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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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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

Tuesday 1 November 2016

2.30 pm

Prayers—read by the Lord Bishop of Truro.

Oaths and Affirmations

2.36 pm

Lord Hoffmann took the oath, and signed an undertaking to abide by the Code of Conduct.

Retirement of a Member: Lord Wade of Chorlton

Announcement

2.37 pm

The Lord Speaker (Lord Fowler): My Lords, I should like to notify the House of the retirement, with effect from today, of the noble Lord, Lord Wade of Chorlton, pursuant to Section 1 of the House of Lords Reform Act 2014. On behalf of the House, I should like to thank the noble Lord for his much-valued service to the House.

Aviation: International Trade

Question

2.38 pm

Asked by ***Baroness Randerson***

To ask Her Majesty's Government what assessment they have made of the importance of aviation to Britain's international trade.

The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con): My Lords, aviation contributes to international trade by facilitating the movement of services and goods. In 2015, goods worth £155 billion were shipped by air between the UK and non-EU countries—that is over 40% of the UK's extra-EU trade by value. This demonstrates how crucial Britain's international trade is to aviation. Connectivity alone is insufficient to create trade, as other factors are important. However, without it, new trade opportunities would not materialise.

Baroness Randerson (LD): My Lords, as the Minister says, aviation makes a huge contribution to the economy. However, after the Brexit vote, this is under threat. Leaving the EU will affect rights to travel, not only between the EU and the UK, but also with the US. Priority must be given to reaching new agreements to maintain market access. Can the Minister give us details of the steps the Government have already taken to prioritise negotiations on continued membership of the European Aviation Safety Agency and of the open skies agreement? Since Heathrow will not be completed until the 2030s, will the Government introduce a strategy for the whole of UK aviation?

Lord Ahmad of Wimbledon: On the last point the noble Baroness made—a strategy for the whole UK—the decision that the Government took last week reflects just that. I have been to Scotland and Northern Ireland, among other places. I was in Manchester only yesterday, again underlining the importance of the decision that we took last week to the whole United Kingdom. In our ongoing discussions with our current EU partners post-Brexit, we are certainly prioritising aviation. We need to ensure that what we benefit from today—in terms of the agreements the noble Baroness referred to—is sustained. Let us not forget that, bilaterally, this is not just for the benefit of the United Kingdom; it is also for the benefit of the remaining members of the European Union.

Lord Naseby (Con): Does not the exciting news from the aviation front that the next generation of civil airliners will be 50% quieter and 30% more fuel-efficient absolutely underline the importance of the decision that Her Majesty's Government made to have a third runway at Heathrow?

Lord Ahmad of Wimbledon: I am certain that the whole House welcomes the innovations in technology for commercial aircraft.

Lord Rosser (Lab): Now that the Government have decided "No ifs, no buts, it's a third runway at Heathrow", which differs at least marginally from their previous "no ifs, no buts" pledge, what plans do they have to increase the range of international direct flights from our international airports outside London and the south-east, and in so doing to provide the opportunity for an increase in air freight traffic, including exports, from at least some of those airports—in the north in particular—direct to other parts of the world?

Lord Ahmad of Wimbledon: The noble Lord raises an important point about freight, and that was part and parcel of the decision that we took last week. He talks about international connections outside London and the south-east. I am delighted to tell him why I was in Manchester yesterday—because I was welcoming the first Singapore Airlines flight to Manchester, which, for the first time, was flying directly to Houston. That was a first for Manchester Airport, a first for Singapore Airlines and a first for the north-west, outside London and the south-east.

Baroness Janke (LD): Can the Minister say whether the UK is planning to join the European Aviation Safety Agency after Brexit, and indeed whether the UK will be eligible to do so? If not, what other options is he considering?

Lord Ahmad of Wimbledon: As I said in my Answer, we are looking at how all the current arrangements with the European Union can be sustained and strengthened while we remain a member of the EU. After Brexit, we want to ensure the same level of connectivity and the same access regarding safety issues. As I have already said, this will be of benefit not just to the UK but to the whole of Europe, as well as globally.

Lord Spicer (Con): Given the amount of time that it apparently takes to achieve anything at our airports at the moment, would it be an idea if we started putting down Questions on the 20 or so international airports that we have around the country?

Lord Ahmad of Wimbledon: I look forward to answering those Questions from my noble friend.

Lord Foulkes of Cumnock (Lab): Does the Minister not think that it would be wise to await the judgment of the Supreme Court before assuming that Brexit will go ahead?

Lord Ahmad of Wimbledon: We as a Government are relying on what the people of this country decided. We promised that there would be a referendum. The British people voted and it is now our job, as a responsible Government, to respect the will of the people, as both Houses should do, and make sure that that decision is implemented.

Baroness McIntosh of Pickering (Con): Can my noble friend estimate the time that it will take to negotiate bilateral aviation agreements with third countries when we leave the European Union, and of the cost to UK airlines of re-establishing themselves elsewhere in the European Union as well as having a base in this country?

Lord Ahmad of Wimbledon: I do not think that we should be alarmed about this. As I have already said, it is part and parcel of the discussions that we are having with not just European but international partners. I have already met directly airline and airport operators here in the UK and with airline operators outside the UK. All are very keen to see a seamless transition to ensure that the rights that British airlines enjoy today, and those that international airlines using UK airports enjoy, continue without any kind of interruption.

Lord Clark of Windermere (Lab): My Lords, in his visit to Manchester Airport yesterday, did the Minister hear that more destinations are flown to from Manchester than from Heathrow?

Lord Ahmad of Wimbledon: Overall, if we look back over the last 10 years, Manchester has made some incredible progress in terms of its expansion and opening up new air connectivity. The noble Lord is right. I talked about Singapore, and in June there were new routes to China. The opportunities are immense for airports not just in the south-east but across the country.

Lord Tebbit (Con): My Lords, will my noble friend take a moment to remind noble Lords on both sides of the House that, before the United Kingdom became part of the European Economic Community, as it was then, we had a fine air transport industry and a safe airline industry, and licensed our own pilots? We did all those things on our own. Is it conceivable that we might be able to do that again one day?

Lord Ahmad of Wimbledon: It is not just conceivable, it does happen and it will happen. I assure all noble Lords that Europe looks towards the United Kingdom, especially on aviation, where we have led on much of what the EU does today. As I have already said, there will be bilateral benefit on these areas. Much of what we did in 2009 is now being repeated across the European Union, so I agree totally with my noble friend.

Asylum Seekers

Question

2.46 pm

Asked by ***Baroness Lister of Burtersett***

To ask Her Majesty's Government what steps they are taking to improve the integration of asylum seekers granted refugee status.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government are working towards achieving more integrated communities and creating the conditions for everyone to live and work successfully alongside each other. Those granted refugee status are given access to the labour market and benefits and encouraged to access organisations that can assist with integration.

Baroness Lister of Burtersett (Lab): My Lords, one of the biggest obstacles to integration is the destitution faced by too many refugees because they are not given enough time to transition from asylum support to mainstream support. It is nearly eight months since the Government pledged to review this. With winter coming and universal credit throwing up new problems, will the Minister and the DWP now treat this as a matter of urgency to prevent further avoidable destitution and homelessness and as a first step in reintroducing a comprehensive strategy for the integration of refugees, following the example of Scotland and Wales?

Baroness Williams of Trafford: My Lords, the Government have introduced a number of initiatives to prevent homelessness such as the No Second Night Out programme, but recognised refugees are also encouraged to work with the independent charity, Migrant Help, which can assist with integration into the UK. It provides individuals with the resources and support they need to access the appropriate services and information and gain greater independence. In addition, the Home Office announced a new £10 million funding package to boost English language tuition for those arriving under the vulnerable persons' resettlement scheme.

Lord Alton of Liverpool (CB): My Lords, in its report *Let Refugees Learn*, Refugee Action states that, "more than any other factor",
English language is a "key driver" towards the "successful integration" of refugees. With long waiting lists and a shortage of teaching hours, does the Minister agree that we need a national strategy for the teaching of English and will she say what has been done since the Prime Minister rightly said in September that the Government would provide more language support?

Baroness Williams of Trafford: I totally agree with the noble Lord. A person who comes to this country unable to speak the language has difficulties with everything from making a doctor's appointment to inquiring about their children's education in school. The additional language funding that I spoke about earlier will mean that all adults arriving through the scheme anywhere in the UK will receive an extra 12 hours a week of tuition for up to six months.

Lord Roberts of Llandudno (LD): My Lords, following the Minister's earlier reply, can I take it that the rule that does not allow asylum seekers to work for the first 12 months they are here is to be revised? Will they be able to earn a living before then? Also, will the deportation of so many of our young asylum seekers when they reach the age of 18 come to an end?

Baroness Williams of Trafford: My Lords, the Question refers to those who have been granted refugee status, as opposed to those seeking asylum at that point. I think the noble Lord is talking about a different matter.

Lord Watts (Lab): My Lords, will the Government make a special effort to help women immigrants and refugees learn English? Women are often isolated by being unable to speak the language.

Baroness Williams of Trafford: The noble Lord is absolutely right for all the points I made in replying to the noble Lord, Lord Alton. Women are often the bedrock of family life and their children's future. I think it was earlier in the year that the former Prime Minister announced the setting up of a fund for women to learn English to help them integrate well into British society and to help their children.

Baroness Farrington of Ribbleton (Lab): My Lords, the other day I asked the Minister if she could assure your Lordships that those local authorities that are taking people in will be given extra financial help by the Government. Will they continue to receive that help continuing over time or will it be time-limited? If we want to see integration into communities that wish to be helpful and charitable by taking people in, it will not help if they feel that the expense of the services they provide—schools, hospitals and so on—is not supported by continuing additional help over time.

Baroness Williams of Trafford: The noble Baroness made a valid point the other day, as she does now. I take the opportunity to thank local authorities for their good will and their efforts to accommodate asylum-seeking children, many of whom have arrived in recent weeks. On funding, as part of the safeguarding strategy we have committed to regularly reviewing the funding for the support and care of unaccompanied asylum-seeking and refugee children, working closely with the LGA and local authorities. We have increased funding from just over £34,500 to £41,000 a year for those aged up to 16. Those rates underpin the introduction of the national transfer scheme.

Baroness Sharples (Con): How many languages are involved in the integration of refugees?

Baroness Williams of Trafford: I have to confess to my noble friend that I have no idea how many languages are involved, but I can find out for her.

Lord Cashman (Lab): My Lords, does the Minister agree that any civilised society is judged on how it treats those most in need? Is it not therefore unacceptable that refugees and others who are destitute have to rely on charitable organisations?

Baroness Williams of Trafford: My Lords, we are all doing our bit to help. With the agreement of the French, we have been in France helping to process some of the claims of people coming over to this country. If people, particularly asylum-seeking refugees, are to integrate into this country, we must, as the noble Lord says, make them welcome and all do our bit to help.

Green Investment Bank

Question

2.53 pm

Asked by ***Lord Teverson***

To ask Her Majesty's Government what progress they have made in their sale of the Green Investment Bank.

The Minister of State, Department for Business, Energy and Industrial Strategy (Baroness Neville-Rolfe) (Con): My Lords, on 3 March this year the Government launched the Green Investment Bank sale process and it is currently ongoing. I can inform the House that good progress is being made. In particular, yesterday the GIB announced the names of the special share trustees appointed to be the custodians of its green purposes, and I congratulate the noble Lord on his selection as a trustee. The Government will provide a full report to Parliament once the sale is completed.

Lord Teverson (LD): I thank the Minister for her reply and for the good work she has done in this area. Will the Government put additional conditions into the contract for sale to ensure not just that the green purposes are kept for the bank, but that it does not become a shell company with those investments placed elsewhere to avoid such constraints, and that the bank will continue to invest in the UK green economy so that it can continue to thrive?

Baroness Neville-Rolfe: In addition to the special share, which will protect GIB's green mission, the Government have asked potential investors to confirm their commitment to the GIB's green values and its investment principles, and explain how they propose to protect them. Green investment is, of course, what the GIB does—it is in its DNA. Investors will buy into its reputation, its green business plan and forward pipeline of projects, all of which are focused on the UK, although there could be international potential as well.

Lord Mendelsohn (Lab): My Lords, we welcome the appointment of the trustees to ensure the Green Investment Bank will retain its green mission under new ownership, and we warmly applaud the appointment

[LORD MENDELSOHN]
of the noble Lord, Lord Teverson. The crucial ability of the trustees to exercise this vital role now depends on the contracts and corporate arrangements between the buyer and seller. Will the Minister confirm that the trustees will have access to the transaction, contract and documents, and some funds for expert legal advice, to ensure that they can do the job this House voted for?

Baroness Neville-Rolfe: The trustees will have all they need to do their job, but the noble Lord will of course recall from our lengthy and useful discussions during the passage of the Bill that their role relates to the articles of association, ensuring that the green purposes of the bank are maintained. That is where they come in: they are not envisaged as a management board for the GIB, whether in its current state or whatever. They have an important role to play.

Viscount Ridley (Con): My Lords, are green investments judged by their results or their intentions?

Baroness Neville-Rolfe: The GIB is a commercial operation. It has its purposes, and it judges where it should make investments. What we have in the GIB—a world first—is a dedicated green investment bank, which we should celebrate and which a number of bidders have showed an interest in acquiring so it can move forwards and expand.

Baroness Featherstone (LD): My Lords, I was very pleased to hear the Minister say that a number of bidders are interested, because my understanding was that there is only one serious bidder. Am I right? If so and there is only one, would it not be better to wait for a better purchase price?

Baroness Neville-Rolfe: Given the commercial sensitivity of the sale process, I am sure the noble Baroness will understand that I cannot comment on the identity of any bidders. They have been required to sign confidentiality agreements, as is appropriate. As I have said, there will be an announcement once a deal is signed, and the Government will provide a full report to Parliament on the sale, proceeds and so on when the sale is completed.

Lord Geddes (Con): Will my noble friend allow me to congratulate the noble Lord, Lord Teverson, who, unlike the vast majority of his colleagues, asked his supplementary without a note in his hand?

Baroness Neville-Rolfe: I agree with my noble friend that this is an excellent example of good practice.

Brexit: Trade

Question

2.58 pm

Asked by ***Lord Greaves***

To ask Her Majesty's Government what assessment they have made of the announcement by the Australian Minister for Trade, Tourism and Investment that Australia will not commence negotiations on a trade deal with the United Kingdom, and of the implications for all future post-Brexit trade negotiations whilst the United Kingdom remains a member of the European Union.

Baroness Mobarik (Con): My Lords, the Australian Trade Minister was clear that both Governments have agreed to start work on scoping out a future ambitious and comprehensive Australia-UK free trade agreement. The UK and Australia have agreed that this joint working will help us move as quickly as possible formally to conclude negotiations on a free trade agreement once the UK has left the EU.

Lord Greaves (LD): My Lords, I thank the Minister for that helpful Answer. The Australian Trade Minister may or may not be right in saying that formal negotiations cannot start until such time as this country leaves the European Union, but in practical terms, and given the number of countries in the rest of the world—more than 50 in the Commonwealth and everybody else—does she believe that the process of undertaking negotiations for trading arrangements with all the other countries in the world will take place quickly after this country leaves the European Union? Is there not a real risk of a very unsatisfactory and dangerous limbo arising in most cases? What will the Government do about that?

Baroness Mobarik: My Lords, we are doing absolutely everything we can to achieve a smooth transition with no gap. The Australian Trade Minister has said that he would want to conclude a free trade agreement as quickly as possible after Brexit. This is the UK Government's position, too. We are in the position of scoping discussions to move as quickly as possible.

Lord Forsyth of Drumlean (Con): My Lords, will my noble friend confirm that there is no EU free trade agreement with Australia; that for years it has tried and failed to achieve one; that one does not need a trade agreement in order to trade; and that once we have left the European Union, we will be able to negotiate our trade without having to satisfy 27 other countries?

Baroness Mobarik: Yes.

Lord Purvis of Tweed (LD): Has the Minister seen the website of the Australian Government Department of Foreign Affairs and Trade website, which states:

"What does Brexit actually mean? … Leaving the EU will take the UK years. How many is unclear"?

If noble Lords will forgive me, I will read from the website a little further:

"The UK will need to complete Article 50 exit negotiations with the EU, and determine its domestic trade and regulatory settings before it is able to negotiate FTAs with third countries, such as Australia".

Does the Minister agree? The Australian Government also say—

Noble Lords: Oh!

Lord Purvis of Tweed: The Australian Government also say:

"The Government is seeking clarity from the UK Government on its expected approach to EU departure".

Are the UK Government providing that clarity to the Australian Government and, when they do so, will they provide it to this Parliament, too?

Baroness Mobarik: I am sorry, but I only half-heard that question, first, because of the enthusiasm of my noble friends behind me but also because of the length of the question or questions. Perhaps the noble Lord would pick out one question and then I will answer.

Lord Pearson of Rannoch (UKIP): My Lords—

Lord Deben (Con): What estimate has my noble friend made of the value of the additional trade that would be available to the United Kingdom through a free trade agreement or agreement under very special arrangements with Australia that is not now available to us as a member of the world's largest trading community, the European Union?

Baroness Mobarik: I do not have figures for what might happen. All I can say is that we currently have about £10 billion worth of trade in goods and services with Australia. We are in the fortunate position of having the same legal system, the same language and the same culture, which are all positive factors in negotiating a free trade agreement further to enhance what we already have.

