on appeal. Our planning system is geared to delivering sustainable development, not development at any cost. We trust that elected councillors will deliver sustainable and appropriate development. The government proposal before your Lordships requires a local planning authority to set out in any report to a planning committee that recommends granting planning permission any conflict with the neighbourhood plan and how the neighbourhood plan has been considered.

The noble Baroness, Lady Parminter, said that this would not change anything but it will. It will improve the clarity and transparency of committee reports to ensure that planning decisions are made in full knowledge of any conflict with a neighbourhood plan. This may be covered presently, but our amendment will make it a requirement. It will require them to demonstrate that they have considered the neighbourhood plan and that they have identified any conflict between the recommendation and the plan. The amendment complements the existing right that communities have to request that the Secretary of State call in applications for his own decision. All requests to call-in are considered carefully, and the Secretary of State does not hesitate to intervene where necessary. For example, over the past 12 months, seven cases involving a neighbourhood plan have been called in. With the existing right to request call-in, the new requirement on planning reports to ensure neighbourhood plans are properly considered and respected, and the Government's £22.5 million support programme to help communities through every stage of the neighbourhood planning process, I am confident that neighbourhood planning will continue to go from strength to strength.

In response to the question by the noble Lord, Lord Rooker, this is a precedent for third party rights of appeal; it does not exist elsewhere in the planning system. I hope that what I have set out will reassure the noble Baroness, Lady Parminter, and I ask her to withdraw her amendment.

Lord Kennedy of Southwark: Before the noble Baroness sits down, she originally implied that local authorities and planning committees were holding up all the development. The Parliamentary Answer of 4 April stated that hundreds of thousands of planning permissions have already been agreed and approved but the houses are not being built. That is the problem. It is not local authorities or planning committees which are doing this.

Baroness Parminter: My Lords, I stand by my assertion that the Government's amendment offers nothing beyond that which good local planning authorities are already doing. It does not address the issue; even if they are doing it, councillors can then go on to make a decision that overturns the policy of a neighbourhood plan or forum and that the call-in cannot be used by that local group, because there cannot be a call-in if a local council approves a policy that is contrary to a local plan. Equally—this is really important for rural areas—call-ins do not apply for housing developments of less than 10 homes. Given that so many neighbourhood groups and parish councils are putting together their neighbourhood plans in rural areas, we need something that gives them a sense of certainty over their plans.

I accept what the noble Baroness, Lady Evans, said—this could be interpreted as a limited third party right of appeal. But it is not for individuals; it is only for neighbourhood councils and parish councils, which have to go through a process of getting their plan to go through a public referendum and then be approved by a council before they can have their plans approved. Secondly, the limited right is only if they then get a two-thirds majority of the parish council or neighbourhood forum to agree to proceed with an appeal. It is a very limited right that I have asked for. We have moved some way; I am sorry to say that I do not think the Government have moved far enough and I wish to test the opinion of the House.

6.04 pm

Division on Motion J1

Contents 248; Not-Contents 214.

Motion J1 agreed.

Division No. 3

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6.17 pm

Motion K

Moved by ***Viscount Younger of Leckie***

That this House do not insist on its Amendment 108, to which the Commons have disagreed for their Reason 108A.

108: After Clause 143, insert the following new Clause—

"Carbon compliance standard for new homes

(1) The Secretary of State must within one year of the passing of this Act make regulations under section 1(1) of the Building Act 1984 (power to make building regulations) for the purpose of ensuring that all new homes in England built from 1 April 2018 achieve the carbon compliance standard.

(2) For the purpose of subsection (1), "carbon compliance standard" means an improvement on the target carbon dioxide emission rate, as set out in the Building Regulations 2006, of—

(a) 60% in the case of detached houses;

(b) 56% in the case of attached houses; and

(c) 44% in the case of flats."

Commons Reason

108A*: Because it could slow down or prevent the development of new homes.*

Viscount Younger of Leckie (Con): My Lords, it should be noted that there was very strong support in the other place to reject Amendment 108, with a vote of 286 in favour of rejection, compared to 163 against.

Amendment 108 raises an important issue about the energy performance of new homes but I repeat what we have said previously in the House on this matter: new homes built to the current standards are already very energy efficient. The standards were strengthened by 30% over the last Parliament and it is recognised that these changes have pushed the fabric energy performance of homes to the point where further increases may result in only marginal energy-efficiency returns.

However, the Government do not want to rest on their laurels. We recognise that costs and industry's understanding of energy measures improve over time. The Government recognise the feeling of this House that the energy standards for new homes should be improved where this is feasible and cost effective. The cost effectiveness of any changes is integral to this debate and to the electorate, who agreed with our manifesto commitment to meet our climate change commitments,

"as cost-effectively as possible".

We need to understand what is cost effective and feasible for a minimum mandatory standard that will apply to all new homes in England, no matter how viable an area is for development, and to all sizes of homebuilder. We need evidence to do this.

The Government have said throughout the passage of the Bill that we will be reviewing the energy-performance standards for new homes in the coming months. Some noble Lords have said that a review is not needed because the work has already been done on the standard on which this House voted. But the carbon compliance levels proposed in the Lords amendment date back to work undertaken by the Zero Carbon Hub in 2010-11. Things have moved on in the industry since then. It is right that we look again at what makes sense for the industry.

Although the industry was involved in the work done in 2010-11, the coalition Government did not adopt the standard formally and there was no formal consultation, no draft legislation and no impact assessment produced on the standard, as your Lordships would rightly expect when new building regulations are brought

[Viscount Younger of Leckie]
forward. Furthermore, the Zero Carbon Hub's work did not cover all types of development, particularly high-rise flats. If noble Lords look across the river they will note how much of new housing development is in high-rise blocks. The Zero Carbon Hub recognised that more work was needed to develop levels appropriate for this kind of development.

Consider the impact of prescribing a standard without up-to-date analysis or consultation with those who have to implement it. If we get it wrong, potentially we bring new development to a stop. That is a heavy burden of responsibility on this House. I beg to move.

Motion K1 (as an amendment to Motion K)

Moved by ***Baroness Parminter***

Leave out from "House" to end and insert "do insist on its Amendment 108".

Baroness Parminter: My Lords, the new homes we wish to be built must, at the same time, meet our greenhouse gas targets and contribute to lowering fuel bills. It is right that we help to ensure that those homes are financially viable for the people who are going to build them. As the Government have accepted, the on-cost for building homes to this standard is £3,000 for a three-bedroom semi. That figure, as the Government again have accepted, comes from a report in 2014, since when costs have come down dramatically. But we also need to ensure that we help the poorest in our communities to save on their energy bills. It is accepted that introducing these standards would result in a saving of £330 per annum for households, compared to houses built to existing building regulations. Equally, it would save those households any retrofit costs in the future, given that the Government have not ruled out raising building standards.

The Government have said that this is a regulatory burden on the small developer, although I remind noble Lords that these standards were agreed by the industry before they were withdrawn by the Chancellor. This was not the evidence given to the House of Lords Select Committee on National Policy for the Built Environment, where it was made clear that small housebuilders were saying that access to finance and the price of land were the major constraints on housebuilding. Let us be clear: regulations are not always to be seen as a burden. Regulations deliver a level playing field across the housing industry and drive innovation. It is regulations that will cut the fuel bills for the poorest in our community and help us to meet the greenhouse gas targets that this Government committed to so strongly and so welcomely in Paris. It is the job of this House to ensure that the Bills that leave here contain good regulation. That is what this amendment would do. I beg to move.

Lord Krebs (CB): My Lords, I support the amendment of the noble Baroness, Lady Parminter. As she has said, it is meant to be helpful in the context of our legally binding commitment to reduce our greenhouse gas emissions. The important thing to remember is that the new houses which are to be built now will be around for a long time—probably 100 years or more. It is inevitable that over time, we will need to tighten our greenhouse gas emission standards and move towards a zero-carbon homes standard. If, in building them, we do not meeting that standard today, they will have to be retrofitted in future. It is all very well to say, as the noble Viscount did, that we will undertake a review, but in the time it takes to carry out that review, many homes will be built. We will be storing up trouble with the homes we build while carrying out yet another review.

In the other place, it was noted that this requirement would "slow down or prevent" the building of new homes. Let us look at the counterfactual: let us say that we do not implement this amendment and go ahead rapidly with building new homes, but that those new homes are not fit for purpose in the future. Surely, that cannot be a good principle. If we are to build new homes now, we should think about their long-term implications for both greenhouse gas emissions and, as the noble Baroness, Lady Parminter, said, the energy bills of those who will live in them. Finally, we have the chance now to legislate to make greenhouse gas savings through this measure, and if we do not, the country will have to make them elsewhere. In the debates in Committee or Report, nobody has said, "Okay, we're not going to make the savings here—but here's where we are going to offer up savings elsewhere in the country".

Lord Kennedy of Southwark: My Lords, Motion K1, in the name of the noble Baroness, Lady Parminter, is very welcome and if she wishes to test the opinion of the House, noble Lords on these Benches will support her. The issues raised in this amendment were of course debated in Committee and on Report. As we have heard many times, we are in the midst of a housing crisis. Not to build homes to a high standard that meets the challenges of which we are all aware, when that could be done at a minimal cost, just seems wrong. I do not understand the Government's position at all. Theirs is a short-sighted policy through which they are cutting corners where they can.

The zero-carbon homes standard is important in delivering on our climate change commitments. As we heard in the previous debate, the cost of the building standards to achieve this and drive down energy bills could be £1,900 or even less. I do not understand why the Government do not want to move on this. All that will do is to leave people with higher fuel bills and the costs of retrofitting properties. That should not be necessary, and not taking action today would be wrong.

The Government's "step too far" defence is just not compelling. They have not made a convincing case as to why this is not the desirable thing to do. It is puzzling that the Government do not want to build homes that are as energy-efficient as possible. As I have said before, on matters of public policy the Government should be striving to get the best possible outcome. If we do not agree to this amendment, in practice, people will pay a greater proportion of their income when moving to a new home than they need to. That would affect those on the lowest incomes—the poorest people—and nor would it be possible for the Government to reduce our carbon emissions.

Viscount Younger of Leckie: My Lords, this House can rightly press the Government to strengthen energy standards where it is possible and cost-effective to do so. I note the well-intentioned comments of the noble Baroness, Lady Parminter, and the noble Lords, Lord Kennedy and Lord Krebs, but it is right that we first do a full and comprehensive review of the evidence. That is our firm intention. Simply imposing standards without such a review risks making homes unviable in some parts of the country and raising construction costs to a point where they may simply be unaffordable for small homebuilders. The Federation of Master Builders, which represents 13,000 small and medium-sized builders, said last week in response to Amendment 108 that the Lords is showing,

"a reckless lack of realism and concern for consequences of heavy-handed regulation".

Let us show the Federation of Master Builders that this House is not reckless and that any future changes to standards will be based on a full review of evidence and be cost-effective.

I would like to pick up on a point made by the noble Baroness, Lady Parminter, about the cumulative cost—that is, the £3,000 figure per household. The cost of meeting the level proposed for a semi-detached home is around £3,000, as has been said, but if that is scaled up for all home types over a year—flats are less costly but detached homes cost more—it would result in a cumulative cost of around £200 million per annum to the homebuilding industry. That reinforces our argument for a full review and with that in mind, I hope that the noble Baroness will withdraw her Motion.

Lord Kennedy of Southwark: The noble Viscount has relied on the Federation of Master Builders now for every debate on this issue. Before he sits down, could he remind us, as I cannot remember, of the number of organisations that, to the contrary, think these measures are very welcome?

Viscount Younger of Leckie: I deliberately use the Federation of Master Builders because it is prominent in the industry. I could quote other organisations and would be very happy to provide the noble Lord with a list of them. There is certainly a mood to ensure that there is not this chilling effect, particularly on small builders. We need to build more houses.

Lord Kennedy of Southwark: I would be interested to see a list of those other organisations. Up to now, all I have heard from such organisations is that they support these measures. The noble Viscount has relied from day one on the Federation of Master Builders and nothing else.

Viscount Younger of Leckie: As I say, I am very happy indeed to write to the noble Lord with a full and further list.

Baroness Parminter: I thank noble Lords who have participated in this debate and echo the comments of the noble Lord, Lord Kennedy, who summed it up incredibly well by saying that the Government's arguments were not compelling. We have debated this at length in the Chamber, and I am not going to go through the arguments again today, but I just want to raise two points.

First, the Federation of Master Builders was one of witnesses before the House of Lords National Policy for the Built Environment Committee. The federation said that it considered regulation a lesser issue in building new homes; the issue was access to finance and the cost of land. Although I hear that Mr Berry wishes to describe this House as being full of people who are "reckless" and show a "lack of realism", that was not the evidence that he gave to a House of Lords Select Committee in October last year.

Secondly, we do not have to listen just to housebuilders. Of course we have to do that, which is why we sought to show at length in Committee that our amendment would not affect the viability of the houses we desperately need; but we have to listen also to the voices of home owners who will save money on their energy bills through this amendment, and to future generations, who need us now to start getting serious about tackling our greenhouse gas emissions. On that basis, I most assuredly wish to test the opinion of the House.

6.31 pm

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Motion K1 agreed.

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6.42 pm

Motion L

Moved by ***Viscount Younger of Leckie***

That this House do not insist on its Amendment 109, to which the Commons have disagreed for their Reason 109A, and do propose Amendment 109B in lieu—

109: After Clause 143, insert the following new Clause—

"Affordable housing contributions in small scale development

(1) Local planning authorities may require sites falling within subsection (2) to make an affordable housing contribution, in cash or kind, determined by the requirements of the housing market of that area.

(2) Authorities may require contributions from—

(a) developments of 10 units or less, and developments which have a maximum combined gross floorspace of no more than 1000sqm (gross internal area), and

(b) developments in a rural area or an area where—

(i) planning permission for the site was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites;

(ii) the site is in a national park or an area with equal protection to that of a national park; or

(iii) the site is in an area designated under section 82 of the Countryside and Rights of Way Act 2000 (designation of areas) as an area of outstanding natural beauty.

(3) In subsection (2) a rural area is defined as—

(a) any settlement with a population of fewer than 3,000 people at the most recent national census, or

(b) any settlement with a population of between 3,000 and 10,000 people at the most recent national census, and designated as a rural area by the Secretary of State following representations from the relevant local authority."

Commons Reason

109A: *Because the Lords Amendment represents an undesirable fetter on the powers conferred on the Secretary of State by the section inserted by clause 143.*

109B: Clause 143, Page 72, line 35, at end insert—

"( ) This section does not apply in relation to a planning obligation if—

(a) planning permission for the development was granted wholly or partly on the basis of a policy for the provision of housing on rural exception sites, or

(b) the obligation relates to development in a National Park or in an area designated under section 82 of the Countryside and Rights of Way Act 2000 as an area of outstanding natural beauty."

Motion agreed.

Motion M

Moved by ***Viscount Younger of Leckie***

That this House do not insist on its Amendment 110, to which the Commons have disagreed for their Reason 110A.

110: After Clause 143, insert the following new Clause—

"Sustainable drainage systems

(1) The Water Industry Act 1991 is amended as follows.

(2) After section 106(1B) (right to communicate with public sewers) insert— "

(1C) The right under subsection (1) is subject to section 106AB."

(3) After section 106A insert—

"106AB Sustainable drainage systems

(1) A person may only exercise the right under section 106(1) in respect of surface water if the relevant drainage system is designed and constructed according to—

(a) the non-statutory technical standards for sustainable drainage systems or any replacement standards as may be published by the Minister from time to time; and

(b) the planning permission or development consent order for the development drained by the drainage system in question.

(2) In this section "drainage system" has the same meaning as in paragraph 1 of Schedule 3 to the Flood and Water Management Act 2010.""

Commons Reason

110A: *Because the Lords Amendment is unnecessary and impractical.*

Viscount Younger of Leckie: My Lords, the Commons has insisted that this amendment be rejected with a strong majority. It is unworkable and would lead to uncertainty and delay in delivering our manifesto commitment to build more homes.

Flood risk is a very important issue, and I understand the strength of feeling on this matter in the House. Following the devastation of last winter's floods, we are all keen to ensure that development is safe from flooding and does not increase flood risk. Just one year ago, the Government demonstrated our commitment to ensuring that development is safe from flooding when we strengthened planning policy on sustainable drainage. We have made clear our intention to review the impact of this policy once it has had time to bed in.

Although I understand the good intentions behind the proposed new clause, it does not recognise that there are cases when a development may not provide sustainable drainage for very good reasons. This may

be because it is not practical for some forms of development, including mineral sites or where site constraints mean that a suitable sustainable drainage system cannot be provided. Sustainable drainage simply may not be appropriate on a small site with high groundwater or contaminated soil.

I am also concerned that, by making the right to connect conditional on planning permission, we will need to introduce more bureaucracy, complexity and cost into the process to allow for situations where connections are in fact needed or where there is currently no requirement for planning permission to be obtained. This may include situations where water and sewerage companies are exercising their statutory obligations effectively to drain an area.

Another critical defect of the clause is that it does not provide for a process to enable a developer to demonstrate that conditions have been met. This detail needs to be carefully thought through to ensure that the measure is workable and has the intended impact.

Finally, this will be important to many who are looking to government to support industry to provide the homes that communities need. There are no transitional arrangements. What happens to those developments that have planning permission but no right to connect? The measure has the potential to stall development, including in those areas that are not in fact at risk of flooding at all.

As the amendment expands current policy to small developments, which are not currently covered by this policy, small builders, who are only now starting to recover from the economic crash, are likely to be especially hard hit. These are the same small builders on whom we are relying to deliver above and beyond what the larger housebuilders can deliver. I beg to move.

Motion M1 (as an amendment to Motion M)
Moved by ***Baroness Parminter***

Leave out from "House" to end and insert "do insist on its Amendment 110".