Lord Pearson of Rannoch: My Lords—

Lord Harrison (Lab): My Lords, will the Minister give an example of the elements of trade—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, the noble Lord, Lord Pearson, has been trying to get in on a number of occasions, so we will go to him and then to the Labour Benches.

Lord Pearson of Rannoch: I am most grateful, my Lords. Further to the penetrating question from my noble friend Lord Forsyth, could I ask the Government whether they are aware—

A noble Lord: Noble friend?

Noble Lords: Oh!

Lord Pearson of Rannoch: Are the Government aware that the aggregate GDP of the countries with which the EU has managed to sign trade agreements is a mere $7 trillion, but that four much smaller economies than ours, Chile, Korea, Singapore and Switzerland, have signed agreements with an average GDP value of $42 trillion each—or six times more than the EU? Does this not suggest that the United Kingdom, as the world's fifth largest economy, will be able to do very much better on its own than when it is shackled to the failing EU?

Baroness Mobarik: I agree that there is still much potential for the United Kingdom once we leave the EU. We obviously want to retain the business that we already have with the EU, but beyond that there is scope for increase and that is why we are embarking on these scoping exercises. My noble friend Lord Price has visited more than 15 countries in the last few months and spoken with 200 businesspeople. We will continue to do that good work ahead of leaving the EU.

Lord Harrison: Can the Minister give an example—one example—of trade with Australia that is forbidden now because of our membership of the European Union?

Baroness Mobarik: As far as I am aware there is no forbidden trade with Australia. We want to enhance what we already have, in terms of regulatory reforms and so on.

Baroness Ludford (LD): My Lords, it is sometimes suggested that the EU inhibits trade, so why does Germany, a member of the EU, do far more trade with India than we do? The EU is not stopping us. Is it not true that the EU levers open markets with the clout of 27 members, which is a great deal more than the clout of one member?

Baroness Mobarik: All I can say is that the UK remains committed to being a world leader in free trade. That is our goal. We want to secure open and productive trading relationships with all our trade partners. It is not a matter of choosing one or the other; we are focusing on everyone.

Lord Kilclooney (CB): Is the Minister aware that Australia has stated that it is keen to have a trade agreement with the United Kingdom so that its wine will enter this country cheaper than at present?

Baroness Mobarik: Of course Australia will have its own interests in terms of exporting its wine, its beef or its dairy products, but we too have our own interests in terms of exporting our motor cars and so on. Of course it has to be of mutual benefit to both countries.

Lord McColl of Dulwich (Con): My Lords, could it be by some quite unimaginable stretch of the imagination that those noble Lords who keep moaning about Brexit are trying to justify the dire warnings about what would happen if we did leave—for instance, a third world war? As the Minister and I come from the fair city of Glasgow, would it be appropriate to say to these people, "Haud yer wheesht"?

Noble Lords: Aye.

Baroness Mobarik: My noble friend has taken the words right out of my mouth.

Baroness Symons of Vernham Dean (Lab): My Lords, I declare an interest as the chairman of the Arab-British Chamber of Commerce. Can the Minister confirm that there is nothing to inhibit discussions, and indeed agreements, on memoranda of understanding over trade even while we are a member of the European

[Baroness Symons of Vernham Dean]
Union and that such memoranda of understanding might well then form the basis for trade agreements after we leave?

Baroness Mobarik: I absolutely agree with the noble Baroness.

Clerk of the Parliaments
Retirement of David Beamish

3.09 pm

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, I wish to notify the House that I have received the following letter from the Clerk of the Parliaments:

"I would be grateful if you could inform the House of my decision to retire from the office of Clerk of the Parliaments, with my last day of service to be 15 April 2017. As we have discussed, I will by then have served for six years in the post, which seems a suitable point at which to hand over the reins.

I joined the staff of the House in 1974, and it has been a privilege over the last 42 years to have played a part in supporting a second Chamber which has become ever more visible and influential.

I have been fortunate over the past five and a half years to have enjoyed wonderful support from Members in all parts of the House and from colleagues in both Houses and in the Parliamentary Digital Service. I am deeply grateful to them all. They have made my time as Clerk of the Parliaments enjoyable as well as rewarding.

There will be many challenges for the House and its administration in the coming years, but I know that we are well equipped to handle them, and I have every confidence that the House will continue to play an essential and valuable role in our national life".

I have consulted the other party leaders in the House, the Convenor of the Cross Benches and the Lord Speaker on the process to appoint Mr Beamish's successor. The timetable for the process should mean that a recommendation for his successor as Clerk of the Parliaments can be made to Her Majesty before the Christmas Recess. As is customary, I will put a Motion before the House nearer the time of his retirement to enable Members to pay proper tribute to Mr Beamish's distinguished service.

Noble Lords: Hear, hear.

Asset Freezing (Compensation) Bill [HL]
Order of Commitment Discharged

3.10 pm

Moved by ***Lord Empey***

That the order of commitment be discharged.

Lord Empey (UUP): I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Bread and Flour Regulations (Folic Acid) Bill [HL]
Order of Commitment Discharged

3.11 pm

Moved by ***Lord Rooker***

That the order of commitment be discharged

Lord Rooker (Lab): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Orgreave
Statement

3.11 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given by my right honourable friend the Minister for Policing and the Fire Service, Mr Brandon Lewis, to an Urgent Question in the other place. The Statement is as follows:

"The Home Secretary announced her decision by way of a Written Ministerial Statement yesterday in which she explained her main reasons for deciding against instigating either a statutory inquiry or an independent review into the events at the Orgreave coking plant. She has also written to the Orgreave Truth and Justice Campaign setting out the detailed reasons for her decision, and answered a number of questions in the House yesterday in response to an Oral Parliamentary Question on this subject.

In determining whether or not to establish a statutory inquiry or other review, the Home Secretary considered a number of factors, reviewed a wide range of documents and spoke to members of the campaign. She came to the view that neither an inquiry nor a review was required to allay public concern at this stage, more than 30 years after the events in question. In so doing, she noted the following factors. Despite the forceful accounts and arguments provided by the campaigners about the effect that these events had on them, ultimately there were no deaths or wrongful convictions. In addition, the policing landscape and wider criminal justice system have changed fundamentally since 1984, with significant changes in the oversight of policing at every level, including: major reforms to criminal procedure; changes to public order policing and practice; stronger external scrutiny; and greater local accountability. There are few lessons to be learned from a review of the events and practices of three decades ago. This is a very important consideration when looking at the necessity for an inquiry or independent review.

Taking these considerations into account, we do not believe that establishing any kind of inquiry is required to allay public interest concern or for any other reason".

3.13 pm

Lord Rosser (Lab): I thank the Minister for repeating the Answer to the Urgent Question. This is a sorry decision by the Government. The elected South Yorkshire police and crime commissioner supports an inquiry, as did, last May, the then acting chief constable. It is not surprising that they both support an inquiry in the face of the manipulation of the media over what actually happened. It is not surprising in the light of the Independent Police Complaints Commission finding evidence of perjury and perversion of the course of justice. It is not surprising in the face of the riot charges on 95 miners, potentially carrying life sentences, that they had to live with for a year or more until the subsequent collapse of their trial and their acquittals when the police evidence was found to be totally unreliable in the face of allegations of collusion by the police over the falsification of evidence—allegations that were repeated on television the other evening by a police officer involved at Orgreave. This Government have decided that a public body should not be held accountable through an inquiry to establish the facts. The Prime Minister pledged, when she took office, to fight injustice. We have now found out that former mining communities, for starters, are not covered by that pledge. Perhaps the Government could now tell us the real reasons for their decision.

Baroness Williams of Trafford: My Lords, first, I must point out to the noble Lord that there were no wrongful convictions on the back of Orgreave. The Home Secretary made her decision having taken the time to look at the documents. She has been in post for some three months and has met families and campaigning MPs. The fact that she has reached a different decision from the one which the noble Lord wants in no way means that it is dishonourable. It was a difficult decision to make; she made it in consideration of all the facts and I think that it is the right one.

Lord Paddick (LD): My Lords, I should declare an interest as I was a serving police officer at the time of Orgreave and for 23 years thereafter. Has the Home Secretary completely missed the point about the need for an inquiry into Orgreave? We know from Hillsborough that police evidence was changed to put the blame on fans. The suggestion is that Orgreave was another example of the prevailing culture in the police service at the time: to preserve the reputation of the police at all costs, including if necessary by altering evidence. There is evidence to suggest that this may be in the culture in some police forces even now. Does the Minister not agree that the events at Orgreave cannot be written off as having happened too long ago, and that lessons relevant to policing today can still be learned?

Baroness Williams of Trafford: My Lords, it is very important to point out that the IPCC looked at this last year. It has said that if any further information comes to light, it will also look at that. The PCC for South Yorkshire Police is considering what elements of the force's archive relating to Orgreave to make available to the campaign, while an archivist is also being employed for that purpose.

Lord Tebbit (Con): My Lords, will my noble friend confirm that the Home Secretary is following in her decision the very good precedent set by Labour Home Secretaries, who in a period of 13 years of Labour government saw no reason for such an inquiry, which would do nothing more than enrich lawyers with fat fees in perpetuity?

Baroness Williams of Trafford: As always, my noble friend makes precise points. He also underlines the fact that this is a very emotive subject, with strong views on either side, but he is absolutely right. Thirty-two years have elapsed since Orgreave and no Government up to now have made a decision on it.

Lord Kinnock (Lab): My Lords, should not a Government who promise to govern in the interests of the whole country try to ensure maximum transparency and accountability for the whole country? Is the Minister aware that the refusal of an inquiry into the battle of Orgreave deepens the justified sense of injustice right across coalfield communities, especially when there are substantiated claims that there was politicised policing and tampering with evidence in the wake of the conflict?

Baroness Williams of Trafford: My Lords, this is a very serious decision and I hope that in no way does anyone feel that this decision has been politicised. Transparency is at the heart of the process; that is why the Home Secretary has taken so much time to look at various documents in carefully considering her conclusion.

Lord Woolf (CB): My Lords, I congratulate the Home Secretary on taking this decision. I have over the years observed the increasing frequency of automatically setting up an inquiry when a difficult problem arises. Inquiries are not always the best way of looking into matters. As the years go by, they certainly become more and more expensive for investigating events and less and less successful in coming to the right conclusion.

Baroness Williams of Trafford: The noble and learned Lord is absolutely right. An inquiry is not of itself the answer to everything. Inquiries must be used only very carefully and in certain circumstances. The Orgreave situation resulted in no deaths or wrongful convictions. There have been significant changes in the police at every level since 1984. Therefore, as the noble and learned Lord said, establishing any kind of inquiry is not required in the public interest.

Lord King of Bridgwater (Con): Does my noble friend recognise that many people would be amazed at the suggestion of having further public inquiries and that there is anybody who has not learned the lessons of the Bloody Sunday inquiry? After the time that it took and the costs involved, at the end of the day the outcome satisfied practically nobody. My noble friend has just given the answer that lessons have been learned. My noble friend Lord Tebbit and I were involved in Cabinet committee at that time. Many mistakes were made on both sides—there is no question about that—many things were wrong, and lessons have since been learned. The right decision now is not to respond to the understandable emotion of those who were involved at that time who feel that they want to go on gnawing at the same bone but to recognise that lessons need to be learned and that we need to get on because the police have more than enough challenges on their plate at present and do not need to be loaded with this inquiry.

Baroness Williams of Trafford: My noble friend is absolutely right. I am grateful that noble friends and noble Lords were in government or in this House at the time of Orgreave. The job is to get on with improving policing, and inquiries are not always the answer. The Policing and Crime Bill seeks to make further reforms and efficiencies in the police service to make it better.

Lord Blunkett (Lab): My Lords, I was leader of Sheffield City Council at the time and subsequently lived for many years a mile away from Orgreave. It strongly rent my heart. I entirely understand why people do not want to spend millions of pounds on legal fees or to have the disruption that an inquiry would cause to the existing programme, but evidence has been produced over the past decade and there has been a genuine feeling that the truth has been withheld. Even at this late hour, is it not possible to have the kind of very light-touch review which the elected police and crime commissioner, the Reverend Dr Alan Billings, who leads the South Yorkshire Police, has suggested? It would avoid the catastrophe of a very prolonged inquiry which, as has been described this afternoon, often leads to people not being satisfied at the end of it.

Baroness Williams of Trafford: My Lords, there was a discussion—I think yesterday—about a small Select Committee inquiry. Of course, that would be a matter for Parliament. The IPCC considered things last year, but as I said earlier, if any fresh information comes to light, it will take it on board and consider it.

Lord Balfe (Con): My Lords, does the Minister accept that there is a widespread sense of disappointment at this decision? I accept that there have been far too many inquiries—we seem to set up an inquiry for everything—but I do not think that it would be out of place for there to be a stronger sentiment of regret from the Minister, an acknowledgment of one or two of the points made by the PCC in South Yorkshire and perhaps encouragement by the Minister for a parliamentary committee to look at things. That would reassure many good trade unionists who support law and order very strongly that when there are clear breaches they will be looked at.

Baroness Williams of Trafford: I totally take my noble friend's point that there are very strong feelings on this. That does not take away from the fact that it was a difficult decision for the Home Secretary, but I believe she took the right one.

Press Matters

Statement

3.24 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, with the leave of the House I will now repeat a Statement made by my right honourable friend the Secretary of State for Culture, Media and Sport in the other place:

"Mr Speaker, with your permission, I wish to make a statement on matters relating to the Leveson inquiry.

A free press is an essential component of a fully functioning democracy, which is why it was a manifesto commitment of this Government to defend a free press. The press should tell the truth without fear or favour and hold the powerful to account. However, that freedom has in the past, we now know, been abused. We know that some parts of the press have ignored their own code of practice and the law. I have met victims of illegal and improper press intrusion, some of whom have suffered immense distress.

In July 2011, the coalition Government announced an inquiry into the role of the press and the police in phone hacking and other illegal practices in the British press. Lord Justice Leveson was appointed chair of the inquiry. Part 1 of the inquiry examined the culture, practices and ethics of the press. It considered such matters as whether the press needed a different form of regulation and how the press interacted with the public, the police and politicians. Sir Brian Leveson heard evidence from more than 300 people, including some of those who had been affected by the most egregious press behaviour.

On 29 November 2012, the Leveson inquiry published its report on part 1. It contained 92 recommendations, the majority of which have been acted upon and are being delivered. Part 2 of the inquiry, which has not yet begun, would further examine wrongdoing in the press and the police.

Following a cross-party agreement, a royal charter established the Press Recognition Panel, which began operating in November 2014. As stated on its website, the panel's purpose is to ensure that any press self-regulator is,

"independent, properly funded and able to protect the public, while recognising the important role carried out by the press".

Since September 2015, the panel has been taking applications from regulators which are seeking recognition.

Alongside the royal charter, Section 40 of the Crime and Courts Act 2013 was designed to incentivise newspapers to join a recognised self-regulator. Section 40 has passed into law but remains uncommenced. This is one of two incentives. The other, relating to exemplary damages, came into effect on 3 November 2015. A self-regulator applying for recognition must meet the specific criteria set out in the royal charter, including providing a system of low-cost arbitration that replaces the need for court action.

Section 40 contains two presumptions: that if a publisher which is a member of a recognised self-regulator loses a relevant media case in court, it does not have to pay the winning side's costs; and that if a publisher which is not a member of a recognised self-regulator wins such a case in court, it would have to pay the losing side's costs as well as its own. Each element was intended to encourage the press to join a recognised self-regulator, through a legitimate rebalancing of the normal rules on costs.

It has hitherto been the view of the Government that as we wait for a number of elements of the new self-regulatory regime to settle in—such as the exemplary damages provisions of the Crime and Courts Act, the press developing an effective form of voluntary self-regulation and self-regulators applying for recognition—the time has not yet been right to commence Section 40.

However, the panel has recently recognised its first self-regulator, the Independent Monitor for the Press, known as Impress, which currently has around 50 members. Meanwhile, the Independent Press Standards Organisation, known as IPSO, regulates more than 2,500 publications, but has been clear that it will not seek recognition from the panel.

We think the time is right to consider Section 40 further. It has also become apparent that the final criminal case relating to the Leveson inquiry is entering its final stages. We therefore think this is also an appropriate time to start to consider next steps on part 2 of the inquiry. Many of the issues that part 2 would have covered have been addressed in the last five years. Three police investigations—Operations Elveden, Tuleta, and Weeting—have investigated a wide range of offences. A clear message has been sent to all police officers and public officials that receiving payments for confidential information will not be tolerated and will be dealt with robustly. The Metropolitan Police Service has introduced new policies on whistleblowing, gifts and hospitality and media relations.

There was also a degree of subject matter overlap between parts 1 and 2 of the Leveson inquiry. For example, the inquiry reviewed the Met Police's initial investigation into phone hacking and the role of politicians and public servants regarding any failure to investigate wrongdoing in News International. Part 1 made numerous recommendations, all of which are being addressed by the police, Her Majesty's Inspectorate of Constabulary, the Independent Police Complaints Commission and the College of Policing, where they relate to them.

Given the extent of these criminal investigations, the implementation of the recommendations from part 1 of the Leveson inquiry and the cost to the taxpayer of the investigations and part 1—£43.7 million and £5.4 million respectively—the Government are considering whether undertaking part 2 is still in the public interest. We are keen to take stock and seek the views of the public and interested parties—not least those who have been the victims of press abuse. We will also formally consult Sir Brian Leveson on the question of part 2 at the appropriate time, in his role as inquiry chair.

I can announce that today we are launching a public consultation, inviting comments on both Section 40 and part 2 of the Leveson inquiry from organisations affected by it and from the public. It will run for 10 weeks from today, 1 November, until 10 January 2017. This is laid out in a consultation document entitled *Consultation on the Leveson Inquiry and its Implementation*, published on GOV.UK, which I am also depositing in the Libraries of both Houses. I have met Sir Brian Leveson and spoke to him again this morning. I will write to him formally as well. I am extremely grateful for all the work that he and his team have done to get us this far.

The Government are determined that a balance be struck between press freedom and the freedom of the individual. Those who are treated improperly must have redress. Likewise, politicians must not seek to muffle the press or prevent it doing legitimate work, such as holding us to account, and the police must take seriously their role in protecting not only their own reputation but the people they are meant to serve.

This is the balance we wish to strike, and this consultation is the most appropriate and fairest way of doing so. I commend this Statement to the House".

3.32 pm

Lord Stevenson of Balmacara (Lab): My Lords, I thank the noble and learned Lord for repeating the Statement by the Secretary of State in another place and welcome him to the Dispatch Box. I hope it will not be a single guest appearance on this occasion.

We can judge from its opaque title and surprising appearance that the Statement, "Press Matters", has very little to do with the substance of either the commencement of Section 40 of the Crime and Courts Act 2013 or announcing a date for Leveson 2 to commence. Its purpose seems to be to muddy the waters around the remaining stages of the Investigatory Powers Bill, which is about to be debated in the other place.

Surely the right thing to do is to honour the Government's commitment to the victims of press intrusion and harassment. Let us remind ourselves what the test is for this process. The former Prime Minister summed it up on 14 June 2012 when he said, having met the Dowler family in Downing Street:

"It's not: do the politicians or the press feel happy with what we get? It's: are we really protecting people who have been caught up and absolutely thrown to the wolves by this process? … that's the real test".

Labour supports a free press as essential to democracy. We do not support any state control of the press. It is 1,324 days since all parties agreed to implement the recommendations of the Leveson inquiry in full. The Leveson inquiry looked into press behaviour following the public outcry over illegal phone hacking and after it emerged that there had been many victims of press intrusion.

A key recommendation of the report was the creation of a,

"genuinely independent and effective system of self-regulation".

The new system was debated in Parliament and received unanimous cross-party agreement. It involved creating the Press Recognition Panel by royal charter in October 2013 as an independent body to oversee press regulators. Has the Minister read the recent annual report of the PRP? If so, he will be aware of what it says about the need for Section 40 of the Crime and Courts Act 2013 to be implemented. Does he agree with the chair of the PRP, David Wolfe QC, who says:

"There has been a significant delay in doing this, despite the Act being enacted nearly four years ago. Commencing section 40 will strengthen the public's access to justice. Everyone agrees that politicians should not interfere with the running of the press, but paradoxically, the failure to commence section 40 has kept a political presence in place. The new system intended by Parliament is not in place, and the public interest has not been safeguarded in the way that was expected"?

On Leveson 2, is the Minister aware that one of the original terms of reference given to Lord Justice Leveson was:

"To inquire into the extent of the corporate governance and management failures at News International and other newspaper organisations and the role, if any, of politicians, public servants and others in relation to any failure to investigate wrongdoing at News International"?

[Lord Stevenson of Balmacara]
This part of Leveson was delayed—as the Minister knows because he has been answering my questions on this matter—until all outstanding court cases are dealt with. Can he confirm that that is imminent?

As my right honourable friend the shadow Secretary of State for Culture, Media and Sport said in the other place, Leveson 2 is the investigation into how the cover-up of phone hacking was conducted, but what the Government are in effect announcing today is a consultation on whether the original cover-up should be covered up. This is shameful. We need the immediate implementation of Section 40 of the Crime and Courts Act 2013 and we want an early date for the second part of the Leveson inquiry. We do not need a faux consultation on these matters. If the Government are to proceed on this route, I would be grateful if the Minister could explain in some detail what elements of the recent police investigations referred to in the Statement—the Hillsborough inquiry and its findings on misleading police statements to government officials and subsequently newspapers; the case of Mazher Mahmood, who perverted the course of justice to secure his scoops and left scores of previous convictions unsafe; senior police resignations; the new revelations on the Daniel Morgan case; and what we have just heard about Orgreave—persuade him that further consultations are not now required.

We must not miss this historic opportunity. We must ensure that what the press did to the Dowlers, the McCanns, the family of Abigail Witchalls and others who suffered so terribly, can never happen again.

Lord Paddick (LD): My Lords, I too thank the noble and learned Lord for repeating the Statement. I must declare an interest, in addition to being a victim of phone hacking by the press. In 2002, I was the subject of a kiss-and-tell story on the front page and eight inside pages of a Sunday tabloid newspaper. Many of the allegations were untrue and the rest were a massive intrusion into my private life by a former partner whom I had lived with for four years. He was paid £100,000 for the story. In the absence of an effective and independent press complaints system, my only course of action was to sue the newspaper and although I was able to secure a conditional fee agreement, many ordinary people are not. Lawyers acting for the newspaper tried every trick in the book to get me to concede, in which case I would have been liable for both my own and the newspaper's costs and I would have been made bankrupt. If the paper had not admitted libel and agreed a settlement a week before the case was due to go to trial, and had I lost the action, I would have lost my home.

If newspapers do not sign up to an independent, royal charter-compliant, press complaints system that the public can have real confidence in, the press must be prepared to cover the costs if their refusal to sign up results in complainants having to take action through the courts. This was a cross-party agreement, reached at considerable effort and cost, resulting in a royal charter that the Government are preparing to consign to the dustbin. Not only that, they are preparing to ditch detailed scrutiny not only of the matters detailed by the noble Lord, Lord Stevenson of Balmacara, but of the relationship between the police and the press—issues that were to be covered in Leveson 2—despite such recent cases as that involving South Yorkshire Police, the BBC and Sir Cliff Richard.

If the Statement is designed to head off amendments to the Investigatory Powers Bill currently being considered, does the Minister not agree that it adds fuel to the fire, rather than dampening things down?

Lord Keen of Elie: My Lords, I begin with the observations of the noble Lord, Lord Stevenson of Balmacara. A consultation will not obfuscate, it will bring clarity—and that is its aim. Let us remember that the events with which we are dealing have been the subject of a further five years of development in policing and the press.

The Press Recognition Panel's report is a useful reflection of how the recognition system is operating, and the Government will, of course, be looking at its conclusions in more detail in the course of the consultation process. Let us be clear: no decision has been made on this matter, which is why it has been set out for the purposes of consultation.

With regard to the observations concerning the police, let us remember that these matters were addressed in Part 1 of the inquiry. Sir Brian Leveson thoroughly reviewed the initial investigation of the Metropolitan Police Service into phone hacking—Operation Caryatid—and the role of politicians and public servants in any failure to investigate wrongdoing at News International. He was satisfied that the officers who worked on that operation approached their task with complete integrity, and that the decision made in September 2006 not to expand the investigation was justified.

I will not comment on the individual cases cited by the noble Lord, Lord Stevenson. It would not be appropriate to do so. I understand the observations of the noble Lord, Lord Paddick, about his own experience of litigation, the uncertainties of litigation and where costs should lie. That is a vexed issue. It affects both parties to a litigation, whether they win or lose. That is why, again, it is appropriate that this should be the subject of further consultation at this stage. Nothing has been consigned to any dustbin, either the dustbin of history or the dustbin of any prior interparty agreement. Again, I stress that is why we are proceeding with this consultation process. We will report thereafter as soon as we reasonably can.

3.41 pm

Baroness Hollins (CB): My Lords, the Statement makes clear that what underpins the two-way Section 40 cost protections is low-cost arbitration, which the charter says must cost no more than £100 for the claimant. However, IPSO's pilot arbitration scheme costs about £3,000, which hardly anybody would be able to afford. Furthermore, Section 40 retains a discretion for the judge when making penalty costs awards to ensure that there is no injustice. Does the Minister accept that Section 40 deserves implementation and review and not to be kicked into the long grass, and that IPSO and its arbitration scheme are both woefully inadequate?

Lord Keen of Elie: With great respect, a consultation process is not a means of kicking anything into the long grass. This consultation process will proceed for a period of 12 weeks during the winter, at which time the grass does not grow.

Lord Davies of Stamford (Lab): I put it to the noble and learned Lord that a decision not to proceed with Leveson 2 would be universally regarded as an abdication by the Government and as a surrender to the pressure of the press barons, with all the rather sinister connotations of conflict of interest which everybody will derive from that. We had all hoped that there might have been some improvement in the culture of the press since the appalling allegations that came out in Leveson 1 and in the Brooks and Coulson trials. I am not sure that there has been much improvement. For example, during the referendum campaign earlier this year, there were some egregious cases. I gather the *Daily Mail* has now accepted that the entirely bogus figures it produced, purporting to show that immigrants had a much higher crime rate than the rest of the population of this country—an irresponsible and nasty invention—were, indeed, exactly that: entire invention. However, to the extent that there has been any improvement in culture, will that not be very damagingly reversed if it is seen that the Government are now running away from the field?

Lord Keen of Elie: No decision has been made with respect to Leveson 2. That is the purpose of the consultation. Because of the consultation, there is no question of the Government running away from anything. With regard to an earlier observation, I referred to a consultation period of 12 weeks but, in fact, it is only 10 weeks. I correct myself to the House.

Lord Lexden (Con): Are the Government firmly committed to taking full account of the concerns and interests of our immensely important regional and local press, which will bear the brunt of Section 40? In this connection, will it not be particularly important to listen to the views of local editors in Northern Ireland, where the royal charter does not even apply, illustrating the legal confusion which has now arisen?

Lord Keen of Elie: The Government have already heard from representatives of the local press, who have expressed their concerns with regard to the implementation of Section 40 and the adverse impact it could have on them. It is because of these considerations, among others, that the Government have thought it appropriate to have this short, but effective, consultation.

Baroness Hussein-Ece (LD): My Lords, I know the noble and learned Lord said he did not want to go into individual cases but I would like to raise the issue of IPSO's credibility following the case of Fatima Manji, the Channel 4 presenter and journalist, who was attacked by Kelvin MacKenzie, the former editor of the *Sun*, who said that she should not present the news in the wake of the terrible tragedies in Nice because she happens to cover her head with a hijab. He said it was inappropriate that she should present the news in that way. She and Channel 4 complained to IPSO and her case was not upheld. The very next day Trevor Kavanagh, a board member of IPSO—and let us remember the "I" stands for independent—used his political column to attack Fatima Manji for daring to make a complaint. I was one of the many parliamentarians who signed a letter on this case and sent it to IPSO. We have not heard back. How can we have confidence that this body bears up its name and is independent and upholds standards when we have board members of IPSO prepared to attack complainants in their columns?

Lord Keen of Elie: The noble Baroness is right to anticipate that I am not going to comment on an individual case. The conduct of IPSO may be the subject of criticism but it has not applied for, or been granted, registration under the present scheme.

Lord Faulks (Con): My Lords, the Statement quite rightly acknowledges the balance that has to be struck between freedom of the press and the very important matters that come under the heading of "freedom of the individual". Does the Minister agree that it is important that newspapers that are sued—whether regional or national—should be able to defend themselves with reasonable ability? If they are not only going to face the penalties in Section 40, but also exceptionally be liable to have conditional fees brought against them, this may result in an uneven playing field. Will the Minister confirm that the future of the conditional fee regime as regards libel actions will be considered when the consultation takes place?

Lord Keen of Elie: The Government have set no limits on the consultation process so far as costs are concerned. Clearly, the question of conditional fees will arise in the context of whether Section 40 should be brought into force. The noble Lord is quite right that it is important, while bearing in mind the victims of press abuse, to ensure a fair, acceptable and level playing field in issues between the press and powerful individuals. The press should not be coerced by the issue of cost into not reporting in a fair, open and effective manner.

Lord Beecham (Lab): My Lords, while it might not be unreasonable for the noble and learned Lord not to give a view on the matter raised by the noble Baroness at this stage, will he confirm that the Government will at least take it into consideration before they reach any conclusion as a result of the consultation?

Lord Keen of Elie: I have no doubt that that will be taken into account, as will the general conduct of IPSO, when it comes to determining and reporting on the terms of the consultation itself.

Lord Wallace of Tankerness (LD): My Lords, the noble and learned Lord acknowledged that the work that had gone into the cross-party agreement and the subsequent royal charter was intended to set up a body and a mechanism as far removed from political interference as possible to ensure press freedom. By refusing to commence Section 40 and now by having a consultation on the matter, have the Government not brought it right back into the field of political play, undoing all the work done to try to remove political interference from this very important area for those of us who want to see freedom of the press?

Lord Keen of Elie: I cannot accept the observations made by the noble and learned Lord. The Government have delivered the cross-party agreement by establishing the Press Recognition Panel by royal charter and legislating for the incentives in the Crime and Courts Act 2013. It is now right to consult further on the specific areas of Part 2 of the Leveson inquiry and Section 40 given the time that has elapsed since the Leveson inquiry was set up and the changes that have taken place. I do not believe that we are simply bringing this back into the political arena; we are addressing the reality of change that has occurred over the past five years.

Lord Cormack (Con): I thank the Government—which I do not always do—for giving this extra time to look at the points raised, specifically by my noble friends Lord Lexden and Lord Faulks. There is not a single Member in your Lordships' House who is not conscious of the enormous contribution of the local press and how important it is that its freedom and future should not be jeopardised further at a time when it is struggling for survival.

Lord Keen of Elie: I entirely concur with the observations of my noble friend.

Lord Inglewood (Con): My Lords, I declare an interest as an ex-chairman and a current non-executive director of a local newspaper. I recognise that there is still considerable disquiet right across the political spectrum about the matters being discussed. I therefore welcome a second look at all these matters. I also declare an interest as a farmer. My noble and learned friend said that during the period of consultation the long grass cannot grow, but the consultation period ends in the spring, when the long grass starts to grow again. I am concerned that it will be allowed to grow and grow. Can he confirm that the matter will be taken forward expeditiously thereafter?

Lord Keen of Elie: With respect to the observations of my noble friend, I point out that by the time this consultation ends it will not be spring in Scotland.

Pension Schemes Bill [HL]

Second Reading

3.51 pm

Moved by ***Lord Freud***

That the Bill be read a second time.

The Minister of State, Department for Work and Pensions (Lord Freud) (Con): My Lords, over the past 10 years the Government have delivered a number of radical changes to the pensions system that have transformed the way that people can save and access their pension savings.

Among the changes that we have made, we have removed the default retirement age, facilitating fuller working lives, we have made it easier for people to understand their state pension by introducing the new state pension, and by setting the full level at £155.65 and raising the state pension age we have lifted more pensioners out of means testing and put the state pension on a sustainable footing. We have increased private long-term savings by introducing automatic enrolment, and 6.7 million people have already been automatically enrolled into a workplace pension by 257,000 employers. By 2018, we estimate that 10 million workers will be newly saving or saving more into a workplace pension as a result of this change, generating around £17 billion in additional pension saving by 2020. In the summary of its report on automatic enrolment, published in May of this year, the Work and Pensions Select Committee said that so far, automatic enrolment had been a great success and that it had,

"been declared a success by pension providers, employers, trade unions and Government".

We have also given people greater flexibility in relation to their pensions. The pension freedoms, which came into effect in April 2015, allow over-55 year-olds to access their pension savings more flexibly. HMRC reports that in the first year of pension freedoms, 232,000 individuals accessed a flexible payment. Since April 2016, it has been compulsory for providers to report this information. In the first six months since compulsory reporting was introduced, 243,000 individuals received a flexible payment, with 619,000 payments made in total. The total value of all flexible payments since the introduction of the freedoms is £7.65 billion.

The Bill builds on these changes. Automatic enrolment means that more people are saving into a private pension. The new freedoms mean they have more choice about what they do with their savings than ever before. We need to ensure that the legislative framework is appropriate in the light of these developments. The measures in the Bill will help to protect savers and maintain their confidence in pension savings.

The majority of the Bill focuses on master trust occupational pension schemes, which have become a most popular vehicle into which workers are automatically enrolled, particularly among small and micro-employers. Although these schemes can offer great value for members and employers, we need to act now to make sure they are regulated in the right way.

The schemes are regulated by the Pensions Regulator and occupational pension legislation. However, that legislation was developed mainly with single-employer pension schemes in mind. Master trust schemes have different structures and dynamics, so the Bill introduces a new authorisation regime for them and new powers for the Pensions Regulator to intervene where schemes are at risk of failing.

Master trusts will now have to satisfy the regulator that they meet certain criteria before operating, and schemes must continue to meet the criteria to remain authorised. The criteria respond to specific key risks identified in master trust schemes. They were developed in discussion with the industry and include the kinds of risks that the Financial Conduct Authority regulation addresses in group personal pensions, with which master trust schemes have some similarities.

Trusts will now be required to demonstrate that the persons involved in the scheme are fit and proper, that the scheme is financially sustainable, that the scheme funder meets certain requirements, that the systems and processes relating to the governance and administration

of the scheme are sufficient to ensure its effective running, and that the scheme has an adequate continuity strategy.

The Bill covers more detail on each of these criteria, and additional details will be set out in regulations following further consultation with the industry. The authorisation and supervision regime is likely to be commenced in full in 2018. However, the Bill also contains provisions which, on enactment, will have effect back to the day on which this Bill was published, 20 October 2016.