Baroness Parminter (LD): My Lords, the purpose of the amendment is to ensure that the new homes that we want are built with sustainable drainage, protecting home owners against flooding and delivering wider environmental benefits to the community—and, indeed, for biodiversity.

At Report, the Government's response was that we should wait to see how the presumption in planning works, given that it has been in place for only a year, but the evidence that we had in Committee, at Report and since is that it is not working. Since Report, Hampshire County Council, Essex County Council and South Tyneside Council have joined every water company and the National Flood Forum, which has links with local councils all around the country, to say that the problem needs sorting, and sorting now.

The amendment, which we proposed at Report, is a simplified version of an amendment that we moved in Committee. I humbly disagree with the Minister: the amendment does not increase bureaucracy but gives local authorities more powers in discussions about planning permissions to deliver the increase in SUDS we need. It gives them the power to talk to developers at the earliest opportunity about sustainable urban drainage solutions. That is what the amendment, which removes the automatic right of connection, would do: make sure that housebuilders consider urban drainage at the beginning of the process, not at the end.

There has been overwhelming support from a variety of organisations, which we cited at Report and which I will not, for brevity's sake, repeat this evening. The House of Lords Select Committee on National Policy for the Built Environment supported such an amendment. Again, we must think of home owners. Yes of course we must think of home builders but, as I said, this is not extra bureaucracy; it is a reasonable amendment. The Government's very welcome Flood Re initiative, which came into effect last year and will give low-cost insurance for home owners, excludes homes built after 2009. By introducing the amendment, we will be increasing the amount of sustainable urban drainage and providing what the Government accept is a low-cost route to the protection that householders need and which we need for our environment.

Given that Ministers have been quoting other industry sources, I end by quoting the Construction Industry Council, which states that, "Maintaining the automatic right provides a get-out for developers by not requiring them to think about how they manage surface water". It is time to end that automatic right. I beg to move.

Lord Krebs: My Lords, I shall be very brief in speaking in support of this amendment, because we have heard the arguments in Committee and on Report. As chairman of the adaptation sub-committee of the Committee on Climate Change, I simply make the point, which I made before, that this is about looking not just now but into the future, when we understand from the climate models that flash surface-water flooding will become more of a problem. It is already a major problem and one of the major sources of flooding in this country and it is going to get worse. So it is rather like the zero-carbon homes amendment that we discussed a few minutes ago. Why on earth would we want to build new developments now that are going to present the residents of those developments with problems with flash flooding in future, when we know that there are straightforward solutions? There is the solution of sustainable urban drainage, not removing the right to connect to the drains altogether but making a presumption—because that right is not automatic—that developers will use sustainable urban drainage where possible.

If, as the Minister said in the introduction, this amendment is both unnecessary and unworkable—and he gave various reasons—I ask myself why so many professional bodies and why the water industry itself, as the noble Baroness, Lady Parminter, said, support it. Those are the people who really understand, and who are real experts, and it is clear that they think that that is workable and desirable and will achieve greater sustainability for the new developments that will be built in the coming years as a result of the initiatives in this Bill. So I hope that noble Lords will listen to the argument that the noble Baroness made and will recall the arguments heard in Committee and on Report and will support the amendment.

The Earl of Lytton (CB): My Lords, I have not spoken in this part of these deliberations. I draw your Lordships' attention to my interests as a practising chartered surveyor and a vice-president of the Local Government Association. More particularly, in the course of my professional work, I have had to deal with the design and application of such things as sustainable drainage systems, whether that might be full sustainability—full SUDS—or whether it be an attenuation, which I might call SUDS-lite. Let us not make too much of that particular distinction.

I recall that, not too long ago, I had reason to pay a visit to the Building Research Establishment at Watford. One thing that came out of that visit was a discussion on sustainable urban drainage systems—and one of the remarkable things about it is how little land is actually needed to achieve an acceptable system. So it does not seem to me to be quite as the Minister said. He raised the objection that this was heavy-handed and would in some way prejudice smaller sites, where things were more constrained. But I refer your Lordships to the non-statutory technical standards, as may be published by the Minister from time to time. It seems to me that that gives the Minister the tools to make different rules for different circumstances, as the situation may arise. With the greatest respect to him, I am not sure that I follow his line of argument.

We need to remove the issue of surcharging water that has to be dealt with by the statutory undertaker. Whether that be surface water that is channelling down some pipe because of a cloudburst or whether it be a combined system, whereby surface water is getting into foul water, which then has to be dealt with in dilute but vast quantities at a sewage treatment works, it is part and parcel of the same problem of volume and disposal. We need to be aware that it is not always in the interests of the sewage undertakers to delimit what goes into their pipes, because of course that gives rise to the justification for large capital works to increase and expand it. I do not think that we should be following that; there are grounds for attenuating these things on or near a site to deal with surface water run-off. Quite apart from the issue of localised flooding and run-off, the whole process of attenuation should and could have been part of standard building regulation practice for at least the last 20 years, and I am really surprised that there is substantial resistance to it. If the noble Baroness decides to divide the House, I am afraid that I shall be voting with her.

Lord Kennedy of Southwark: My Lords, as we have heard, the amendment would ensure that new homes are built with sustainable drainage systems, helping to protect home owners against flooding, helping communities and delivering wider environmental benefits. This issue has been discussed as we have gone through the Bill both in Committee and on Report, and it is disappointing that the Government are again rejecting the amendment. There is no problem with monitoring where were are with SUDS—whether they are included and why they are not included, the issue around developing a site and why costs might mean that you cannot do it. We need a lot more information here, and I do not understand why the Government do not want to do this. The measures are low cost and would deliver flood-resilient homes, which is something that we all want to support. We have all seen the heart-breaking scenes of people's homes being flooded. Why would you want to build homes that are at risk of flooding? It is really very strange.

The Minister talked about cost and bureaucracy and said, "Let's wait and see". I am afraid that that does not stack up. As the noble Baroness, Lady Parminter, said, all the water companies have supported this, but there are also other bodies. Essex County Council is fully in support of it, and I think that that is a Tory-controlled authority—it is certainly not Labour controlled. Hampshire County Council is fully in support of it, and it is certainly not Labour controlled; I think it is Conservative controlled. There are many other bodies; everyone is saying that this is something that we should do, so I do not understand why the Government are still resisting it. I hope the Minister will look at this more favourably and change his mind.

Viscount Younger of Leckie: My Lords, this has been a very interesting and short debate, and I shall be brief. I hope that noble Lords will accept that, while we join them in supporting the use of sustainable drainage, there are flaws that make the proposed new clause simply unworkable, and a potentially serious impediment to the delivery of new homes. As the noble Lord, Lord Krebs, said, we have heard the arguments at some length during the Bill, and I can only reiterate our position that we will review the impacts of the current planning policy on sustainable drainage. That is a definite reassurance.

On the point that the noble Lord, Lord Krebs, raised on why by building now we might be storing up problems for later, when determining planning applications, local planning authorities are expected to ensure that flood risk is not increased elsewhere. In areas at risk of flooding, they should ensure that priority is given to the use of sustainable drainage systems. There is also an expectation that sustainable drainage systems will be provided in all new major developments, unless demonstrated to be inappropriate. A site-specific flood risk assessment is required for planning applications for a development likely to be affected by local sources of flooding, and should look at all forms of flood risk, including from surface water. The developer is responsible for providing effective drainage already to serve the development and agreeing it with the local planning authority. I hope that, with the continuing reassurance about looking very closely at the issue in our review, noble Lords will reject the amendment.

Baroness Parminter: My Lords, I thank the noble Lord, Lord Kennedy, the noble Earl, Lord Lytton, and the noble Lord, Lord Krebs, for joining me in support of the amendment. I have not heard anything from the Minister to counter the weight of evidence in this Chamber and beyond, which says that the present situation with regard to delivering sustainable urban drainage is not working. When the Government introduced the presumption in planning over a year ago, that is what they wanted to do—encourage sustainable urban drainage. They had that intention, but it is not working, and that is the evidence. I remind the

[Baroness Parminter]
House that small developments are currently excluded from the provisions. Our amendment states that all developments should be subject to them. In rural areas, small developments often affect people in terms of flooding.

We have moved a long way on this amendment. This is not the first amendment that those of us who feel strongly about sustainable urban drainage have brought to this House. We have narrowed our amendment as a sign of good will to the Government. We want the same thing. We want more homes, but we need them to be flood resilient and to deliver amenity benefits to communities. On that basis, I wish to test the opinion of the House.

7 pm

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Motion M1 agreed.