These provisions relate to requirements to notify key events to the Pensions Regulator and constraints on charges levied on, or in respect of, members in circumstances related to key risk events or scheme failure. This is vital for protecting members in the short term and will ensure a backstop is in place until the full regime commences.

We have worked closely with the Pensions Regulator and engaged with the pension industry to see what essential protections are needed, and we believe that the measures in the Bill will provide those protections. The Pensions Regulator, along with many pension providers, has welcomed the introduction of the Bill and these measures, saying that it,

"will drive up standards and give us tough new supervisory powers … ensuring members are better protected and ultimately receive the benefits they expect".

The Bill will also make a necessary change in relation to the existing legislation on charges. Information gathered by the Financial Conduct Authority and the Pensions Regulator indicates that a significant number of people have pensions in respect of which an early exit charge is applied. Clause 40 will give us the power to override contractual terms which conflict with the regulations. For example, the Government intend to use this, alongside existing powers, to make regulations to introduce a cap that will prevent early exit charges creating a barrier for members of occupational pension schemes wanting to access their pension savings. The FCA is introducing a corresponding cap on early exit charges in personal and stakeholder pension schemes.

The Government also intend to use this power, together with existing legislation, to make regulations preventing commission charges being imposed on members of certain occupational pension schemes where these arise under existing contracts entered into before 6 April 2016. We have already made regulations that prohibit such charges under new contracts agreed after that date. This will fulfil our commitment to ensure that certain pension schemes used for automatic enrolment do not contain member-borne commission payments to advisers. The Government intend to consult on both sets of regulations in the new year.

We are introducing the Bill now because it will, from the day it becomes law, protect consumers by preventing providers winding up an existing master trust while raising charges to cover the costs of doing so.

We are very conscious of the views expressed by this House that the delegated powers in previous Bills have been too wide or there has been a lack of clarity about how the policy will work. I therefore want to explain the approach we have taken to the use of delegated powers in this Bill.

The Bill sets out the key criteria for a master trust to become authorised. It requires that a master trust must satisfy the regulator that it meets these criteria and that it continues to do so on an ongoing basis. It also sets out how the regime itself will operate. However, there are matters more appropriate for secondary legislation that will address the detail of these requirements. We want to make sure that this level of detail caters for different structures and arrangements within existing master trusts, so that the burden of the regime has no disproportionate or unintended effect.

A one-size-fits-all set of requirements could have a disproportionate effect on the market. We believe that the level of detail needed to implement the main requirements, together with the need to make different provision for different cases, is more suitable for secondary legislation. It may be necessary for these detailed requirements to be adapted over time in response to market developments. To that end, we are not seeking a few broad powers; rather, we have woven specific powers into the Bill, targeted on the matters for which they are appropriate, so that it is clear where and for what they will be used.

We have not prepared draft regulations because we intend to consult the industry before making them. The Bill provides sufficient detail to allow your Lordships to scrutinise how the new authorisation and supervision regime will work and for the market to anticipate what the new regime will mean for it. The market has already proved dynamic and we expect that to continue. Therefore, having the appropriate detail in secondary legislation will enable us to adapt to changes and respond to market developments within the constraints of specific regulation-making powers.

The Bill is focused on areas where we believe we need to take immediate action to protect savers, but I know that there is considerable interest and concern about wider pension issues, so I shall touch briefly on why they are not included in the Bill.

I know that some noble Lords had expected to see in the Bill measures relating to guidance bodies. I reassure them that the Government remain committed to ensuring that consumers can access the help they need to make effective financial decisions. The recent consultation on a new delivery model for government-sponsored financial guidance proposed a two-model body, replacing the Money Advice Service with a new, streamlined money guidance body, and bringing together the Pensions Advisory Service and Pension Wise into a new, single pension guidance body. However, several stakeholders questioned, both in formal responses to the consultation and in the wider public debate that the review has provoked, how the two bodies might work together effectively and whether a single delivery body might be more cost effective and provide an improved offer to consumers. After careful consideration, we have agreed to create a single financial guidance body, but we need to do further work to ensure that the right model is delivered, that it works for consumers, and that it has the full support of the financial services, pensions and charity sectors. Reform in this area has not been shelved and we remain committed to restructuring and improving the offer on government-sponsored financial guidance.

[LORD FREUD]

A lot of understandable concern has been expressed in many quarters about the impact on employers of defined benefit pension schemes, and the sustainability and security of the defined benefit system. Noble Lords will be aware of high-profile cases in the news, and the ongoing Work and Pensions Select Committee inquiry into the powers of the Pensions Regulator and the Pension Protection Fund to act in cases where schemes are facing difficulty. In addition, the Pensions and Lifetime Savings Association, one of the main industry bodies for pension schemes, has set up its own taskforce looking into the sustainability of the defined benefit pensions system.

While we are aware of the many options for change that are being discussed and debated, there is no simple solution on which we are ready to legislate. Despite what noble Lords may read in certain papers, our pensions system is not in imminent danger. None the less, some employers and some schemes are in difficulty, and there are a number of issues on which we want to gather data and consider further. We intend to present a Green Paper on the challenges facing defined benefit pensions in the winter. We should not seek to address those issues ahead of that vital consultation.

Finally, I touch briefly on the changes to the state pension age. While all state pension issues will be outside of the Bill, I know that there is considerable interest and concern about this issue. We have to acknowledge that people are living longer and if we want to carry on having an affordable and sustainable pensions system, it is right that we continue to look at the state pension age. But I reassure noble Lords that we have put arrangements in place. We committed £1 billion to lessen the impact of the state pension changes on those who were affected, so that no one would experience a change of more than 18 months. In fact, 81% of women's state pension ages will increase by no more than 12 months compared with the previous timetable. Many will benefit from an increase in the new state pension. But let me be quite clear on the Government's position. Unwinding past decisions would involve younger people having to bear an even greater share of the burden of getting this country back to living within its means. That is not a burden we are prepared to place on them.

The Bill is an important legislative step in ensuring that we provide essential protections for people saving in master trust pension schemes, and in maintaining confidence in pension savings. The market has grown quickly and it is important that we now respond to ensure that this part of the pension market evolves in the right way. We are committed to ensuring that members are protected equally, whatever type of scheme they are in, and the measures proposed in this Bill will provide that protection. I beg to move.

4.09 pm

Lord McKenzie of Luton (Lab): My Lords, I thank the Minister for introducing this Bill. It is a necessary measure, if too long in the coming. As we have heard, Part 1 introduces an authorisation framework and supervision regime for master trusts; that is, multi-employer DC pension schemes which operate on a trust basis. As trust-based schemes they have hitherto been subject to laws that have traditionally been designed and applied to a single employer model, as the Minister explained, although in some respects they share characteristics with group personal pension plans. As the impact assessment reminds us, some of the fundamental dynamics of occupational pensions are not present in the case of master trusts, which would typically involve the employer having an ongoing interest in the scheme and its alignment to the future of the employer.

We know that some master trusts operate on a scale that is unprecedented in occupational pensions and most are run on a profit basis. However, they are not subject to the same regulation that is placed on contract-based workplace pensions. There is no requirement for a licence to operate and limited barriers to entry. There is also no requirement for specialised trustees and no infrastructure in place to support the wind-up of a failed trust. Given that the savings and pensions of millions of employees and their employer contributions are at risk, this position cannot be allowed to continue. So we are strongly supportive of the thrust of this Bill and concur with its rationale and the need to protect members from suffering financial detriment, the imperative of promoting good governance and a level playing-field for those in the sector and, crucially, the promotion of sustainability and confidence in pensions more generally.

We welcome the new powers for the Pensions Regulator to intervene where a master trust is at risk of failing. Unfortunately, despite what the Minister has said, too much has been happening in the pensions arena in recent times that has served to damage confidence in savings and pensions. Just two weeks ago we heard of the mis-selling of what should have been enhanced annuities. We have had the U-turn on the secondary annuities market after savers were encouraged to contemplate the sale of their annuities and then to have it denied—a crass piece of policy-making. There are the lingering problems of the BHS pension scheme and the adequacy of the powers of the regulator and the willingness to use them. There is a continuing sense of grievance among women in the Women Against State Pension Inequality campaign, despite what the Minister has said, who believe that they were given inadequate notice of their state pension entitlement changes. There was the acknowledged poor communication surrounding the introduction of the single state pension, the unforeseen barriers to exercising the new "freedoms", which in part will be fixed by this Bill, and suggestions that not enough people are reaching the guidance service which as we know is now to be recast.

However, we are encouraged to be optimistic by the new Minister, Richard Harrington, who is apparently fostering a more collaborative approach between the DWP and the Treasury. In a recent speech he mused that he would do better than his two predecessors because key Ministers in the Treasury happen to be his good friends. I do not know whether the noble Lord, Lord Freud, is a chum as well, and perhaps he might let us know. So we look forward to the forthcoming Green Paper and ask the Minister how forthcoming he expects it to be. I think the answer will be "the winter", whenever that is.

All of this emphasises the need to make progress on the regulation of master trusts, especially given the growth in their membership. We are told that by

January of this year there were expected to be more than 4 million members of master trusts with auto-enrolment assets under management of some £8.5 billion in 84 schemes. Some of these have achieved accreditation under the master trust assurance regime developed with the Institute of Chartered Accountants in England and Wales but these are in the minority. Zurich has told us that accreditation is rapidly becoming a commercial reality to demonstrate a well-run scheme and it points out that there is an overlap with some of the provisions in the Bill. How do the Government plan to resolve this? Of course, the growth of such schemes is directly linked to the success of auto-enrolment, with some 6.5 million—I think the Minister said that the figure is now 6.7 million—employees currently enrolled

I am bound to say that an example of good pension policy-making started under a Labour Government, being evidenced based, with independent analysis and political consensus—an approach that would have stood more recent policy pronouncements in good stead. However, although the numbers to be auto-enrolled look set to grow, in July this year some 5.9 million employees were considered ineligible for auto-enrolment—an exclusion attributable in part to the coalition's raising of the income threshold. The review in 2017 is an opportunity to address these matters, particularly issues with mini-jobs, income thresholds and the self-employed.

The Bill outlines a strong framework for the regime, but there is still much left to secondary legislation. Most of these regulations are to proceed by way of the negative parliamentary procedure. We will use the Committee stage to probe the detailed intent of some of these regulation-making powers and we ask the Minister, acknowledging that some depend on further consultation, to provide us with a note of when we might see the drafts, or at least policy statements, to outline their intention. I fear from what the Minister said earlier that we could wait some time for that.

Responsibility for the regulation of master trusts will be placed with the Pensions Regulator, not the FCA. As the ABI pointed out, this involves a significant change in the role of the regulator, with extensive powers and obligations being made available, including dealing with authorisation, determining fit and proper persons, judging financial sustainability and capital adequacy, deciding on adequacy of systems, having the power to initiate triggering events, and more. We will examine these powers and responsibilities in terms of what is provided, as well as where there may be gaps, to see whether they need be strengthened.

Will the Minister say what assessment has been made of the capacity and resources of the Pension Regulator to cope with all of this, particularly at the point of introduction, where all existing schemes need to seek authorisation? What fee structure is envisaged?

The Bill provides that scheme funders must be constituted as a separate legal entity—seemingly not necessarily resident in the UK; Panama, perhaps—if fit and proper persons and only carrying on activities related to the master trust scheme. The Minister may be aware of the point raised by Zurich about scheme funders having established other workplace pensions and the benefits of using shared systems. How does he respond to this? Will such shared arrangements have to be unpicked to gain authorisation? What would the position be if the scheme funder were to become insolvent? Can a restriction be placed on the level of dividends or profits of the scheme funder?

Under Schedule 1 to the Bill, the regulator can make a pause order such that during a triggering event period no new members can be admitted to the scheme and no further contributions or payments made. Will the Minister say what the consequences of this pause are for employers and workers who have current obligations under auto-enrolment? Is there a pause in their respective obligations?

A master trust scheme is defined in the Bill to apply where "two or more employers" are involved in a scheme, but it effectively counts employers that are connected as one. Perhaps the Minister would expand on the rationale for this and confirm which regulatory regime applies in these circumstances. Will such connected arrangements be run on a profit basis?

While the Bill contains a lot about the role of the Pensions Regulator, it says little about the position of members. ShareAction points out that there is a significant gap around member communication—for example, relating to the notification of triggering events—silence on the trustees providing transparency on where savers' money is invested, no right to be given standard information on charges, where money is being invested and how ownership rights are being exercised. Will the Minister say what has happened to their consultation—closed, I believe, nearly a year ago—looking at transparency from a member's perspective where investment has been undertaken? Will the Government encourage employer and member panels along the lines of the NEST arrangements?

We should expect some consolidation in the marketplace both before and after the Bill comes into effect. This is no bad thing. It is expected that some will seek to pre-empt the requirements in the Bill, and we need to be assured that this is not achieved to the detriment of members. On the face of it, as the Minister has explained, giving the Bill retrospective effect to 20 October appears to provide the necessary protection to ensure that member pots cannot be accessed to fund the wind-up. Can the Minister confirm that?

It is suggested that smaller master trusts in particular, faced with extra capital requirements and/or increased governance, will likely depart. Does, or should, the regulator have the power to intervene to direct a consolidation of schemes to assist such smaller schemes?

As we have heard, this Bill is not just about master trust regulation. Clause 40 purports to enable a cap on early exit charges in occupational pension schemes and to ban member-borne commission charges. The cap on early exit charges has already been implemented for contract-based schemes given the clear evidence that exit charges were preventing consumers accessing their pension savings flexibly. A fair and consistent approach is now proposed across all defined contribution pensions, and I understand that the noble Baroness, Lady Altmann, launched a consultation to that effect in May. We support the intent. Perhaps the Minister will update us on how the Government propose to proceed. We similarly support the banning of member-borne commissions and ask for an update on transaction costs. Both these issues

[LORD MCKENZIE OF LUTON]
serve to highlight the need to be vigilant in ensuring that members' funds are protected in an environment where for the most part there is an imbalance of economic power and advantage.

The authorisation and supervision regime for master trusts will help protect the savings and pensions of millions of individuals. It will contribute to building confidence for people to save, to deny the scammers and to help sustain our pension system. Although we have to look at the detail, the regime should provide the basis of a consensus and we look forward to working with the Minister and his predecessor to see it delivered.

4.22 pm

Lord Stoneham of Droxford (LD): My Lords, I apologise to the Minister and to the House for being a few minutes late for the opening remarks in this debate and thank the authorities for allowing me none the less to speak. I want to make three initial, general points before looking at the details of the Bill.

The very fact that we are discussing this Bill shows the good progress that has been made on auto-enrolment. More than 6 million are now involved in it, with the proportion of people active in pensions going up all the time. This is good news. However, the House needs to realise that the really big task lies ahead as we move to a phase where higher contributions will be required and start to address the fact that people in the country as a whole are hugely undersaving for their pensions and retirement. The situation is not made any easier as young people find it increasingly difficult to move into a home of their own. We have a high level of consumer credit and no longer have the old paternalistic systems of final salary pension schemes. All the risk in pensions is now with the employee and the saver.

However, one reason why we have made good progress during the past 10 years is that we have had good, cross-party support for ongoing pension reforms. Therefore, on this side of the House, we agree that the growth of master trusts now needs some adjustment in terms of regulation and monitoring. I re-emphasise the point made by the noble Lord, Lord McKenzie: that the last thing we need is any undermining of confidence in the pension savings, however inadequate they may be, that people are trying to make in the current circumstances. Anything that undermines that confidence will undermine everything that we are seeking to do here.

The third point I would like to make is an immediately political point and concerns the economic uncertainty that surrounds the country at the moment. I do not think we should underestimate the damage that is being done by low interest rates for pensions and pension saving and, particularly, to the valuation of annuities. I think it was recorded only the other day that 0.1% off interest rates contributes to an increase in the deficit of the Tesco pension fund of £300 million. That just shows the damage that is being done in the current circumstances. Let us not forget the high proportion of our pensioners living in Europe who have experienced a 20% reduction in their retirement income as a result of the exchange rate. We have to realise that, in the pension field, return on investment and economic growth is vital for pension growth in the future. I do not think that anybody will have voted for the current uncertainty if this uncertainty continues and undermines those three tenets of our economy.

Looking at the issues of the master trust, I make the overall point that regulation is necessary, but have we missed an opportunity in the Bill of opening things up so that these arrangements and proposals are much more proactive for the consumer and saver, actually encouraging their investment in the saving process? I am a bit surprised that the Government are not doing in parallel and together the proposed regulation of the master trust in the Bill and what they are doing to enhance and improve the advice that is available to pensioners and people saving for their pensions.

Everybody supports making the master trusts subject to good transparency. Those who are saving in them should know how they are performing, that they are being safeguarded because there is good regulation. People should also know what the investment strategy is and what the risk assessment is of the trusts that they are involved in. That should be absolutely clear. Those should be requirements of the regulation, and charges should be transparent. It is also important that accountability should not simply be to the regulator; it should be to those who are actually investing in their pension savings directly. I am not sure that the Bill goes far enough in trying to advance that and improve on it.

Given the Prime Minister's ideas of putting people from the consumer and employee interests on boards, are there any thoughts about their being involved in these master trusts? Why is that not included in the Bill, or is it to be the subject of late amendments? That is one direct possibility that the Government could consider. Does the annual report simply have to go to the regulator? Why is an annual report not going to the individual contributors and savers in these trusts, so that they can see exactly how their money is being stewarded and looked after? What do we regard as "a fit and proper person"? I take the trivial example of my local football club, where I have had huge disillusionment in various authorities trying to define who are fit and proper people to run a club. What is required for people to be fit and proper to run pension trusts? It is not just qualifications; it is actually an analysis and keeping to account how they operate those trusts, how they operate as managers. How will that be done? That seems to me to be the most important thing.

Another opportunity missed in the Bill concerns the whole concept of the digital age. We have moved on in the last 10 years; we can now very easily communicate with people, providing we have their email addresses. Any excuse that it is more expensive to communicate regularly with individual savers is for the birds, frankly, because bodies can now do it quite easily. This would be a good time, when we are trying to get these bodies regulated for the first time, to put in a requirement that they should have those facilities. For them to be approved, they should have those facilities so that they can easily and cheaply communicate, not just with the regulator and the employers but with the individual savers and employees.

In addition, the Bill should have said a little more about the trigger mechanisms and the pause provisions, because those both talk about informing the employers, but there is very little about telling the employees. What happens to the employees or the individual savers when the pause provision is brought in? What will they be told? What will they be advised about the contributions that they might want to continue to make but will not be allowed to? Some consideration should have been given to that.

Another important aspect of this regulation is that there has been a huge growth in master trusts, but there may be a need or an opportunity for the encouragement of consolidation going forward. Is the regulator going to keep an account of the cost per saver indices for these various trusts so that there is some indication to people how efficient they are and an indication to their management of where they can get improvements in costs and efficiency so that they operate effectively?

My final point is related, and I have not heard much about it recently. When I last asked this question, I got an answer that took it straight into the long grass. Portable pensions were always seen as an important aspect of auto-enrolment. I return to the issue of pension pots. We have now been in this for a number of years. The type of people who are investing in these pensions are moving jobs all the time. We are probably already in a situation where people have more than one pot. I do not know what the average is; it would be interesting to know. What are the Government doing on the policy that we originally looked at under the previous Government with regard to encouraging people to consolidate their pension pots? It was originally proposed that the pots would follow the employee in whatever new job or saving arrangement they went into. What is the Government's purpose in delaying regulating on that and what are their plans to address this issue? As time goes on, this problem will grow and it will become even more difficult for the industry to find a rational solution.

I welcome the Bill's aspirations. It could do a lot more, particularly in widening the power and knowledge of individual savers who need to put more into their pensions. I look forward to following up some of these issues in Committee and on Report.

4.32 pm

Lord Naseby (Con): My Lords, I declare an interest as a trustee of the Parliamentary Contributory Pension Fund, which is in sound condition. I welcome the Bill immensely. I pay tribute to my noble friend on the Front Bench for all he has done in this field over the years, and what it seems he still has to do in the future.

More important than my welcome is that I read that last week a panel of master trust providers at the conference of the Pensions and Lifetime Savings Association also welcomed the Bill. That seems to be a good start. The providers also said at that conference that it should ensure that those schemes that are not sufficiently robust will have to leave the market—quite rightly so—but they even volunteered that maybe the industry should be the catalyst to look after those members who find themselves belonging to such a trust. I hope very much that by mentioning this here publicly they will do what they said they were thinking about doing.

I was also pleased to see that the Pension and Lifetime Savings Association has set up a committee solely for master trusts to help them have strategies, to move them forward and to support them in more difficult times. That can only be in the interests of the pensioners themselves, for they are the people we are most concerned about.

Looking at the Bill, of course one looks at the role of the Pensions Regulator—TPR. Will he be given real powers under the Bill to authorise and to de-authorise? Authorisation will, as I understand it, examine every aspect of a master trust, because those master trusts will become the key providers for the development of a defined contribution pension market. There is a question of whether TPR will have adequate resources for the work that is defined for it in the Bill. I hope that there will be a thorough assessment. One recognises that it is the pensioner who will pay the bill. Nevertheless, let us at least start with an analysis of whether those who are charged with these important responsibilities are to be given sufficient resources to meet them.

I have a number of questions to ask of my noble friend. First, why is there no de minimis capital requirement for any master trust entering the market? Secondly, why under the licensing scheme is it not compulsory to use the master trust assurance framework? Thirdly, your Lordships will know of my deep interest in and support for the mutuals sector. There are many schemes out there today for groups of employers in the not-for-profit sector—for churches, charities, unions, universities, credit unions and a number of others. They usually have a defined benefit scheme and as far as I can see, having been involved with the movement for many years now, almost all those are in reasonable shape. Surely it is questionable whether it is really sensible, or indeed necessary, to include them in the master trust legislation, for they are pretty safe schemes. It seems to me that the regulations will be unnecessarily onerous, complex and really quite expensive for some of these small operations. If we demand that they have to comply with them, it will create great difficulty for a sector that, as I understand it, society wants to see promoted.

My fourth question will not find much favour with my noble friend. It is on that section of Part 2 of the Bill regarding which my noble friend reiterated the Government's intention to introduce a cap on early exit charges. As far as the media are concerned, that is a highly emotive area. However, for the poor people who are running a pension fund and doing their calculations based on the income of that fund over 20, 25 or 30 years, or whatever it may be, making it easy for the individual member to exit the fund will make it even more difficult to plan in relation to yields in the market. Are the Government absolutely sure that they want to dig away here? We certainly cannot have a situation where the early exit charge is what one might call de minimis. There has to be a disincentive against people going in and then pulling out; otherwise—as someone who has been involved with pension fund management for 25 years—my judgment is that it will be quite a challenge, and not one that I would personally wish to take on.

So much for the questioning. I think the House will know and need to recognise that we have a long way to go in the pensions market in this nation. Today, it is

[LORD NASEBY]
estimated that just one in seven of the members of DC schemes are saving enough to maintain in retirement the lifestyle that they have got used to. There is a huge challenge for all of us—for the Government of the day, the media and the industry—to explain and convince pensioners that they must do more saving for their future life as pensioners. In my judgment, that has considerable implications for Her Majesty's Treasury in providing some incentives to make this happen.

As this is the Second Reading of a pensions Bill I would like to comment on a couple of wider aspects. First, as I understand it, there are currently 5,945 defined benefit schemes. Your Lordships will have read, as have I, that most of those defined benefit schemes are in a negative situation. The deficits amount to billions of pounds. To make it even worse, or more lurid, the Pensions Institute at the London Cass Business School has forecast that 1,000 more pension funds will enter the Pension Protection Fund. Your Lordships will know that the level of the deficit is calculated using traditional gilts plus or corporate bond yields to calculate the discount rate. As we all know, those yields are at a very depressed level and have been for a while now.

I was interested to read something that I believe reflects the situation. First Actuarial has just done an analysis of the expected returns from underlying assets held by schemes as opposed to the theoretical system using traditional gilts plus and corporate bond yields. The net result was completely different. There turns out to be a surplus of £358 billion. We need to think long and hard about whether we will stick in the longer term with the totally unrealistic discount rate that we have had over the last decades.

My second and more general point is about when schemes face a wind-up situation. The time has come to look at changing the law. Today, it is not in the best interests of members. If they cannot afford to meet their pension promises, the only option left to the trustees and the company is to go bankrupt. The net result is that the poor pensioners get a very meagre—certainly a substantially reduced—pension from the PPF, so they lose out, and the equity shareholders in the company lose out because they lose all their equity. Why cannot trustees be allowed to renegotiate? It would result in a reduction in benefits to the members, but not as big a reduction as they get when they have to be put in the last chance saloon of the PPF. Perhaps some combination of cutting benefits and a modified new DC scheme on top of that would be a better way forward for a number of those companies—possibly not all of them, but certainly a significant element of the thousands that the Cass Business School forecasts will be in really deep trouble. A significant element of them would be saved, and that would help pensioners.

I greatly welcome the Bill. We face many new challenges in this market. I am sure the Bill will be given a Second Reading, and I look forward to playing some role in the Committee stage as we move it forward.

4.43 pm

Baroness Hollis of Heigham (Lab): My Lords, the Bill is focused on master trusts, to which I will not speak. However, the Explanatory Notes open with the statement:

"The Bill's focus is on protecting savers and maintaining confidence in pension savings",

to which I will speak, as did the noble Lord, Lord Naseby.

Much recent government policy has been misguided. The bit we got right, after our campaigning, was the single state pension. However, those on, say, three zero-hour contracts, each of 10 hours, making 30 hours in total, still cannot aggregate their hours to come into NI and build a state pension, while someone on JSA does. There are 1 million people on ZHCs, working in the flexible labour market without access to NI and thus, potentially, to a state pension. It is wrong but, with RTI, easy to rectify.

The Government then cut projected new state pension costs by suddenly raising retirement ages faster. Steve Webb claims he did not fully understand the implications of that. Really? Equality, yes—but as our worker-pensioner ratio in 2025 will be more favourable than that of any other EU country, from Germany to Greece, apart from some smaller countries such as Ireland, the Czech Republic and Luxembourg, we argued that we could afford a slower timetable, but were refused. We argued for transitional arrangements for those WASPI women, but were denied. Women are especially dependent on a state pension, as most lack a decent OP, and caring for children and elderly parents, their pay and their hours all hobble them. The WASPI women continue to fight on, and I hope that, despite the remarks of the noble Lord, Lord Freud, today, the Government will respond.

The Government are capping costs by tying SPA to longevity. A third of your life will be spent in retirement, hence those healthy elite pale males, breezily contemplating an SPA of 68, 69 or 70. Life expectancy is rising, but not evenly. The gender gap has narrowed, while the socioeconomic gap widens. Within Norwich—a tight city with common services and standards—two city wards are one mile but some 11 years of life expectancy apart. In the council estates, most people started work six or seven years younger than in the owner-occupier ward. They start work young and they die young, but without receiving much of the pension that they paid for and we enjoy.

However, it is worse than that. Although we are living longer, healthy life expectancy has not risen pro rata. More of those extra years are spent in poor health, especially for those in manual work, who have double the rate of poor health than those who are better off. Women, for example, live longer than men but proportionately spend much more of their later life in poor health. A woman reaching 65 in Richmond can expect 16.7 years of good health; in Tower Hamlets she can expect just 3.3 years. The second woman faces fewer years of retirement and then even fewer of those years disability-free—she is doubly disadvantaged.

We have to change this, and I look to Cridland. A single SPA is profoundly and increasingly unfair. It needs to be tailored but not means tested—only half of those entitled to pension credit ever claimed it. Like NI, it should be a universal and contributory entitlement, easy to understand and administer, fair to men and women alike, and affordable. The Pensions Policy Institute reckons that 38% could draw their SPA earlier if they qualified with 45 years of NI contributions,

costing around just £200 million a year. Passporting from ESA or from caring responsibilities within five years of retirement might double that. Refuse collectors in Norwich often die within two years of retirement—two years. Is it right that their lifetime NI, which barely benefits them, should pay for 20-plus years of all our state pensions? I think not.

I turn now to occupational pensions, especially as they affect the worse-off. Auto-enrolment was for those too low-paid to build a private pension, but instead of the entry point being pegged at an LEL of £5,800, it became a rising tax threshold which over the years excluded 1 million people, mainly women. The industry complained noisily about managing small sums, but even a £5,000 pot may be transformational for a woman who has never had any capital in her life. It has been frozen this year at £10,000, which is very welcome, but will the Government be reviewing this issue in 2017?

However, the biggest worry for me in recent government policy is pension liberation at 55. Spend it on a Lamborghini, government Ministers suggested; it is your money. Except it is not. Two-thirds of "your" pot actually came from others, employers and taxpayers, privileged with billions of pounds of tax relief precisely—as the Explanatory Notes state—to build pension savings, not to provide a honeypot for some to blow in middle age, perhaps leaving taxpayers to fund their later-life care for the second time round.

What is needed for a decent private pension? We all know that you must: save early, but with student debt or saving for a deposit you cannot; save regularly, but mothers in and out of waged labour mostly cannot; save enough, but with employers now contributing a meagre 44% on average through DC pots, you cannot; leave it untouched until retirement, but that is gone, so many will not; and then be rewarded proportionately, live to enjoy it, but if you are poorer you will not, so do not. Government policies in this respect are contradictory and regressive.

What might we do? ISAs attract more money than personal pensions. Why? Easy access. Only the better-off can afford to fund both ISAs for working-life access and pensions for retirement. Low-paid women, part-time workers, the self-employed and those on ZHCs, with average earnings of £11,000, can barely afford one, certainly not both financial instruments.

If, through auto-enrolment inertia, most pay into a pension they cannot access until 55, that is too late to help with divorce, disability or disaster before then, but they may have no other resources. ONS statistics show that a third of all men and women, and about half of those separated or divorced, have less than £500 in accessible savings. Many turn to debt and are trapped.

We should instead combine aspects of ISAs and pensions in one simple product. You save, and perhaps save more, into a pension if you know that you can access emergency savings from it, borrowing cheaply from yourself rather than expensively from others—which may have caused you to stop contributing to your pension entirely. FCA figures show that, of pensions accessed between October and December 2015, more than half—mainly, of course, the small pots—were fully cashed out. The PLSA shows that in the first six months of pension freedom, of those taking cash, 14% were paying off loans or debts, perhaps after years of carrying charges. Modest savers in Norwich Credit Union use its loans for holidays, Christmas, cars, household improvements and goods, yes, but also significantly for the consolidation of debts.

How to combine pension and savings in one simple product for those who, I fear, may otherwise not build either? Here are two of many possibilities. You pay into your pension account. Effectively, 75% remains ring-fenced for retirement, but 25%, the tax-free lump sum, is your easy-access savings slice floating on top. Build your pot to, say, £5,000, and you can take a quarter of it; to take more, you must rebuild. Cap it, so that there is no recycling by the wealthy.

Alternatively, StepChange, the debt charity, to which I am grateful for its help, proposes embedding a £1,000 accessible savings slice within your pension pot, which it says would remove 500,000 families from problem debt—debt that helps to lock people into poverty for years on end. Could this be part of the 2017 review, perhaps?

To conclude, we should be offering transitional arrangements for WASPI women, given that we have one of the strongest worker-pensioner ratios in the OECD, and certainly in Europe. We should allow aggregation of hours for those with multiple jobs. We should tailor state pension age to reflect morbidity. All that may help to secure fairer state pensions, which I am sure we all want. Overlay that with a fairer and more attractive private pension. How? Reduce the auto-enrolment threshold back to LEL. Consider a default de-accumulation strategy. Allow access to a savings slice embedded in a pension, and thereby encourage what the Explanatory Notes state is the purpose of the Bill—both a savings culture and a pensions culture—and do so in one product. And, of course, support capping charges and regulating master trusts.

4.55 pm

Baroness Altmann (Con): My Lords, I welcome this Bill. It is absolutely vital that the Government ensure that people's pensions are properly protected. The policy of auto-enrolment has been a significant success story in broadening coverage of private pensions and I am delighted that millions more people are saving for retirement with the help of their employer. Improving retirement provision across the population is vital in our ageing society and the Government's excellent freedom and choice reforms, allowing people to use their pension savings as suits them best, have paved the way for a better appreciation of the merits of pension saving. If we are truly to make policy in the interests of the many, not just the few, then having an attractive and safe private pension system for everyone is a vital element of future planning.

I confess that I was taken aback last summer when, as Pensions Minister, I discovered that proper protections for people's trust-based defined contribution pension savings had not been put in place before auto-enrolment began. Under the FCA rules, contract-based pension money is protected and those setting up and selling pensions are subject to strict criteria. However, this is not the case for trust-based defined contribution pensions. Currently, members of DC pension trusts could lose

[Baroness Altmann]
their entire pension, and all their employer contributions and tax relief too, if the scheme they have been contributing to winds up. Even if the actual investments are protected, members could lose their whole pension because all the costs of winding up the scheme—if they cannot be paid for by anyone else—might have to be met by the funds in the trust. It is, therefore, most welcome that the Government are finally taking action to address this. However, while we are putting the legislation in place, the House must ensure it achieves its main objectives. Therefore, there are important areas on which noble Lords will no doubt seek assurances from the Minister in Committee.

The House must be confident that the proposed protections will actually work in practice. When I first started working with government on pensions policy in 2000, it was on the issue of lack of protection for defined benefit pension trusts. Post-Maxwell, the Government of the day assured members that their pensions would in future be protected by legislation that introduced minimum funding standards. This MFR regime was supposed to mean that their DB scheme would always have enough money to pay the promised pensions, whatever happened to their employer. In practice, however, well-intentioned standards were inadequate and members ended up losing their entire pension. It took years of misery and campaigning before the Government acknowledged this lack of protection and introduced a proper insurance scheme for the future with regulatory powers to back it up. The Pension Protection Fund has worked well and the Government must ensure that any new regime to protect trust-based DC members will also provide proper protection.

Some of the issues which noble Lords will wish to explore include careful consideration of how adequate the capital adequacy safeguards will really be. We will certainly need to drill down into this more in Committee. I welcome the extension of the Pensions Regulator's powers and the requirement for master trusts to pay for authorisation and an ongoing levy. However, it is not clear how any new regulations will dovetail with the existing master trust assurance framework that has been used by the regulator to assess master trust scheme quality. That framework does not include coverage of wind-up costs, nor adequately cover employer or member communications to ensure that proper, clear warnings are in place about the impact of such things as using a net pay scheme for workers who earn below £11,000 a year and could be required to pay a 20% penalty on their pension savings, for example.