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Courtown, E.
Craigavon, V.
Crathorne, L.
Cumberlege, B.
De Mauley, L.
Denham, L.
Dixon-Smith, L.
Dobbs, L.
Dundee, E.
Dunlop, L.
Eaton, B.
Eccles, V.
Eccles of Moulton, B.
Elton, L.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Farmer, L.
Faulks, L.
Finkelstein, L.
Finn, B.
Fookes, B.
Forsyth of Drumlean, L.
Fowler, L.
Framlingham, L.
Freeman, L.
Freud, L.
Gardiner of Kimble, L. [Teller]
Gardner of Parkes, B.
Garel-Jones, L.
Geddes, L.
Glenarthur, L.
Glentoran, L.
Goldie, B.
Goodlad, L.
Goschen, V.
Greengross, B.
Greenway, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Harris of Peckham, L.
Hayward, L.
Henley, L.
Heseltine, L.
Heyhoe Flint, B.
Hodgson of Abinger, B.
Holmes of Richmond, L.
Home, E.
Hooper, B.
Hope of Craighead, L.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Kakkar, L.
Kalms, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lansley, L.
Lawson of Blaby, L.
Leigh of Hurley, L.
Lexden, L.
Liverpool, E.
Livingston of Parkhead, L.
Lucas, L.
Luce, L.
Lupton, L.
Lyell, L.
McColl of Dulwich, L.
MacGregor of Pulham Market, L.
McIntosh of Pickering, B.
Mackay of Clashfern, L.
Magan of Castletown, L.
Maginnis of Drumglass, L.
Mancroft, L.
Mar, C.
Marland, L.
Marlesford, L.
Maude of Horsham, L.
Mobarik, B.
Montrose, D.
Morris of Bolton, B.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Newlove, B.
Northbrook, L.
Norton of Louth, L.
O'Cathain, B.
O'Neill of Gatley, L.
O'Shaughnessy, L.
Patel, L.
Patten, L.
Perry of Southwark, B.
Peterborough, Bp.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Prior of Brampton, L.
Rawlings, B.
Redfern, B.
Ribeiro, L.
Ridley, V.
Rock, B.
Rogan, L.
Rotherwick, L.
Ryder of Wensum, L.
Scott of Bybrook, B.
Seccombe, B.
Shackleton of Belgravia, B.
Sharples, B.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Skelmersdale, L.
Smith of Hindhead, L.
Spicer, L.
Sterling of Plaistow, L.
Stirrup, L.
Stowell of Beeston, B.
Stroud, B.
Suri, L.
Taylor of Holbeach, L. [Teller]
Taylor of Warwick, L.
Trees, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Ullswater, V.
Verma, B.
Wakeham, L.
Warsi, B.
Wasserman, L.
Wellington, D.
Wheatcroft, B.
Wilcox, B.
Willetts, L.
Williams of Trafford, B.
Young of Cookham, L.
Younger of Leckie, V.

7.11 pm

Motion N

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

That this House do agree with the Commons in their Amendment 111A.

111: Clause 145, page 74, line 3, leave out subsections (1) and (2) and insert—

"(1) The Secretary of State may by regulations provide for temporary 3 arrangements in particular areas to test the practicality and desirability of competition in the processing (but not determining) of applications to do with planning.

(1A) The regulations may make provision—

(a) for an application for planning permission that falls to be determined by a specified local planning authority in England to be processed, if the applicant so chooses, not by that authority but by a designated person;

(b) for any connected application also to be processed by a designated person and not by that authority.

(2) The regulations must specify a period after which any such provision ceases to apply.

That period (whether as originally specified or as subsequently extended) must end no later than five years after the first regulations under this section come into force."

Commons Amendment to Lords Amendment

111A: Line 3, after "areas" insert "in England"

Baroness Williams of Trafford: My Lords, Amendment 111 implemented a number of the DPRRC's recommendations. It also took steps to ensure that our pilots would test the benefits of introducing competition to planning application processing on a level playing field, and make clear that the planning decision would always be made by the local planning authority. The other place has accepted Amendment 111 but has proposed a minor amendment, Amendment 111A, to clarify that regulations can provide only for temporary arrangements in England. I beg to move.

Lord Beecham: My Lords, tempted though I am to indulge in a forensic examination of this complex and crucial amendment, I think I will spare the House.

Motion N agreed.

Motion P

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

That this House do agree with the Commons in their Amendment 184A.

184: Clause 190, page 99, line 32, at end insert—

"( ) regulations under section 67(1) that contain more than one determination or a determination that relates to more than one local housing authority,

( ) regulations under section 67(8),"

Commons Amendment to Lords Amendment

184A: Leave out lines 2 to 4

Motion P agreed.

Personal Independence Payment: Mobility Criterion

Motion to Resolve

7.12 pm

Moved by ***Baroness Thomas of Winchester***

That this House calls on Her Majesty's Government to hold urgent talks with Disability Rights UK and the Disability Benefits Consortium to identify a mobility criterion in the Personal Independence Payment "moving around" assessment which is fairer than the current 20 metre distance, in the light of the impact on reassessed disabled claimants and the resulting large number of successful appeals.

Baroness Thomas of Winchester (LD): My Lords, in moving this Motion I must first declare that I have a Motability car as a result of having higher-rate mobility and disability living allowance. As I am over 65, I will not be reassessed for personal independence payments. That is probably the reason why I am so keen to try to persuade the Government to hold urgent talks about the "moving around" part of the PIP assessment, because I am particularly concerned about the reassessment process for all those working-age disabled claimants who at present receive higher-rate mobility DLA and are thus entitled to a Motability car but who are now facing reassessment for PIP. Here I should make it clear that I am not talking about the care component to PIP, which was the subject of the recent climb-down by the Government over the Budget. Tabling a Motion is an unusual course to take, but I assure the House that there is nothing fatal about it. However, if it were to be agreed, it would send a powerful message that this House is very concerned about this particular government policy and is taking a constructive approach to seeing what can be done to help the situation.

Why am I so concerned about the "Moving around" section? Because the relevant walking distance test for PIP has been made much harder than the DLA test, meaning that by the Government's own estimate the number of people on enhanced or higher-rate mobility will go down from around 1 million people to 600,000 by 2018. Some 400 to 500 Motability cars a week are now being handed back by disabled claimants whose condition may not have improved but who are losing not just their car but, in many cases, their independence. Under DLA, the walking distance was 50 metres, which was in the Department for Transport guidance on inclusive mobility. The new distance of 20 metres is just under two London bus lengths, and is unrecognised in any other setting. There is no evidence that it is a sensible distance for the test, and it is not used anywhere else by the Government.

So someone with a walking frame, say, who can just about manage 20 to 30 metres, will not usually qualify for PIP. I see the Minister even now sharpening her pencil to make a note reminding her to tell me that this is a travesty of the truth. No, I have not forgotten the reliability criteria, which were made statutory in the last Parliament—thanks, in fact, to the intervention of the Liberal Democrats. The full reliability criteria in the PIP guidance are that 20 metres must be able to be walked,

"safely … to an acceptable standard …repeatedly … and … in a reasonable time period".

Claimants, we are assured, must be asked about these criteria during an assessment. But are we quite sure that they are asked on every occasion? Are claimants taken outside the assessment centre, and does the assessor watch while they do the walking test?

How the questions are asked is likely to have a significant impact. If someone said to me, "Could you walk this distance, not too slowly, even if the pavement was very uneven"—as they all are in London—"and crowded, and there was a gusty wind or perhaps rain? What about crossing the road, which might not have a dropped kerb except at the very end, which would be further away than 20 metres? Could you walk this distance more than once a day if you had to—say, to a local shop or pharmacy and back, or to a bus stop, which would almost certainly be more than 20 metres away? And in the dark?". My answer would be no. However, if the criteria were mentioned quickly, with the assessor looking down and ready to tick a box on the relevant form, then I might not quite take them in. I also wonder whether every claimant actually knows what distance 20 metres is unless it is demonstrated. I have heard about walking tests being done by claimants inside the assessment centre, but that is not the right test.

In an ideal world, at the assessment all claimants would have a report from a healthcare professional setting out their mobility problems, but I gather that that is not mandatory because in many cases such reports, particularly if they come from GPs, cost the claimant money. The amount varies enormously, but even in 2013 the BMA suggested that £90 was not an unreasonable amount. It is likely that, in time, a person's medical records may be able to be accessed online, but that is not the case at present. It is only during the tribunal appeal process—not even the mandatory reconsideration—that the DWP will pay for a medical report. This whole area could be explored in the talks that I am calling for, because there are other healthcare professionals who do not charge for their reports. We are told that claimants often produce more evidence at the appeal stage, so why not try to improve this part of the process before that stage?

Why did the Government shorten the walking distance so arbitrarily and drastically? Almost certainly, it was to wipe the slate clean before the tribunal judgments in order to save the money that the Treasury was demanding. After all, who would notice except disabled people themselves? The Government's excuse would be that the test had changed so the money would now go only to "those most in need". That is a very worthy-sounding phrase, but it really does not mean very much unless it is qualified. Perhaps disabled people in rural areas,

where public transport is scarce, are most in need of their own transport. Perhaps disabled parents with young children are most in need of their own wheels, or those who need a large car because they have most to carry in them, such as a supply of oxygen, walking aids or even toilet equipment. Just to recap, under PIP, if a person can walk more than 20 metres, aided or unaided, they usually will not qualify for the enhanced rate mobility component and thus a Motability vehicle.

How did Parliament allow this change in the assessment rule without challenging it? The answer is that the Government changed the distance at the very last minute without consulting on it. They then realised that no consultation on a crucial rule meant a judicial review, so they consulted in the summer of 2013. They received more than 1,000 responses, almost all saying that the 20-metre walking test was manifestly unfair, not to say meaningless, and that a longer distance should be used. The Government took absolutely no notice, using the excuse that, because there was no unanimity on what the right distance should be, they were going to stick with 20 metres. In other words, the consultation was a complete sham and the Government's response unbelievably weak.

PIP was fraught with problems for new claimants. It was initially delayed for months, and then reassessments were delayed for months and months but they finally got going last year and are resulting, as was predicted, in hundreds of cars being handed back. Motability has done what it can to mitigate the situation, but it is the Government's responsibility to make the assessment as fair as possible. If it is fair now, why are there so many successful appeals? Sixty per cent is the figure I have. Appeals, it must be pointed out, can be held several months after a car has been handed back and are quite expensive, costing over £200 each. It surely cannot be right for the Government to rely on appeals to bring some fairness into the situation.

I will now look briefly at just three of the other arguments that the Minister will use. First, I will be told that there is now a better balance between those with mental health problems and those with mobility problems. That is good, but there should not be a trade-off between these two groups. Is that what happens in the NHS? Parity of esteem should mean just that. I will also be told that there are more Motability cars on the road than ever before because a slightly higher percentage of PIP assessments are successful compared with those for DLA. However, the true picture will not emerge until all the reassessments are done, when it is estimated that the number of Motability cars by 2018 will be down to 602,000. Thirdly, I will be reassured that the Access to Work programme can take care of disabled people who lose their Motability car, which they need to get to work. However, it will not help those who need a car to get to a further education college for training or to university, or for volunteering or hospital appointments, or even to visit family and friends at the weekend.

As for the assessors, when one young claimant with cerebral palsy asked why she had to be tested again, she was told by her assessor that there might have been medical advances. The claimant said, "There's no cure for cerebral palsy. I'm never going to get any better. I've been on a lifetime award since I was a teenager, and now someone who has never met me can take that away". This was not just an isolated example of an uninformed assessor. Someone with muscular dystrophy, a progressive condition, was told by an assessor to get better soon. Many with this and other progressive conditions such as MS and Parkinson's, with lifetime awards of DLA, are falling foul of this particular part of the PIP assessment. Here, again, the quality and training of assessors is another important issue for talks. It was the last thing that the late and much-lamented Lord Walton of Detchant asked about on 7 March as a supplementary to my Oral Question on that day.

To sum up, to be told that the bill for PIP is too high and must be cut by more than halving the walking distance test is a real slap in the face for thousands of disabled people, particularly those of working age with lifetime awards under DLA. Of course the bill is going up—because the disabled population is going up. The Government must have factored that into their calculations years ago. The last thing that anyone wants is for more and more disabled people to become socially isolated and totally reliant on other services for everything they need. A great deal of money could actually be saved by other government departments, such as health, social services, employment and transport, by making the PIP walking distance fairer. I beg to move.

Lord Low of Dalston (CB): My Lords, the noble Baroness, Lady Thomas, has made an excellent case and I support it. I should declare as an interest that I have an award of disability living allowance, but it is not an interest that I have to defend because it is a lifetime award; and, since I, too, am over 65, I am not subject to reassessment. My only interest in this debate is that I wish everybody else to be able to have the same.

I want to make five points, which I think will add to what the noble Baroness said in her excellent speech. First, as I understand it, 548,000 disabled people will lose out as a result of the revision in the criteria for DLA and PIP. They are set to lose £35.65 a week as a result of this change, which is a considerable amount.

Secondly, Motability has reported that to date 45% of scheme users—over 13,000—who have been reassessed from DLA have lost their Motability car. That can have a dramatic impact on people's employment. I heard somebody on the radio say that they would not be able to continue to work, but this does not just affect isolated individuals. Of Motability customers surveyed in 2010 who were not currently retired, permanently unable to work or in full-time education, 39% said that their Motability car had enabled them to gain employment, get better employment or maintain their current employment. A Multiple Sclerosis Society survey found that 20% of those surveyed agreed that it enabled them to stay in their job, whereas, without a Motability car, they would not have been able to do so. Making a change that means that people who need a Motability car to go to work lose their car flies in the face of the Government's welfare-to-work agenda and their aim to halve the disability employment gap.

My third point is that the 50-metre threshold, to which the noble Baroness, Lady Thomas, would like to see us return, is a well-established and research-based measure of significant mobility impairment. It has

[Lord Low of Dalston]
been used for the last 35 years, notably in relation to other disability benefits, including DLA itself, the blue badge or disabled persons' parking scheme, and in official guidance on creating an accessible built environment. The 20-metre threshold to which retreat is being sought is completely arbitrary and has no basis in established usage.

7.30 pm

Fourthly, this whole business ought really to be reviewed in the context of the Government's U-turn on PIP. Following the resignation of the former Secretary of State for Work and Pensions, the Government announced that they would not go ahead with currently contemplated reforms to PIP criteria, which they had recently been consulting on. It seems only logical that the point that the noble Baroness, Lady Thomas, is raising should be examined in the context of the review of the PIP criteria.

Finally, I strongly support the call from the noble Baroness, Lady Thomas, for the Government to hold detailed talks about this with disability organisations. When we did the review of the impact of the proposed cut on those receiving employment and support allowance in the work-related activity group, I was tremendously impressed with the detailed expertise that members of these organisations had in all the details of the allowance, its benefit to disabled people and the impact its loss would have on them. It seemed to me then that these organisations could be of enormous assistance to the Government in getting the benefit criteria right. That is no less the case in relation to the point that the noble Baroness, Lady Thomas, is raising. I very much hope that the Government will get down to serious talking with the disability organisations so that we can get these thresholds right and they can be a proper index of people's ability to get around and their entitlement to the higher rate mobility component of PIP.

Baroness Masham of Ilton (CB): My Lords, I congratulate the noble Baroness, Lady Thomas of Winchester, on securing this debate and on her persistence over this important matter. Under PIP, those who can reliably walk more than 20 metres will no longer qualify for the highest rate of the mobility component. This support is crucial to the lives of many disabled people, allowing them to live more independent lives and to access suitable transport and adapted vehicles, such as through the Motability scheme. I must declare an interest as I have been a vice-president of Motability for many years. The chairman, the noble Lord, Lord Sterling, recently told me that there had been an increase in take-up of the scheme. Therefore, there must be an increase in the number of disabled people, because with this new restriction, organisations for disabled people say that more than 5,000 people will no longer qualify for the enhanced rate of the mobility component of PIP. Some people have already lost support after being reassessed from DLA.

This is a desperate situation for some disabled people living in rural districts who have no public transport. If they have employment, they will lose it. They will also lose the independence needed for a social life and will have to use hospital transport for hospital visits, costing the NHS much-needed funds.

A few years ago, the Rheumatoid Arthritis Society linked parliamentarians with members of the society to learn about how they live. I was linked with a splendid young woman from Suffolk who had a Motability car. She also had a job. She might be the sort of person who would not qualify because she can walk a little. I ask the Minister: what is the definition of those who can reliably walk more than 20 metres? Could she define "reliably" to the House? There are so many people with rheumatoid arthritis, multiple sclerosis, Parkinson's disease and all sorts of other orthopaedic and neurological conditions. This is a very complex matter. Will the Minister tell your Lordships about the people who do the assessments? Are they trained occupational therapists or physiotherapists? Surely, they should be trained in these complex disability conditions.

I made my maiden speech in 1970 on the Chronically Sick and Disabled Persons Bill. That legislation was to lift restrictions in many ways so that disabled people could live better lives. In 2016, it is of great concern if we are going backwards and taking independence away from people with disabilities. I hope that the Minister and the Government will have a very serious look at how they can help make disabled people as mobile as possible.

Baroness Grey-Thompson (CB): My Lords, I am delighted that the noble Baroness, Lady Thomas of Winchester, has tabled this debate. I also congratulate her on her persistence. I declare an interest in that I am a recipient of DLA and am eagerly awaiting the call for my PIP reassessment. It will be very interesting to experience it for myself. I do not have a Motability car, but in the early years of learning to drive I did. For me, it made a massive difference to what I was able to do. Because of my condition I can only drive an automatic car. The cost of hand controls is now around £1,000 and the cost of insurance would have made any other way of being mobile totally prohibitive.

I am very sorry that my noble friend Lady Campbell of Surbiton is not able to be here tonight because of the lateness of the hour. She asked that I ask the Minister about how people with hidden impairments would be affected, particularly those with haemophilia. One day they can walk but, if they have a bleed, they may have to use a wheelchair; so for them, this arbitrary 20 metres makes a significant difference to how they are able to live their lives.