Millions of people are already saving in master trusts, so noble Lords will be interested to hear from the Minister how existing scheme members will be protected. If their DC trust fails between now and when the new rules are enacted, what provision is the Government making to cover wind-up costs or ensure a smooth takeover of members' pensions? Will there be a default scheme that can take over while the past records are clarified? Will there be new rules to ensure that bulk transfers between DC schemes can legally occur promptly and efficiently, with immunity for the receiving scheme against providers' past mistakes to ensure continuity of pension coverage for members of failed trusts? As regards the definition of "master trusts", there may be some confusion. Currently, the definitions in Clause 1 differ from the definition of "relevant multiemployer schemes" in the charges and governance regulations that were introduced in Parliament only last year. Noble Lords may be interested to understand why this is the case, and whether the Bill should look to align the definitions.

I hope my noble friend the Minister will be able to reassure the House that all relevant schemes will be covered by the Bill, and that all pension trust members will be protected on wind-up. It is not currently clear whether the definitions in the Bill are adequate. For example, a single employer trust could potentially take in DC savings from other employers, but would then not be covered by these protections for master trust members. Will the Bill ensure that the new measures cover all relevant pension saving trusts, whether for pension accumulation or decumulation, so that we do not find ourselves in need of further legislation in coming years because some schemes fell through the cracks left by the current measures?

Currently, the FCA protection regime for contract-based schemes is far tougher than that run by the Pensions Regulator for trust-based DC, and there has clearly been some regulatory arbitrage. It seems strange, however, that an insurance company with a diversified business fully regulated by the FCA would not be permitted to back a master trust. This Bill would force the existing large insurers to set up separate entities to run their master trust, which may weaken the protection for members rather than strengthen it. Will my noble friend the Minister explain why an existing large regulated insurer is not considered suitable to run a master trust, but a much smaller company whose only business is the master trust itself would be considered more suitable?

I believe noble Lords may also wish to understand what consideration has been given to an insurance arrangement along the lines of the PPF itself to cover wind-up costs if no other means exist. If the scheme funder is a limited liability company, and this company becomes insolvent, where could wind-up costs be covered from? It is a little-known fact that the Pension Protection Fund already has a provision to insure all trust-based pension schemes against fraud, including master trusts, I believe. Could this fraud compensation scheme perhaps be extended to ensure that existing master trust members were protected in the event of scheme wind-up in the near term? Imposing regulatory operational capital requirements for DC schemes is, of course, a valid policy but this is no guarantee of member security—think of the banking system, for example. Insuring against a catastrophe would usually be more efficient than every fund setting aside money just in case the worst happens. An insurance option, however, has not been included in the impact assessment accompanying the Bill, even though it was considered at industry round tables and consultations. Will regulators know in advance what amount of capital is needed to ensure adequacy? The actual costs of wind-up will not be known, or knowable, in advance. Therefore, it is important for the House to be reassured that the Government's new proposals will work in practice, or that there is an alternative contingency plan in place for the failure of a DC pension trust whose records are in disarray.

I also support and welcome this Bill's proposed ban on early exit charges and member-borne commission, which will enhance pension outcomes for customers. I hope that the 1% cap proposed by the FCA will be introduced as quickly as possible. In all good conscience I admit support for the concerns raised by the noble Baroness, Lady Hollis, in relation to women's state pensions, where the failure to communicate state pension age rises and failure to allow thousands of mostly female low-paid part-time workers to accrue either state or workplace pensions has caused, and will cause, retirement hardship. But that is not the issue for today.

In summary, I welcome the Government's legislation that aims to protect members of master trusts. Members' interests are so important. It is imperative, however, to ensure that the planned protections will have the best possible chance of working in practice and, of course, if any measures can be introduced in this Bill to reduce the scourge of pension losses resulting from scams and frauds, that too will be most welcome.

5.05 pm

Lord Monks (Lab): My Lords, I start by declaring an interest. I am a trustee of NOW: Pensions, a master trust with 20,000 clients and 1 million members, which have built up in the last four years. Like many noble Lords who have taken part in this debate, I welcome in general the thrust of the Bill and its aim to provide essential protections for people in master trusts. We have advocated for a long while that a more robust regulatory regime for these trusts is necessary to ensure that all savers in them enjoy protection. It is certainly now time, as other noble Lords have said, to tighten the rules for master trusts, including on charges and commissions.

Many questions will be debated in Committee, I am sure, and this Bill is a modest measure compared with the many pensions challenges already mentioned that affect this country—whether in relation to the state pension, the declining scope of defined benefit schemes or the apparently increasing risk of the more unscrupulous or perhaps most desperate employers joining BHS and others in dumping their liabilities as best they can into the Pension Protection Fund. More specifically, there is the big question—the stark fact—that, despite the initial success of auto-enrolment, it comes nowhere near providing contribution levels of around 15% of earnings, which most people regard as the basic level of a decent pension in retirement.

There are many people still outside the scope of pensions, not least because of the qualifying earnings limit, which cuts out a lot of low-paid workers at present. A good start has been made but we still have some big challenges to face. Women have been the losers in the main, not just in relation to the state pension age, but given their preponderance in low-paid occupations and part-time work in particular.

How rapidly the pensions outlook has changed in the last few decades. I remember that as late as the 1990s, many employers with healthy defined benefit schemes were taking contribution holidays. Many of us were very worried, but they promised solemnly that they would honour their pension promises and some have done so. I notice that Rolls-Royce, which is not in the papers for reasons it would like at present, a week or two ago put new resources into its pension scheme to keep it healthy. Far too many companies have broken those promises but I note somewhat sardonically that, where senior executives remain in the general pension scheme, there is a greater tendency to keep it going than where directors are in their own separate, hived-off, top-hat scheme.

Maybe the decline of DB schemes was unavoidable because of demographic factors such as the welcome increase in life expectancy but, as the noble Baroness, Lady Hollis, said, that relates only to certain parts of the country—to certain wards in many cities where there is a big difference between the rich and the poor, the comfortable and those in need. That is a major factor. Other factors, such as the accounting and taxation changes and rather sudden actuarial reviews, had a big effect on DB schemes. The coverage of DB schemes was partial; they favoured full-time, mainly male workers in large companies. However, they were a British success story, and I am sorry to see our current position.

This increases the pressure on us to make a success of auto-enrolment. That was a rare thing in British politics: the product of a genuine consensus based on the report of the chair, Adair Turner, my noble friend Lady Drake, who will speak shortly, and Professor Hills. The major political parties did not turn it into a political football match and worked, for the most part—certainly until recently; some of the recent changes are exceptions to this—in a non-partisan way to build up the auto-enrolment system. I hope we can do that with both the Bill and next year's review of auto-enrolment. Indeed, this kind of approach could usefully be expanded into other labour market issues, but that is a speech for another day.

There will be a major review of auto-enrolment in 2017, and I hope we will manage to make some progress together on that. I hope too that we will address the tough issues. For example, should we start to plan for a higher contribution rate, above the 8% of earnings currently envisaged? This question will of course entail some fine judgments of how both employers and workers would react to the higher contribution rate. Would employers under current pressures, which have been enhanced by the uncertainty caused by the EU referendum result, be in a position to up their contributions? Would such a move perhaps encourage them to go further towards self-employment, and not just those in the gig economy? Self-employment has accounted for half the jobs created since the crash of 2008, and we on this side are certainly aware that that could increase still further if we got some of these things wrong.

Would workers be prepared to pay substantially more into their pension, especially against the background of the very low, real pay increases which have characterised recent years? Would the opt-out rate go through the roof in such circumstances? Should we even continue with the right to opt out, or should membership of a scheme be compulsory? That would certainly simplify administration. Could it perhaps be made widely acceptable as the right thing to do, given the many pressures associated with facing old age without adequate resources? One thing is clear: any changes certainly need to build up fairly slowly, giving people time to

[Lord Monks]
adjust to major changes and to maintain the spirit that the Turner commission developed. But the objective must be clear: we need to move towards prompting and helping people to save more for their old age.

The Bill rightly aims to correct some weaknesses in the current system. There has been no licence to operate and virtually no barriers to entry in the master trust world. This has spawned the big increase in master trusts that has been mentioned, and there is a danger that many will fail to achieve the scale necessary to survive. The result could be disorderly exits from the market, with all the uncertainties and possible losses that the noble Baroness, Lady Altmann, referred to. To an extent this is being addressed—certainly in the Bill, through the enhanced role of the regulator, which will become an authorising body, a new market entry test and a fit and proper person test for the trustee. Schemes will have to have these continuation strategies with adequate resources to wind up in an orderly fashion.

We will need to look at the details in Committee but, for the moment, I am unclear as to why master trust assurance would not be made compulsory. It is an existing framework that could be used as part of the licensing regime. It is also desirable that the requirement to hold capital against running costs should be set at a solid rate—one that can cover the emergencies which can arise. In the case of NOW: Pensions, we think around six months would suit us. At the moment, that would mean around £8 million for the organisation.

Although it is perhaps a bit premature to move into the review of auto-enrolment, could we place on the agenda a wish to remove qualifying earnings, particularly the lower limit and, instead, base contributions on every pound of earnings? At the moment, the lower-paid are losing out big time because of the way the system works. Such a change would improve the outcomes for all, but especially for low-paid and part-time workers, many of whom are women. Other outstanding issues include the net pay anomaly—settling once and for all the point at which tax has to be paid, on the money paid in or on the money drawn out.

Finally, will the position of NEST be reconsidered in the 2017 review? Here, I recognise I may differ a little from some colleagues on this side of the House. NEST was set up as a default option, to take care of low-paid workers no other providers would accept. In fact, there has been no market failure and NEST is now looking to expand its range of activities to provide new retirement products, as well as providing pensions for the higher paid. Is this a device that could lead to market dominance funded by the taxpayer? After all, NEST is a publicly funded body. I quite accept that we want our money back from NEST in due course, but I would certainly be interested to hear the Minister's views on this.

All in all there is much to support in this modest Bill, but it is only scratching the surface of the much bigger issues in the world of pensions that I think will occupy this House a lot in the next few years.

5.17 pm

Baroness Wheatcroft (Con): My Lords, I welcome the Bill and declare my interest as the director of a savings business. Pensions are the main savings for millions of people in this country, but the savings level is still woefully low. People are looking towards a retirement that will leave them impoverished, and many are unaware of just what lies ahead. A private pension pot would need to contain around £181,000 now to provide an income of £10,000 in retirement for someone who is currently 30. That is beyond the dreams of most people. However, this is why auto-enrolment is so positive.

Young people need to save and they need to start saving as early as possible, but pensions are not often high on their list of priorities, so auto-enrolment is a real force for good. However, if those schemes in auto-enrolment should hit problems—just as when any pension fund hits disaster—it will destroy confidence in the entire industry. Therefore, I welcome the Bill as a necessary step to safeguard the master trust. I also share with others the concern that we have reached this stage without putting in place some of the protections that are now included in this very worthwhile Bill.

There is much still to be discussed, however. It is obviously right to have various hurdles that master trusts must now jump to get through the authorisation process. I share the interest of the noble Lord, Lord Stoneham, in what will constitute a fit and proper person to be a trustee of one of these organisations. Is it to be left to the Pensions Regulator to determine case by case or will guidelines be laid down, covering, for instance, experience and track record? Being a trustee of a pension fund or a master trust is a hugely responsible job, and we need to be sure that people are not just stereotypical but fit and proper for the task that they will be taking on.

There are other things that the regulator could—and, I believe, should—take account of. It is all very well that one of the authorisation criteria is that the master trust should be financially viable but the idea of having a minimum capital requirement seems perfectly sensible. My noble friends Lord Naseby and Lady Altmann both referred to that. As I said, it seems very sensible and could easily be done.

Many believe that the Pensions Regulator is already overemployed and understaffed. If it is to cope with the raft of new work coming its way, it is imperative that it has the people to do that job, and I hope we can ensure that that is the case. I also hope that the regulator will be able to push some of these master trusts towards consolidation, because it is important that the people who put their savings into master trust schemes have access to the widest possible range of investments. Only by coming together in consolidated organisations will the trusts be able to take advantage of the big infrastructure opportunities. For many years now we have talked about pension funds investing in infrastructure but it has not happened. However, I believe we are on the cusp of a real change, where pension funds will put their money into housing schemes and other infrastructure projects—schemes the country needs now more than ever—and investors will benefit from the sensible, long-term match between liabilities and income, which infrastructure can develop. However, a small master trust will be unable to access those sorts of opportunities.

I warm to the calls that we have heard from some lobbyists and other quarters for master trusts to have obligations that go beyond the five stipulated criteria.

I think they should have to make much more information available to those who invest in a pension scheme. It is imperative that we get a newly invigorated investment climate in this country. Traditional institutional investors have, on the whole, shown themselves to be pitifully uninterested in where their money goes and in the long term. If pension fund investors were told more about the investment policies of the fund that they were putting their money into—about the stocks and the other investments that the fund was investing in—I think we could encourage a much more positive attitude towards long-term investment, which we undoubtedly need in this country.

At the very least, I should like to see annual meetings at which those pension fund investors can, if they wish, feel involved. The noble Lord, Lord Stoneham, talked about new technology and how digital can enable everybody, wherever they live, to take part in webinars and attend annual meetings, even if they are there only virtually and not in person. I would like to see master trusts obliged to open up their proceedings in that way. Transparency is the watchword for us all now, and the more transparent they can become, the better.

I welcome the cap on exit charges. Clearly, people have been grateful for the pension freedoms they have been given and they have been relatively sensible in how they have used them. We have not seen pension raiders driving around in Lamborghinis, as we were told would happen. People are taking out the money to do sensible things—often to pay down a mortgage—and we should make sure that the charges for doing so are kept to a reasonable level.

However, there are a couple of other things to which the Minister referred but which are not in the Bill and which I would like to see. One is the central advice system. Another bout of consultation is all very well but people need advice on pensions and savings—they are not clear where to go for it—and we should make that single source of advice available as quickly as possible.

I would also hope that a Bill called the Pension Schemes Bill could move a little further into defined benefit schemes. I know the Minister told us that the Government were looking further and that more would be forthcoming, but given what has happened in defined benefit schemes recently, would it not be possible to look at the role of the pension fund trustee, not just in master trusts but in defined benefit schemes? They got more power in 2013 to ask for information in the case of takeovers, but could we not impose on pension fund trustees whose underlying business is subject to a takeover an obligation to get independent legal and financial advice before agreeing to let that deal go through?

5.25 pm

Baroness Drake (Lab): My Lords, I begin by drawing attention to certain of my interests. I am a trustee of the Santander and Telefónica pension schemes. I am on the board of the Pensions Advisory Service, on the board of Pension Quality Mark, a trustee of Byhiras and a member of the Delegated Powers Committee.

Like everyone else, I welcome this Bill. The Explanatory Notes are excellent and the impact assessment helpful, albeit unfinished given the substantive policy decisions still to be made. My focus is whether the authorisation, supervision and wind-up regime is sufficiently robust to deliver the Bill's focus to protect savers.

The master trust model is an important part of a sustainable workplace pension system. If regulated well, it should allow trustees with a fiduciary duty to look after members' interests, create scale and provide access to pension savings and products at low cost. But master trusts have grown rapidly while inadequately regulated, from 0.2 million members in 2010 to well over 4 million in 2016 and rising to 6.6 million by 2030—billions of pounds from millions of workers. I doubt that anyone anticipated just how quickly the structure of master trusts would evolve.

Low barriers meant that market entrants set up trusts on minimal requirements, into which people were auto-enrolled before an optimal DC proposition and market structure were put in place. The NOW: Pensions master trust CEO, Morten Nilsson, was shocked at how easy it was to set up a master trust—it involved only sending a form to HMRC and to the Pensions Regulator.

Debate on competition focuses on freedom for providers to enter a market created by harnessing inertia. But that competition cannot deliver an effective market because the demand side—the saver—is too weak. The worker does not choose the product, and complexity and conflicts of interest weaken their position.

As the impact assessment acknowledged, master trusts expose members to specific areas of risk. Master trusts can introduce a profit motive into a trust arrangement, but they fall outside FCA regulation. A master trust is set up by a provider raising concerns about the independence of trustees. In a traditional trust, trustees can replace their administrators or investment managers, but in a master trust they may not have that power. Currently, if a master trust fails, as the noble Baroness, Lady Altmann, spelled out, the costs are crystallised and met from members' savings. There is no Pension Protection Fund for defined contribution savings.

Their multi-employer nature means lower individual employer engagement. They are growing in part because employers want to outsource pensions or discharge legacy DC trusts. They can increase complexity, exacerbate the principal-agent problem and when operating at scale mean a greater shock on failure—all compelling reasons for why the Government are right to introduce the Bill.

But I have concerns about the robustness of this regime. Many of those will be pursued in Committee, but I shall make some overview comments. Pension pots are a 30 to 40-year project for the individual, so ongoing supervision has to be robust. Yet paragraph 59 of the impact assessment concedes that,

"substantive policy decisions will not be taken until the secondary legislation stage",

the timetable for which is unknown. So the House is blindsided on how robust certain key provisions will be.

In his opening speech, the Minister referred to the Government's approach to the use of delegated powers, stressing that the detail needs to accommodate different

[Baroness Drake]
structures, not one size fits all. That argument has merit, but only in part. Why is the negative procedure needed so often? There are major policy issues to be determined. We are not sufficiently clear about the Government's thinking on: the robustness of capital adequacy and what happens if it fails; how profit motive and fiduciary duty are resolved; the sufficiency of the systems; member engagement; and how those charges which it will be prohibited to exceed will be set in the first instance.

The last 10 years have revealed that once highly regarded institutions tumbled from their esteemed positions as a result of weak governance and inadequate scrutiny. The most highly respected names on a master trust list need ongoing assessment for long-term quality of governance. Recent debates prompted by corporate behaviour at BHS raised concerns about the adequacy of the Pensions Regulator's powers and its willingness to deploy them. We await the Government's response to those debates to understand how the lessons learned may inform master trust regulation.

Master trusts can introduce a profit motive and the scheme founder can limit the powers of the trustees, yet there is no explicit requirement on those trustees to put in place processes for identifying and listing conflicts of interest and how they are to be resolved.

In the Bill, the capital buffer is the last line of defence to protect members' money from being drained when a master trust exits the market, but no system of regulation can remove all risk, and that raises a series of questions. How robust is the definition of "self-sufficiency" underpinning the capital adequacy requirement? What happens if it proves not to be adequate in a given trust? How ring-fenced or guaranteed is that capital buffer? What if the scheme funder becomes insolvent? How frequently will the Pensions Regulator monitor a scheme's capital adequacy? Who will meet the wind-up costs in extremis? How solid is the protection that members' funds will not be run down? As no protection fund is being proposed, should there be a pay-as-you-go levy system? Will there be a provider of last resort to take over the processes and costs of winding up and to accept bulk transfers? What action will the Government take, and how quickly, to simplify the bulk transfer process? Members in master trusts deserve to be given clear answers to all of these questions.

On Royal Assent, transition to the new authorisation regime will be demanding. For example, some master trusts will not apply for authorisation and will pre-emptively leave the market. The retrospective provision in the Bill to prohibit increasing member charges on wind-up is welcome, as it is commonplace for master trust deeds to allow for such costs to be borne by the members. But some of these trusts have set up business with little capital at risk if things do not work out. What are the member protections in this situation? These trusts do not support only automatic enrolment; they provide in-retirement products too—they have quite a wide remit.

The Bill allows for regulations on the sufficiency of master trust systems and processes, but how robust will they be? We are referred to them in the Bill, but we are only referred to matters that will be taken into account. We are unclear as to where the line will be on the minimum prescriptive obligations that will be applied. The Bill is undemanding about governance on investment decisions and there is no mention of this in the impact assessment.

As my noble friend Lord McKenzie and the noble Lord, Lord Stoneham, have detailed, the Bill is insufficient in what it says about member communication and member engagement. These trusts have the potential for huge scale, but there is no explicit requirement for transparency on how workers' money is invested and stewarded. The Government seem to be reluctant about this, so I join my noble friend Lord McKenzie in asking the Minister, in terms of the consultation exercise run by the Government on requiring transparency on the part of pension schemes about investments, when we will get a response because it closed in December 2015. We could be heading towards two years before we know what the answer is.

Many private pension policy issues are outstanding—several noble Lords have referred to them in the debate, and all of them are compelling and worthy of attention—but auto-enrolment has been transformational. Millions of people are saving, but not because they made an active decision; it is because they had to do nothing. The DWP and the Pensions Regulator have done a good job, but we should recognise that thousands of employers have undertaken their new duty and auto-enrolled their workers in a manner that has kept the opt-out rates low. Employers are a powerful influence on people saving because employees trust their employers, but the thrust of recent government policy seems to invite or exacerbate employer disengagement from pensions.

The complexity in private pensions now, and indeed in any long-term investment product available to the ordinary saver, fed in part by the detailed regulation needed to protect weak consumers, means that it is heading to near impossible for people to understand all the detail. Together with the noble Baroness, Lady Wheatcroft, I hope that it will not be long before the revised proposals for financial and pensions guidance are revealed. For pensions guidance to be meaningful, it needs to be independent and impartial. If it is, it can go much further than guidance from a product provider fettered by its product suite.

The guidance also needs to be specialist, as savers' low level of knowledge means that guidance needs to diagnose the issues as the consumer's presenting question is often not the underlying matter that needs to be addressed. It also needs to mitigate market failures which cannot and should not be resolved by making people pay for expensive advice. Our private pension system harnesses inertia on the way in and maximises individual responsibility on the way out. Savers remain insufficiently protected in the first instance and are lacking in empowerment in the latter.

As so many noble Lords have said, there is much to be done. I am very keen to drill down into the robust regime for master trusts being proposed in this Bill because these organisations are going to grow in scale. They will have under their management billions and billions of pounds of ordinary workers' money, so it is important that at the least we should get the Bill right.

5.37 pm

Lord Flight (Con): My Lords, I am sure there is general support across the House for the Bill, and I congratulate my noble friend Lady Altmann on being very much its instigator. I take a slightly more positive view, in that it seems to be a case of the market actually responding rather successfully to a need. For auto-enrolment there needed to be relatively low-cost arrangements for managing money and for administration, along with an arrangement that would be suitable for a large number of small firms, and that is what has come up.

I wonder how many people even know what master trusts are. I suspect that if a survey was made of your Lordships' House, we might find that only 20% of Members would know. They have arisen to meet a demand and in the main, they have done so rather successfully. I have seen different figures, but already between 4 million and 6 million members have £8 billion of funds under management, and about half of all employers are choosing master trusts for their auto-enrolment needs. As your Lordships are probably aware, there are four major players among a total of 84 master trusts, and it is clear that many of those will need to merge because they are of insufficient size to be viable in the long term.

There has been constructive dialogue between the Government, the Pensions Regulator and the emerged master trust industry on putting in regulation. I believe that, in the main, the regulation we are discussing today will address most of what is needed, although some areas still require work. However, I would have strongly opposed any form of levy to finance master trusts which get into trouble, because that is an unnecessary and hazardous path that should not be taken.

It is wise to leave the important territory of capital base to the Pensions Regulator to determine what sort of level of capital is adequate, but it is important that it be done on an ongoing basis. It is no good if it is done just initially when the master trust is setting up. It needs to be reviewed, probably annually. The concept of having minimal capital as six months' operating costs is not suitable. When a master trust is small and setting up, those operating costs will be fairly small, but quite quickly they will be a lot larger. The capital base of just six months of initial costs would prove inadequate.

Importantly, in practice, when a master trust is failing it will not be difficult to sort it out because larger master trusts will be very keen to acquire the funds under management, for which they will charge their fees. It is also quite sensible to allow the regulator to act as some form of honest broker in putting together failing master trusts and suitable larger partners to absorb them.

There are some quite big issues. The first is whether the regulator should be the FCA or TPR. Group personal pension schemes, which are relatively similar—a lot of the larger providers provide both master trusts and group personal pension schemes—are regulated by the FCA. In general, the FCA is viewed as taking a tougher line than the Pensions Regulator. There certainly needs to be a level playing field between the two. While right now it is clearly more suitable for the Pensions Regulator to regulate master trusts, there are some slightly sensitive differences between the regulation of group personal pension schemes and master trusts.

There is also an issue with master trusts that attract members not connected to an employer. That may well increase in due course with self-employed individuals. They are regulated by the FCA, so there is another anomaly. The insurance industry has also made the point that where providers have both group personal pension schemes and master trusts, their capital adequacy is already determined under Solvency II, which requires them to hold sufficient capital for their master trusts. We have slight duplication, depending on the structure of the provider.

Historically, master trusts' approval came from HMRC. It is now to be from the Pensions Regulator, but I repeat that there are some issues to be sorted out where insurance companies offer both. It is important that the regulator should not grant exemptions, as it has in the past, to NEST. Indeed, there is the argument that so to do is a breach of EU state aid rules. Also, to date there has been a voluntary process of accreditation for master trusts, the master trust assurance framework. That will need to be rolled into and absorbed into TPR regulation; but at present the larger master trusts meet the voluntary accreditation requirements and will now have to meet TPR's requirements. Overall, there needs to be a full review of duplication areas, which can probably be dealt with after the legislation is enacted.

There is a second issue relevant to both master trusts and group personal pension schemes. If a member wants to leave a master trust and move to a new one, that master trust can require that whatever accumulated assets he has must move to his new master trust, but the new master trust cannot require it the other way around—that the assets the individual has with his old master trust are moved to them. I take the view that it is undesirable for people to have tiny amounts in different pension pots about the place, and that it is not an infringement of human liberty to require that amounts follow the individual into their new pension trust.

There is a similar situation with group personal pension schemes. Most people in such schemes—some 95% or more on average—opt for the default funds, I believe quite sensibly, as it happens. However, if a group personal pension scheme changes its managerial administrator, it cannot require that member similarly to move their money across from the old default fund to the new one, which would make life easier for everybody.

I came across a larger anomaly that rather surprised me. Generally, group personal pension schemes do not have trustees. That seems rather strange. It means that only the sponsor company can monitor how the pension is being managed—whether the administration is efficient and so forth. Master trusts have to have trustees, but the issue of group personal pension schemes and trustees needs to be thought about. At present it is left to someone called an independent governance officer to monitor and keep an eye on all group personal pension schemes managed by a particular manager. I take the view that there is insufficient time for one person, in many cases, to monitor all the schemes being managed.

I turn to two pension funds issues that are related but not in the Bill. The first is an income tax issue. Pension contributions are taxed in two ways. There is

[LORD FLIGHT]
net PAYE, whereby the pension contribution is deducted from someone's pay before PAYE is applied to it. The second route is pension trust relief at source—PTRAS—whereby PAYE is applied to gross income without deduction of pension contributions, but the pension scheme then recovers a 20% tax credit from HMRC.

The problem arises for individuals who do not pay tax, such as those employed part-time and earning less than £11,000. Under PTRAS they still get their 20% tax credit but under PAYE they do not. I believe this is worth somewhere between £5 and £10 per annum. Perhaps the easiest way to solve it would be to credit members under PAYE with that amount per annum to put them on to a level playing field. This is particularly relevant to those in part-time work. Also, I do not accept the logic of deducting £5,824 from all individuals' pay for the purposes of calculating the amount to which employer, employee and government pension contributions should apply.

I strongly support the argument that a central advice scheme needs to be set up as soon as possible. It is a pity that the FCA has not admitted that RDR has been a disaster and resulted in no financial advice at all being available to the great majority of the population.

My final point was raised also by the noble Lord, Lord Naseby, and I very much agree with him. As a result of what was FRS 17, now FRS 102 or IAS 19, no one has any idea of the real scale of defined benefit scheme deficits. For the pension fund of which I am a trustee, my company's old scheme, I worked out that the required FRS discount rate for discounting the value of future liabilities—the rate of interest applied—is roughly half what the pension fund has achieved in returns going back 10 or 15 years, and in good years and bad. Under the FRS rules, we are approximately in balance; the reality is that we have a huge surplus. We live in a world where some large established companies are putting off investment decisions because they allegedly have huge pension fund deficits to make good. The truth is that the FRS formula is completely out of date as a result of QE, which in turn has led to artificially low gilt yields.

When this issue has been raised with the Government, the answer has been, "Oh, we can't interfere with accounting rules". Well, my response to that is that Governments act in the interest of the nation. A serious issue is not being addressed. The US Congress had no trouble whatever in dealing with it. If the accounting industry is unwilling to see the sense of the argument that the FRS is now inappropriate, government should intervene. One reads of potential defined benefit deficits of £700 billion, £800 billion or more. I suspect that the reality in net terms is that there is hardly any deficit. We are starving the British economy of investment because of a piece of accounting/discounting which is wrong. I urge the Government to do something about this increasingly important issue.

5.53 pm

Viscount Trenchard (Con): My Lords, I shall speak briefly in the gap. Your Lordships will be spared the longer speech that I had intended to make, as I failed to put my name down before the cut-off time.

Broadly, I welcome the changes that the Government wish to make to master trusts, building on the success of the auto-enrolment scheme. If the Bill is successful in improving standards and in building confidence in pension savings, perhaps fewer people will take advantage of the pension freedoms introduced in the March 2014 Budget than have done during the past two years.

In her column in the *Financial Times* on Saturday, Merryn Somerset Webb expressed concern at the rate of withdrawal of savings from pension pots. It is to be hoped that those withdrawing their pensions under the new freedoms do not underestimate the extent of their future lifespan and need for income, or overestimate their ability to manage the withdrawn funds more profitably and efficiently than the schemes from which they have withdrawn their assets. It is worrying that one in three of those withdrawing funds are placing them in low-interest bank accounts with no tax advantages.

The improvements in regulation of master trusts are in principle welcome, but I worry that the requirements and obligations are in danger of becoming too burdensome and therefore expensive. Should master trusts not be required to publish annually their administration charges in the form of total expense ratios, similar to those provided by investment funds? Can the Minister explain why the structure requires separate legal entities called scheme funders? Is it not unduly burdensome for small employers to have to set them up? Similarly, why does a master trust need a separate scheme strategist when a trustee or committee of trustees might perform this role, perhaps delegated to a discretionary fund manager?

I agree with my noble friends Lord Flight and Lord Naseby that in a very low-interest rate environment the valuation method that schemes are required to adopt produces an absurdly high deficit figure which can negatively affect companies' share prices and strategies, including mergers and acquisition plans. I look forward to the Minister's winding-up speech and to answers to the questions raised.

5.55 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the Minister for setting out so clearly the arguments for and direction of this Bill. Like all the other speakers, I welcome the regulation of master trusts, their trustees and the way in which their businesses are run. It is vital that we protect those investing their money in master trusts so that they feel secure in the knowledge that their savings are safe. The majority of master trusts are run extremely efficiently and effectively. However, with smaller master trusts beginning to enter the marketplace, it is essential that the Government seek to protect those working for smaller employers and offer them the same protection as those covered by larger providers, such as the People's Pension, Legal & General and others. Master trusts are the scheme of choice for the auto-enrolment market and it must be fit for purpose for the small as well as the large trust.

As we have heard from the noble Lord, Lord McKenzie of Luton, and my noble friend Lord Stoneham of Droxford, some 6.7 million people are now enrolled in some 84 schemes, with £8.5 billion-worth of assets.

It is time that there is protection for members of a scheme where a master trust fails and has to be wound up. This Bill helps to provide that protection.

The People's Pension represents a market innovation which was not anticipated by previous Governments or by the Turner commission, but they do have concerns. It is important to increase and maintain the success of auto-enrolment. The DWP forecasts that auto-enrolment will cost government £3 billion a year in lower tax revenues by 2050, but it will increase aggregate private pension incomes by £5 billion to £8 billion a year in 2011-12 earning terms and reduce government spending on income-related benefits in retirement by £0.9 billion by 2050.

There is also the risk of cross-cutting policies undermining auto-enrolment. There are concerns that policies from other departments may clash with the motivators found in auto-enrolment. Developing policy confusion could be damaging to consumer saving. Clarity and transparency are essential.

It is important that employees continue to save for their pension and increase their contributions. NEST, referred to by the noble Lord, Lord Monks, is countrywide and has some 3 million customers, each with a small pot. The fund has been running since 2012. The average pot is £300. This is unlikely to fund a pension for its members and a degree of realism is needed. People will not be able to afford to retire with so little in their pots. They will be disappointed, and employers will not welcome keeping on employees beyond their expected retirement age. When are the Government going to do something about this?

I welcome the criteria which the new authorisation regime institutes for master trusts and the new powers for the Pensions Regulator. The five essential criteria are: that persons involved in the scheme are fit and proper; that the scheme has financial sustainability; that the funder meets certain requirements; that systems and processes relating to the governance and administration of the scheme are sufficient; and, last but by no means least, that the scheme has an adequate continuity strategy. All the criteria are extremely important, as we have heard, but we will need to ensure that they are enshrined in the legislation as we move through the Bill stages.

Clauses 20 to 35 deal with triggering events around the responsibilities of trustees and the licensing of master trusts and the possible withdrawal of authority. However, I could not find any reference to what would happen to the pot of money in a master trust which had its authority withdrawn. Would this be returned to the employees or used for some other purpose? I am sure the House will want to probe this in Committee and I would be grateful if the Minister could provide some clarification at this stage.

Part 2 deals with exit penalties. Exit fees were not anticipated in the original legislation. These are set by the providers and have been as much as 5% of the pot which investors are wishing to transfer. The Government have introduced a cap of 1% on exit fees, which is to be welcomed. I am not as sanguine as the Minister about Clause 40, which is very vague. I remain concerned about Clause 40(2). Should the Government grant themselves the right to break contracts? This sets a very dangerous precedent. Are we opening up the way for Secretaries of State to override contracts? People may have legally prepared, signed and executed these in good faith, only to find that they are to be overridden at a later stage without any real justification. Again, this is a subject we will be returning to in Committee.

The Bill contains a great deal which is to be welcomed, but there are some serious omissions. A central advice scheme has already been mentioned by the noble Baronesses, Lady Altmann and Lady Wheatcroft, and others. Also, as part of pension freedoms the Government planned a secondary annuities market, where original purchasers who had a poor or inferior quality product would be able to sell it and buy a better one with the cash. I believe that this was included in the Conservative manifesto for 2015. There was heavy lobbying against this by the pensions industry which claimed it would be hard to set up a secondary market and difficult to provide consumer protection. As we now know, the Government have changed their minds and this has left people with poor annuities which they now cannot get rid of. Consumer protection could be problematic but it is not rocket science. We are disappointed that the Government have reneged on their promises and left people in the lurch. This could be corrected in the Bill and is a big omission.