We are starting to see a significant impact from the Government's Welfare Reform Bill, and it is affecting a huge number of people. I believe that the 20-metre guideline is an arbitrary number—where does 20 metres get you? It is barely the distance from one wall of the Chamber to the other. How can we reasonably expect people who can walk only 20 metres not to require some sort of assistance?

I live in the north-east of England, where public transport is not particularly accessible. If I did not have a car, I would not be able to take my daughter to school or to work. As a wheelchair user, the knock-on effect is significant. For me to come to London, I have to use a train. As a wheelchair user, I am meant to book a train journey 24 hours in advance. This week,

I was not able to, and so the only way that I could get on the train was to get out of my chair, crawl on board and pull my chair on to the train, and do the same at the other end. The impact on disabled people if they are not able to drive is quite significant.

I have a number of concerns, and not just around the 20-metre rule but around the process of assessment. My inbox is consistently full of emails from people with issues relating to the assessment process, and I have three examples that I would like to give. One person had their car taken away, and in the documents that they received back to go to tribunal it said that because they did not look undernourished, were able to communicate and could arrange for the payment of bills, they were not eligible for the enhanced rate. However, removing the car while the process is going on is very short-sighted. That person was unable to carry on working. This individual is now going through the process of applying to the Access to Work programme, which is apparently willing to pay £32 a day for a taxi to take them back and forth to work. That seems ludicrous. We are just talking about money coming from different budgets rather than the total sum. It must make greater sense to allow the person to keep the car until the full process has been gone through.

Another person who spoke to me is someone with cerebral palsy who is a wheelchair user. In the assessment process, it was written down that they could stand for an hour and no mention was made of the 20 metres. However, they were not even asked that question in the assessment process.

My final example is a woman who, on her first assessment, had a home visit and then a medical with a doctor. As her condition deteriorated, she asked for the mobility section to be reassessed. She was informed that the only way in which this was possible was to go through a full reassessment—there was no other option, so she had to agree to it. However, the full reassessment was 20 minutes with a medical professional at a walk-in centre; no home assessment was considered or took place. In the second assessment, her points changed quite drastically, but the real difficulty was that she was told that the mobility criterion had changed and that she had lost points. They assessed the wrong side of her body. She is a hemiplegic. In the assessment process, they said that there was nothing wrong with her left side—that was because she is hemiplegic on her right side. It seems crazy that the assessment process is doing this to individuals. A number of people say that it is very stressful and painful—they worry about it—but if they cannot even have assurance that the assessment is being carried out properly, what are we doing?

Will Her Majesty's Government look at the failings in the assessment process? It is ludicrous that so many people are rejected only for the decision to be overturned on appeal. How much money is being spent on mandatory reconsiderations and tribunals for the award to be given in the end? It seems to be a total waste of money. Finally, I ask the Minister to talk with Disability Rights UK and the Disability Benefits Consortium to prevent the current criterion assessment process costing us all far more money in the long run than we are trying to save.

Baroness Brinton (LD): My Lords, I, too, thank the noble Baroness, Lady Thomas of Winchester, for bringing forward this important Motion for us to debate tonight. Although I am not in receipt of any benefits, I have already hit the problem of the 20-metre distancing, as I have mentioned in Oral Questions before, because the NHS in my area has decided that you are not entitled to an NHS electric wheelchair if you can get from one side of your house to the other, with no concept that keeping independent, having an electric wheelchair and getting to work might be important as well.

I, too, want to pick up on some of the anomalous cases that have arisen. Tom Carter reported to the Disability News Service last year that he had lost his enhanced mobility rate. The assessor refused to acknowledge that he could not walk long distances without discomfort and pain—he had said it in the written questionnaire and the consultation. He was not wearing his prosthetic leg for the assessment and the assessor said that he had,

"no evidence of functional problems".

In her written report, she also ignored his need to have the car to drive himself to his medical appointments, which, as the noble Baroness, Lady Grey-Thompson, has mentioned, is vital in rural areas because bus services are frequently inappropriate and many rural buses cannot yet accept wheelchair users.

The assessment of the 20 metres is very focused on people who have a manifestation of running out of breath, which might be COPD or heart conditions; it does not recognise those with musculoskeletal problems. I have rheumatoid arthritis—there are others as well—where although it is perfectly possible to walk 20 metres one ends up in a lot of pain, and physiotherapists get very cross because the more you walk the more damage you do to joints. So using that as an example is completely unhelpful.

The National Rheumatoid Arthritis Society has pointed out that no comprehensive assessment has been made by the DWP of what impact the measure will have on disabled people, but from work done by NRAS and the Disability Rights Commission it is clear that the loss of money or easy access to a vehicle will lead to unemployment, isolation and depression.

I want briefly to discuss Motability and what it does. It is more like a business than a charity—I agree that it provides an extremely valuable service. It declares in its annual report for 2015 that it has a "unique arrangement" with the DWP whereby,

"disability allowances can be diverted directly to Motability Operations".

It makes further money on re-selling at the end of the lease. In fact, 77% of vehicles are sold online at the end of what is usually a three-year, but sometimes a five-year, lease. It declares itself as,

"the largest supplier of used cars to the motor trade in the UK, selling around 220,000 cars each year".

Its turnover is nearly £4 billion a year. It made a profit of £210 million last year and its assets sit at more than £2 billion.

I raise this because I wonder whether the Government have the wrong target in their sights. It seems to me that rather than to ask to halve the PIP bill, making a

[Baroness Brinton]
Motability contract that worked for disabled people would be more appropriate. Most people with Motability contracts go nowhere near the average mileage per year on a car. A three-year to five-year lease seems short for many people who might go no more than 5,000 miles a year. My question for the Minister is: are the Government beginning to look seriously at the effective use of their money to make sure that disabled people can get access to the cars and wheelchairs they need to be able to lead completely independent lives? The numbers that we have heard from other speakers seem to demonstrate that the exact opposite is the case. The unintended consequence of the 20-metre rule and halving the PIP bill will mean that far too many people with disabilities will end up out of work and isolated in their homes, and no longer able to lead anywhere near independent lives.

7.45 pm

The Lord Bishop of Peterborough: My Lords, I support the noble Baroness, Lady Thomas of Winchester, and thank her for bringing this Motion before the House. I have a simple point to make.

The tick-box approach is rarely the right one. People are individuals and wherever possible should be treated as such. While it is clear that the 20-metre rule is too restrictive, setting a replacement figure, whether the old one of 50 metres or some other, is still arbitrary and a matter of ticking boxes instead of treating people as people. The high number of successful appeals, whatever the reasons, shows that the 20-metre rule simply does not work.

If a distance has to be used to make this assessment, I would prefer, with the evidence, to return to the figure of 50 metres. But surely that is not the best way to make an assessment of the needs of a real person. We need a careful assessment by a professional, who already knows the claimant or who can take the time to get to know them, of what they really require in their context given the ups and downs of their condition, allowing for where they live, work, shop, take their recreation and meet their friends. This would mean a well-trained cadre of assessors allowed a reasonable degree of discretion and flexibility, and able to assess each claimant as an individual and allow to each the dignity and worth of a human being.

Baroness Doocey (LD): My Lords, my noble friend Lady Thomas of Winchester has been a tireless advocate for disabled people, using her skills, knowledge and empathy to try to influence government's attitude to disabled people, their independence and their well-being. However, the 20-metre rule has little to do either with well-being or independence; it is a crude measure to save money. Once again, the Treasury's guns are trained on those of working age.

Ministers must know, when they reflect privately, that it is short-sighted in the extreme to take away from disabled people who are at an age where it is hoped they could get paid work the very thing that might help get them to and from work. The Motability scheme is well known and understood by its users, and hinges on providing their independence. The Access to Work scheme is a much more limited scheme than Motability and will never be considered a substitute by the people who matter in this—the end-users. What money is saved by snatching cars away from disabled people will almost certainly be lost again in reduced tax revenues as people slip away from employment through no fault of their own. The Government have said that they are sticking with 20 metres because there is "no consensus" around an alternative distance. Other government departments use 50 metres, so it is not that there is a lack of consensus but that the DWP refuses to join the consensus.

As a former local councillor, I know only too well the problems that used to be associated with blue badge parking discs. Yet when the regulations around eligibility and enforcement were tightened up by the coalition Government, the key criterion that they chose to maintain was that a person should be unable to walk more than 50 metres. The Minister must recognise the sense of having some symmetry in the rules about who has special parking rights because of their lack of mobility and who is entitled to some help with having a car in the first instance—also because of their lack of mobility. Do the Government seriously suppose that a person capable of walking only 25 metres, for example, can access public transport with ease? The suggestion beggars belief.

The 20-metre rule is an appalling change, which will be keenly felt in the lives of the hundreds of thousands of people whom it will affect. My noble friend has given the House a clear opportunity to send a strong message to the Government that they must think again. I hope that noble Lords on all sides of the House will make sure that that message is loud and clear.

Lord McKenzie of Luton (Lab): My Lords, I congratulate the noble Baroness, Lady Thomas, on securing this debate tonight. As others have said, she is tenacious on this issue. I have been on the receiving end of some of that at former times when I was a Minister, so I know it is for real. The issue that has been raised tonight was debated intensely when we considered the Welfare Reform Bill in 2012. The usual voices have been heard again tonight. We had an extensive debate around the nature of disability in the social and medical model and there were concerns that the approach to PIP would become very much a tick-box exercise. That has proved to be the case.

As other noble Lords said, the 50-metre threshold is used in the DLA and in ESA. The criteria are not necessarily directed in the same manner, but it is a tried and tested threshold. The Government at the time prayed in aid for the 20-metre rule that they had had discussions with people, eventually. If that is the Government's justification, it is impossible for them now to argue against having urgent discussions with those same people to address the problems that are clearly emerging from the application of what has turned out to be a pernicious rule.

This Motion has our wholehearted support. My noble friend will reinforce that in a moment, but I congratulate the noble Baroness, Lady Thomas: this is a real issue and she should stick at it.

Baroness Sherlock (Lab): My Lords, I thank the noble Baroness, Lady Thomas of Winchester, for moving this Motion and for explaining carefully the nature of the problem that we address tonight. I am also grateful to all noble Lords who have spoken, many of whom I have heard address the same issue repeatedly. It is very good to hear them again tonight and I pay tribute to them and to the noble Lord, Lord Alton—he is in his place but has not spoken tonight—who again has been tenacious in his support of the issues around Motability for some time.

I hope very much that the Minister has come here tonight in a constructive spirit and ready to listen, because she has heard stories from people who know a great deal about this, have a great deal of experience and who know whereof they speak. As we have heard, the shift from DLA with its qualifying threshold of 50 metres to PIP where 20 metres became the new rule for the enhanced component has been very controversial from the outset. The change was hugely unpopular. The Disability Benefits Consortium reminded us in its briefing for this debate that when the Government consulted, 914 of the 1,142 respondents indicated a clear preference for extending the qualifying distance for the enhanced rate from 20 metres up to 50 metres. The arguments were compelling. As my noble friend Lord McKenzie has just made clear, 50 metres was a widely recognised, established benchmark based on research used by many other government departments and other measures around the world. It is clearly a sensible choice. By comparison, no case was ever made for 20 metres. It became increasingly clear to all concerned that in practice what was sought was a criterion that more people would fail, and that would therefore result in less money paid out. It was designed to save money, or more precisely to transfer money from disabled people to the Exchequer.

This is a significant loss. The noble Lord, Lord Low, pointed out that some half a million people could lose money and that this could be over £30 a week. But I want to reinforce the point that this is one of those benefits explicitly designed to deal with the extra cost of disability. We really risk losing that dimension of social security at our peril. This is not simply a handout: it is about recognising that for disabled people to do the things that other people take for granted—to take their children to school, have a social life and have a job—they need access to transport that is not provided for them by the state. There are two ways that we can deal with this. We can make our public transport system dramatically more accessible and cover the entire country or, for a fraction of that cost, we can carry on making payments to enable disabled people who qualify for this to go to Motability or elsewhere to get access to transport.

I pray that the day will come when the noble Baroness, Lady Grey-Thompson, will never have to drag herself on to a train again. Only she could manage it: those who are not Paralympic athletes might struggle. But I hope very much that that will not be the situation for very much longer. In the mean time, people need access to vehicles.

Crucially, we have already heard that some 14,000 people have lost their Motability vehicles after being reassessed for PIP. That is cracking on for half of all the reassessments, so there are some significant losses ahead of us. Also, we have heard compelling cases from various noble Lords, including the noble Baronesses, Lady Grey-Thompson and Lady Brinton, of cases where the assessment has gone spectacularly, farcically wrong. When the Minister comes to respond, I am sure the temptation in the brief at this point will be to say that these are isolated cases and things can always go wrong, but if they can go that wrong, something has gone wrong with the quality process somewhere down the line. It means that something systemic has to be addressed. The reality is that the system is not working. It is broken. Disabled people have suffered significantly already. They have suffered very badly from social security spending cuts in the last Parliament and in this one. While the U-turn in the Budget on PIP was very welcome, the Government are still cutting spending on disability benefits by £1.2 billion by the end of this Parliament.

I have some questions for the Minister. How many people does she now predict will lose the higher rate mobility component by 2020? How many will lose their Motability cars as a result of the PIP reassessment? Is she satisfied with the way that the "moving around" assessments are conducted? Finally, is she happy with the outcomes of the reduction to 20 metres? Is it working as the Government planned? I asked the Minister on 7 March how she felt the loss of Motability cars and other access to support would help the Government to tackle the disability employment gap. She reassured me that the Government were committed to halving the disability employment gap and said that the PIP approach was more consistent and fairer than DLA. The Government, we understand, will produce a White Paper on disability. If they are serious about tackling the disability employment gap and increasing opportunities for disabled people to participate fully in our society, they have to do something about this. I am pleased to support this Motion.

The Minister of State, Department for Work and Pensions (Baroness Altmann) (Con): My Lords, I first assure the noble Baroness and the House that this Government have always been, and continue to be, fully committed to engaging with disabled people and organisations such as Disability Benefits Consortium and Disability Rights UK. I know that the Minister for Disabled People met the noble Baroness on 18 April to discuss the very issue raised in this debate. I also echo the sentiments of the Secretary of State during his Statement to Parliament last month. We are a one-nation Government committed to supporting everyone to achieve their full potential and to live independent lives.

Integral to that vision is ensuring that those with the greatest need are supported the most. We introduced the personal independence payment because disability living allowance was no longer fit for purpose. Under DLA, we assessed people purely on the basis of a disability, rather than considering individuals' needs.

Baroness Thomas of Winchester: My Lords, I must disagree with the Minister on that point. I had an assessment, and nobody took any notice of the fact that I had a serious progressive condition. Therefore, my named disability did not count for anything, which is what the Minister just said.

8 pm

Baroness Altmann: My Lords, I can only assure the House again that the aim of PIP is to make sure that the assessment looks at the individual and their needs, unlike the previous system, where there was no face-to-face assessment and decisions were made without the professional medical advice which we have brought in under PIP. Under DLA, too many people were given lifetime awards—that is at the heart of some of the problems we have been hearing about this evening—whereas under PIP claimants have regular reviews to make sure that the support they get reflects their current circumstances.

Unlike DLA, PIP considers mental health, cognitive impairments and other non-physical disabilities equally, but this is not just about trading off between mental and physical conditions, as the noble Baroness may have feared. It is about getting the right support that reflects current circumstances. Under DLA, people were not necessarily seen by an assessor. Neither is this about saving money—we are spending more on PIP, and more people have Motability cars now than when PIP started.

The system is working. Some 22% of claimants now receive the highest rates of both components compared to only 15% under DLA. Therefore, under PIP more people are getting more help. Some 22,000 more people are using the Motability scheme since PIP was introduced, and as noble Lords will be aware, for DLA claimants leaving the Motability scheme following a PIP reassessment, we have agreed a £175 million package of transitional support with Motability, including a £2,000 payment for most claimants.

PIP is performing well. We have now cleared well over 1 million claims for PIP, and the majority of claimants appear to be happy with their PIP decision. The suggestion that so many people are appealing and overturning their assessment is simply not the case. Only 5% of PIP claims have gone to appeal, and 40% of those appeals—not the 60% figure mentioned by the noble Baroness—were successful. Therefore, the proportion of PIP assessments which are overturned on appeal is 2%. When a decision is overturned it does not automatically mean that the original decision was wrong. Often claimants provide additional evidence not available to the original DWP decision-makers.

We are committed to engaging with disabled people, and that was fundamental to the design of PIP in the first place. We held a widespread consultation on the very topic of this debate—the moving around criteria.

I would like to clarify what appears to be a widespread misconception regarding the differences between the mobility assessment in PIP and the mobility assessment in DLA. Many noble Lords have spoken of a "20-metre rule", but there is no such rule. Some people believe that we have changed the assessment of a distance a claimant is able to walk from 50 metres to 20 metres. This is not the case. The higher rate of DLA was always intended to be for claimants who were unable, or virtually unable, to walk. This is still the case in PIP, but we have gone further. Under PIP, if a claimant cannot walk up to 20 metres safely, reliably, repeatedly and in a timely manner, they are guaranteed to receive the enhanced rate of the mobility component. If a claimant cannot walk up to 50 metres safely, reliably, repeatedly and in a timely manner, then they are guaranteed to receive the enhanced rate of the mobility component. I can assure the noble Baroness, Lady Brinton, that if a claimant is in extreme pain, they will be assessed as not reliably able to walk that distance. The reliability criteria are a key protection for claimants.

It was after my department's work with the noble Baroness and noble Lords in 2013 that we set out these terms, not just in guidance but in regulations, confirming our commitment to getting this right. If a claimant cannot walk up to 50 metres without such problems, they will still be entitled to the mobility component at the standard rate. If they cannot walk that distance reliably and in the other ways in which we have protected it, they will be entitled to the enhanced rate. Therefore, the enhanced mobility component of PIP goes to those people who are most severely impacted and who struggle to walk without difficulty.

Lord Kirkwood of Kirkhope (LD): The Minister is doing a comprehensive job of explaining the background, and that is important. However, will she accept that there is a great deal of frustration within the disabled community? In spite of repeated freedom of information requests to get some of the data and the metrics around the things she has just been describing, the department has hidden behind the view that these are ONS-qualified statistics and therefore it has to wait until they have been properly digested and published. My point is that this Motion is a request for urgent talks. We believe that this policy is going badly wrong. Will the Minister use her good offices to get the meeting that is being asked for so that the talks can look at what the data are telling us about the level of losses, which we have only the word of Motability to go on? It is doing the best that it can, but these are not comprehensive statistics. The fact is that, as we sit and speak this afternoon, we do not know the extent to which this policy is taking away the enhanced mobility component in PIP. That is dangerous, because if we do not get in touch with that information and use it to assess what is going on, we will not make this change early enough, and this policy will need to change.

Baroness Altmann: I thank the noble Lord for his question. I can assure him from my own experience that it is important that we have any statistics properly verified before they are released as official statistics. We will release relevant data, and if we have any further information, I will be happy to write to the noble Lord with any other data we can provide.

As regards the information that the noble Baroness, Lady Grey-Thompson, asked for on the amount of money spent on mandatory reconsiderations and appeals, we will provide written details of those costs.

Baroness Sherlock: My Lords, when the Minister was describing the 20-metre rule and 50-metre rule, I could see a lot of puzzlement around the Chamber. It may just be that I was not keeping up with her, so will she indulge the House for a moment and clarify that? I understood from the Government's justification, included in the House of Commons briefing on Motability, that,

"We recognise that people who are unable to reliably walk more than 50 metres"—

and it goes on to say that they will get the standard rate, which will go,

"to those who cannot reliably walk between 20 and 50 metres",

and the enhanced rate will be for below 20 metres. Therefore, can the Minister explain to us whether what I have described is not true? That is what the House of Commons briefing on this says.

Baroness Altmann: To reiterate for the noble Baroness, if a claimant cannot walk up to 50 metres safely, reliably, repeatedly and in a timely manner, they are guaranteed to receive the enhanced rate of the mobility component. Therefore, there is not a strict 20-metre rule. There is discretion, and an individual assessment is made. We take into account whether the person is in pain and whether they can reliably walk or manage on their own.

I can also reassure noble Lords that our door is open. We are happy to engage. The Secretary of State and the Minister for Disabled People regularly engage with disability groups. We would like to continue to do so. Clearly, we want to make sure that this new process is working. As far as we can see at the moment, it appears to be.

Lord Low of Dalston: I am aware that Ministers have regular talks with disability organisations, but the request behind the Motion is not that Ministers engage in general talks with them about a range of issues. The point of the Motion is to call on the Government to have specific talks directed at addressing the particular problem identified in the Motion and in the speech of the noble Baroness, Lady Thomas.

Baroness Altmann: I thank the noble Lord. The general point I am trying to make is that we are not convinced that there is the problem being identified or described by many noble Lords. If there are problems in the assessment process—of course, it relies on human beings and it is possible that, from time to time, an assessment may not be done correctly—that is why we have the appeals process. But the figure I quoted to the House, that 2% of the assessment appeals are upheld, does not currently suggest that there is a big problem. Indeed, it appears that the PIP assessment process is doing what we want it to.

The noble Baroness, Lady Grey-Thompson, asked about the healthcare professionals carrying out the assessment. They have to consider the reliability criteria as part of the assessment process, and they also have to be registered with a relevant professional body, such as the General Medical Council. They have to have a minimum of two years' post-registration experience. They also undergo rigorous training and assessment. It is early days, but it seems that the process is working.

We would indeed expect the haemophilia example that the noble Baroness, Lady Grey-Thompson, asked about to be taken into account properly by the assessment process. All the evidence presented by the claimant, along with any obtained by the healthcare professional undertaking the PIP assessment, will be fully considered. Therefore, if a claimant is exposed to a high level of risk when undertaking certain activities, that will be taken into account. Claimants who require supervision when completing activities will receive the appropriate PIP award. I can also assure the noble Baroness that providers can undertake home visits where necessary.

The noble Baroness, Lady Brinton, asked the Government whether we are looking at effective value for money for taxpayers. This is indeed why we are moving from DLA to PIP. We want to ensure that we look at people and their condition with a face-to-face assessment, rather than under the previous system, so that we can spend the public money we spend on disabled people in the most appropriate manner. This issue was also raised by the right reverend Prelate the Bishop of Peterborough. We certainly agree that individuals must be treated as individuals, which, again, is the aim of PIP assessment as well as the Access to Work scheme.

The noble Lord, Lord Low, mentioned the consultation. We have undertaken extensive consultation. The department does not consider further consultation necessary, but as I said, we are more than happy to meet with stakeholders to discuss the PIP assessment and any suggested improvements to the guidance or working practices of the assessment providers.

I hope that I have addressed the points from the noble Baroness, Lady Masham, about the assessors we use. They are health professionals. Indeed, they must have knowledge of the clinical aspects and the likely functional effects of a wide range of health conditions and impairments. I can also inform the House that we have just implemented a new contractual regime that will drive further improvements to the assessment through independent audit and revised audit criteria, and that we regularly review the guidance for the PIP assessors.

As the noble Baroness, Lady Sherlock, rightly said, PIP is specifically designed to help disabled people meet the additional costs of a disability. We believe that the current assessment process is working. Indeed, as I stressed, more than 22% of claimants now receive the highest rate of both components, compared with only 15% under DLA.

8.15 pm

Lord Alton of Liverpool (CB): I have listened patiently to the Minister's remarks during the course of the debate. Does she dispute the figure given by the 60 different disabled people's charities that have made representations: that 13,000 scheme users have already lost their vehicles? Putting aside all the other arguments, some of which, as the noble Lord, Lord Kirkwood, said are impossible to dispute, that surely demonstrates that the scheme is not working and that people are suffering. Surely, on that basis, she will concede the point that the noble Baroness, Lady Thomas, made that there should at least be a meeting with those organisations that have expressed concerns to your Lordships.

Baroness Altmann: I thank the noble Lord, and I stress again that we were always aware that there would be people who would lose their Motability cars when we changed from a system that relied on lifetime awards and did not assess people's current circumstances, to one that does. If someone's is going through a PIP

[Baroness Altmann]
assessment whose circumstances have changed—who previously was not seen face to face, perhaps, and who had a lifetime award—and they are judged no longer to be unable, or almost unable, to walk, they will therefore not be entitled to the enhanced rate component and will lose their car. We knew that that was a result, but that is part of the process.

When making his Statement to Parliament, the Secretary of State said:

"I want to start a new conversation with disabled people",—[*Official Report*, Commons, 21/3/16; col. 1269.]

and disability organisations. So I say once again that we are listening; our door is open. We have recently changed the rules, for example, for terminally ill claimants to ensure they no longer have to wait 28 days to receive the enhanced rates of PIP if they transfer from DLA. We are also revisiting our approach to award reviews to make better use of the evidence we already have, so that claimants do not have to give us the same information again if their circumstances have not changed. We are listening to the views of noble Lords; we want their views and those of disability groups; we value the expertise of noble Lords in this House and I say again that we are happy to meet the organisations.

Lord McKenzie of Luton: Before the Minister sits down, can we just revert to the discussion about the 20-metre and 50-metre rule, and whether it is a rule or not? As I understand it, she was saying that it is possible for somebody who can walk more than 20 metres to qualify for the highest mobility component. Of the total number of people who qualify, how many qualify on that basis and how many qualify because the 20-metre rule operates?

Baroness Altmann: Of course, I do not have those figures to hand and I do not know whether they are available. It is not a strict 20-metre rule—it is an indication—and I repeat that if somebody can walk more than 20 metres, they can still get the enhanced rate component; it does depend on the assessment.

I close by stressing once again that we—the department, the Secretary of State and Ministers—are happy to meet disability groups to discuss this issue, which is clearly very important and causing significant concern. I thank noble Lords for their contributions to the debate.

Baroness Thomas of Winchester: My Lords, I am extremely grateful to all noble Lords who have contributed to this short debate. It has been very illuminating. All the speakers have painted one picture; the Minister has painted a different picture, and we must have some meeting in the middle, somewhere, because it is not right to leave it as it is. I have heard from Citizens Advice, which is, after all, independent, as everyone knows. It says: "Our experience is that the quality of assessment continues to be poor and our advisers in local Citizens Advice across the country have identified the reduction of disability-related benefits generally, and the loss of Motability eligibility specifically, as an emerging and increasing issue in the past few months". Something is clearly going wrong, but I am extremely pleased that the Minister has said that the department is willing to meet those groups that I referred to in my Motion, and I therefore commend my Motion to the House.

Motion agreed.

House adjourned at 8.22 pm.

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