This is also an excellent opportunity to mention concerns that we have about cold calling and pension scams. I know that my colleague Steve Webb, the previous Pensions Minister, was also worried about this development. When we get to Committee we will probe the Government on their latest thinking on pension scams. In the meantime, I would welcome the Minister's views at this stage.

In summary, this is a piece of legislation which is largely to be welcomed, as it will provide the safeguards needed for small to medium-sized businesses and their employees. The Bill is very technical in nature. I and my colleagues look forward to debating the issues across the Chamber in more detail at a later date.

6.03 pm

Lord Hunt of Kings Heath (Lab): My Lords, it is a great pleasure to wind up for the Opposition on this important Bill. Although I may be regarded as a newcomer to pension policy I remind the House that I was a Minister at the Department for Work and Pensions from 2005 to 2007, which was a very interesting time because we had the second report of the Pensions Commission and the Government's White Paper in response. I start by paying tribute to the commission, to the noble Lord, Lord Turner, to Mr Hills and, of course, to my noble friend Lady Drake for the outstanding work that the commission did.

I made a Statement to the House on 25 May 2006 announcing the then Government's acceptance of the commission's core proposals for auto-enrolment. This was welcomed by the then Opposition spokesman, the noble Lord, Lord Skelmersdale, by the Liberal Democrat spokesman, the noble Lord, Lord Oakeshott, and by my noble friends Lady Hollis, Lady Turner and Lord Lea. Earlier, my noble friend Lord Monks emphasised the importance of political consensus over auto-enrolment. I very much endorse that. It was, I believe, a major step forward and I am proud of what we did and that

[LORD HUNT OF KINGS HEATH]
so many people are now enrolled in auto-enrolled schemes. Reading *Hansard* of that day, I think it is interesting how many noble Lords expressed concerns about the loss of public trust in pensions. Listening to our debate tonight it is clear that much more still needs to be done to regain that trust.

My noble friend Lord McKenzie suggested in his opening remarks that too much has happened in the pensions arena in recent times to damage confidence in savings and pensions, including the mis-selling of what should have been enhanced annuities and the U-turn on the secondary annuities market. As the noble Baroness, Lady Bakewell, pointed out, we have just had the call from the head of the Pensions Advisory Service for companies to be banned from cold calling pensioners because of the activities of scammers. Of course, more general underlying concerns continue about the low level of savings and the poor returns for so many savers. Added to this we have the state pension age extension.

The Minister talked about mitigation measures in his opening remarks but, as my noble friend Lady Hollis pointed out, the issue is severe, particularly for women without an occupational pension. My noble friend went on to raise the huge disparity in longevity and morbidity by socioeconomic status. My concerns have been more on the health side than the pensions side, but she is absolutely right: we cannot consider health in isolation. The plight of women, in particular, who are doubly disadvantaged—in health and wealth—deserves recognition and action. I thought that my noble friend's critique of government policy on occupational pensions was telling and I look forward to the Minister's response. I look forward to the Minister's response, also, to the point made in the gap by the noble Viscount, Lord Trenchard, on the perils of early withdrawal from pension funds, and to his response to the very interesting comments of the noble Lord, Lord Flight, about valuation policy and the impact that that is having on general investment by many companies.

The continuing unease and lack of confidence in pensions and savings has, of course, been exacerbated by the events surrounding the sale of BHS and the deficit in its DB pension scheme, which has highlighted, at the least, the problem of poor corporate behaviour. This helps to identify the more general issue of the performance of the Pension Regulator, its current powers and its willingness to deploy these. Much needs to be done to ensure that savers feel safe and confident in their pensions. As millions of people are enrolled in auto-pension schemes, clearly the regulation of master trust pension schemes is essential. In this context, the Opposition welcome the Bill—we support the need to protect members from suffering financial detriment and we support the imperative of promoting good governance and a level playing field for those in the sector—but it is clear from the debate that there are concerns as to whether the statutory and regulatory provisions in the Bill are sufficient. A number of very important questions have been put to the Government tonight which I have no doubt that the Minister will respond to.

Clearly, the number one issue is whether the scheme member protection proposed in the Bill is robust. In Committee we will seek to examine this in more detail. I thought that my noble friend Lady Drake raised some very important questions that we need to tackle, including the ongoing supervision of pension pots, where we lack sight of proposed regulations, the robustness of capital adequacy and questions on restrictions being placed on the level of dividends or profits, to name but three. My noble friend Lord McKenzie and the noble Baroness, Lady Altmann, also raised the question of master trusts which have already achieved accreditation under the MT assurance scheme developed with the Institute of Chartered Accountants. Clearly, what these master trusts have achieved under accreditation overlaps with some of the provisions in the Bill. It is important to know how any potential conflicts between the accreditation scheme and the proposed regulatory scheme will be resolved.

Turning to the ability of the Pensions Regulator to do the task that is being placed upon it, my noble friend Lord McKenzie made the point that the regulation of master trusts involves extensive powers and obligations, including: dealing with authorisation; determining fit and proper persons; judging financial sustainability; deciding on the adequacy of systems; and having the power to initiate triggering events. There is considerable work for the regulator, especially at the start of the scheme, when existing trusts will have to go through the authorisation process. The noble Baroness, Lady Wheatcroft, described the regulator as overemployed and understaffed and there is a real question about whether it is going to be in a position to carry out the duties the Bill lays on it. For example, Clause 7—the fit and proper person test—is a long clause but is actually very short on what is a fit and proper person. I hope the Minister might be able to help us on this when he winds up. By implication, I think the noble Lord, Lord Stoneham, probably agrees with me when I suggest that he does not look to the football league for advice on that point.

A common theme of the debate has been the silence in the Bill—and, indeed, in the Minister's opening remarks—on the position of members. I am indebted to ShareAction for its work on this. Clause 11, on systems and processes, is silent on the need for the members' voice to be heard or represented in master trusts. Why is that? I echo the suggestion made by the noble Lord, Lord Stoneham, that member representation is entirely consistent with the Prime Minister's remarks about plc board membership. There are also significant gaps on members' communications, as my noble friend Lady Drake emphasised. Why is there no requirement for trustees to notify members unless and until a decision is made to transfer out members' rights on wind-up schemes? Why are savers not given the right to obtain on request standardised information about what they are being charged, where their money is invested and how ownership rights are exercised? Why are pension schemes not required to hold an annual meeting for their scheme members, even if it is a virtual meeting, as suggested by the noble Lord, Lord Stoneham? Why is Clause 31 so weak on protection of members following a pause order?

The Minister spoke helpfully and extensively about the use of delegated powers and explained the rationale for the extensive use of regulations. Like my noble friend Lady Drake, I understand the need for some flexibility

here but the problem is that your Lordships' powers in relation to secondary legislation are circumscribed. It is a great pity that draft regulations are not to be published because the Government want to consult with industry first. Surely there is no reason this could not be done in parallel between Second Reading and Committee. I note also that the Minister used the word "industry". Can he assure me that that actually means stakeholders and that pension members and their representatives will also be consulted over the draft regulations? I am sure we will want to come back to this in Committee.

My noble friend Lord Monks referred to the forthcoming review of auto-enrolment and made some very interesting observations. I know it is early days yet but it would be helpful to have from the Minister some idea of what is in the Government's mind in relation to that review. It is absolutely essential that consensus on auto-enrolment continues.

Finally, the Opposition welcome the Bill but there remain concerns about the regulatory regime proposed. Clearly, there are gaps in the detailed provisions of the Bill, with an unacceptable use of negative regulations. There seems to be a complete absence of any reference to the role and representation of members. Having said that, we look forward to a challenging and constructive Committee.

6.14 pm

Lord Young of Cookham (Con): My Lords, the noble Lord, Lord Hunt, reminded your Lordships that he had form in this area after being a Minister in the DWP at the beginning of the century. Two can play at that game. I was a Minister in the DHSS, as it then was, from 1979 to 1981, since when there have been many changes.

We have just had a three-hour masterclass on pensions policy, much of it about master trusts but also covering much wider issues. I am grateful to all noble Lords who have taken part in a fascinating and, for me, very illuminating debate about the range of possibilities in this vital area.

Much of the debate was supportive of what we are doing, although a significant part of the discussion raised issues of concern. From the point of view of Ministers in charge of the Bill, the good news is that the supportive comments were about what is actually in the Bill and the less supportive comments were about what is not in the Bill, but those are serious concerns, which I hope to say a word or two about as we go through. I want to focus on the issues raised by what is in the Bill. I know that any of the issues that I do not have time to deal with will be dealt with in Committee.

The Bill's midwife was my noble friend Lady Altmann, and I am very sorry that she is not winding up this debate herself, when she would be able to answer the many questions that she has posed. We are all grateful to her for her work on it, which has enabled us to provide a fit-for-purpose framework for master trusts as auto-enrolment gathers momentum.

The noble Lord, Lord McKenzie, made the case for regulation in this area and I am grateful for his support for the Bill. He asked about the timing of the Green Paper. I can go no further than "winter". Winter is a more broadly defined target than a specific month, and winter is when we plan to publish the Green Paper.

The noble Lord raised a number of issues, including a very important one about the resources of the Pensions Regulator. Indeed, whether the Pensions Regulator would be able to resource itself up to deal with the obligations posed on it by the Bill was a theme raised by a number of noble Lords. The Government and the Pensions Regulator are working together to ensure that the regulator has the resources that are needed. The Pensions Regulator's resourcing will flow from an annual business planning process developed with input from the DWP, and its budget reflects its agreed priorities. Work has already started on the implications of the new regime we are discussing and will continue as we develop the secondary legislation.

With regard to the initial peak as master trusts apply for authorisation, that work has been anticipated and provision has been made in the Bill to cover the costs of processing the applications for authorisation through a one-off fee. I can confirm that the pots are protected from the date that the Bill was introduced, assuming it becomes law. If a master trust fails before it is authorised, the beneficiaries are protected and there is also a cap on the charges.

The noble Lords, Lord McKenzie and Lord Hunt, and others raised the issue of communication with members. I have some sympathy with the point that has been made. I do not want to go beyond my negotiating brief, but it is important that where it is practical the beneficiaries of auto-enrolment should have some idea of what is going on, and I would like to think about how we might do that within the constraints of the Bill.

The noble Lord, Lord McKenzie, and others raised the issue of the earnings trigger for automatic enrolment. It is not actually aligned with the personal income tax threshold but we review the earnings trigger annually, paying particular attention to the impact of this on groups currently underrepresented in pension saving, such as women and low earners, mentioned by the noble Baroness, Lady Hollis. This year's review for the trigger for 2017-18 will consider how to get the balance right between the importance of saving for the future and the affordability of pension contributions for those on lower incomes. At this stage, as noble Lords will understand, I cannot pre-empt the outcome of the review.

There was much comment about the regulations and questions were asked about when we might see them. I take on board the point that the noble Lord, Lord Hunt, has just made. The timing of formal consultation on draft regulations depends on a number of factors. At the moment, we anticipate that the initial consultation to inform the regulations may take place in autumn 2017, but I was impressed by what was said during the debate about whether there might be more involvement at an earlier stage.

A number of noble Lords raised the issue of transparency and where we are on the consultation which took place on that last year. The Government remain committed to improving transparency through

[LORD YOUNG OF COOKHAM]
the disclosure of transaction costs, and on 4 October the FCA published a consultation proposing requirements on asset managers to disclose information about transaction costs to trustees and independent governance committees. We are working closely with the FCA and await the outcome of this consultation with interest. Pending its outcome, we will then consult on the onward disclosure of costs and charges to members.

The noble Lord, Lord Stoneham, mentioned the importance of building and maintaining confidence in master trusts—a theme that ran through the debate. He made a good point about the impact of volatility in the movement of interest rates on deficits. I would like to say a word about that in a moment.

On pension advice, as my noble friend Lord Freud said when introducing the debate, we are consulting on how we get that right. Public financial guidance is an important issue for both the Treasury and the DWP. Ministers in both departments are working towards a common goal to ensure that consumers can access the help that they need to make effective financial decisions. We intend to consult later this year and that document will, as my noble friend said in his opening speech, include proposals for a single guidance body and its governance structure. In the meantime, the Money Advice Service, the Pensions Advisory Service and Pension Wise will continue business as usual.

The noble Lord, Lord Stoneham, raised an interesting point about portability. I do not have the answer but given how many people move jobs, it is an interesting question: what happens to the auto-enrolment with a particular employer which they started with? I would like to reflect on that point.

Related to what I said earlier about communication with members, member engagement has been quite a challenging area in which to legislate. We will return to this in later debates. Although they are not specified in the Bill, there are apparently existing powers in relation to communication. I would like to take that forward, as I said a few moments ago.

My noble friend Lord Naseby welcomed the Bill but asked why there was not a de minimis level of capital adequacy. The answer is that we have got to the same destination but taken a slightly different route by looking at financial sustainability. As a number of noble Lords raised this point, it is perhaps worth clarifying how the regulator will determine how much funding a scheme has to hold before it gets authorised. The regulator, taking account of members' interests and the circumstances of the master trust as set out in its business plan, will have to be satisfied that the scheme has adequate resources available to meet its set-up costs and running costs, particularly until it reaches break-even point, and to cover the cost of complying with its continuity strategy and legislative requirements, should the scheme have a triggering event. This includes sufficient capital to cover the costs of winding up the scheme without recourse to members' savings, if this becomes necessary. We think that is a slightly better bespoke model to adopt, rather than a one-size-fits-all model for capital requirement.

My noble friend Lord Naseby also raised a theme which ran through the whole debate, about balancing the freedom of the individual to do what he or she wants with his or her money against the need to make sure that individuals do not run out of funds as they grow older. In that connection, he raised exit charges. I understand that few schemes covered by the Bill have exit charges and I will say a word or two about that in a moment. On his question about the mutual or not-for-profit sector, these are usually defined benefit schemes. As such, they are not subject to the authorisation regime in the Bill.

My noble friend also raised a point, which was raised by the noble Lord, Lord Hunt, my noble friend Lord Flight and others, about the impact that changes in interest rates have on the deficit in a pension fund. I was struck by the force of those arguments and wondered whether there was not a better way of measuring this, as my noble friend Lord Flight suggested. You can have a perfectly well-run pension fund that has consistently outperformed the index and has all the liquidity it needs to meet its immediate obligations, with a well-resourced employer standing behind it. But the way that the deficit is measured can mean that, if interest rates go down, a huge deficit may suddenly appear as if from nowhere—with the implications that my noble friend mentioned on dividend policy and investment policy. This issue needs exploring and the Government are responding to these concerns. We will issue a Green Paper over the winter, which will explore this area and seek to stimulate an informed debate on whether government intervention would be helpful, as my noble friend suggested, and whether there are other ways of measuring the deficits in pension funds.

Lord Naseby: If my noble friend went back in history he would find that prior to FRS 17, there was a different system. It was a system that looked at the mix a pension fund has and whether that was viable. All the recent work that has just been done— I referred to what one company had done in my speech—proves that it is probably the way forward, so it is not terribly novel. We could dust down what was there before.

Lord Young of Cookham: I welcome in advance my noble friend's contribution to the Green Paper that is about to be launched.

The noble Baroness, Lady Hollis, with her background in this area raised a number of points. I think I have nine pages of briefing to deal with all her points; I hope she will understand if I do not go through all of them. She raised a serious point about those on zero-hours contracts, who may have a number of jobs and fall out of the system. There is a wide gateway at the moment to national insurance cover, with the lower earnings limit, and the threshold for access to contributory benefits, including the state pension, is set at the equivalent of less than 16 hours per week at the national living wage. Having made some inquiries as a result of the noble Baroness's intervention, there is no evidence that this is a growing problem. The number of women working in two or more jobs has hardly changed in the last 10 years—it is around 5% of those in work—and there is always the option of buying into the national insurance scheme if, for whatever reason, you are outside it.

A number of noble Lords raised WASPI. I am only sorry that I cannot be more forthcoming on this than Ministers have been in the past. As your Lordships will know, during the passage of the Pensions Act 2011 a concession was made which slowed down the increase of the state pension age for women so that no one would face an increase of more than 18 months, compared to the increase as part of the Pensions Act 1995. To help older women remain in work, we have abolished the default retirement age and extended the right to request flexible retiring to all employees.

The noble Baroness, Lady Hollis, also raised an interesting proposition about merging ISAs on the one hand and pensions on the other. This is a very radical proposal, as ISAs and pensions have different regimes and objectives. I will need to think about that very radical proposal, with all its implications. Perhaps a debate might take place in the first instance within the Labour Party, to see whether it might mature in that environment. She implied, as others did, that one could not trust people with their pensions. I hope no one wants go back to the old days of having to take out an annuity. My noble friend Lady Altmann made the case for enfranchising people and trusting them to act sensibly with the freedoms that we have given them.

My noble friend Lady Altmann also reminded us of her record in campaigning for reform. As I said, we are very grateful for the offspring, which we are debating today. She mentioned the importance of protecting pension pots from raids. She is quite right that at the moment a pension pot could be raided for wind-up costs. As of the date of publication, assuming the Bill becomes an Act, there is protection. There is also protection from an increase in the percentage taken in charges.

A number of noble Lords asked about the interrelationship between the voluntary framework master trusts have adopted and the statutory framework we are introducing in the Bill. The Bill goes further than the framework of master trusts; it builds on it and builds in added protections. As my noble friend Lord Naseby said, the association of master trusts has welcomed the Bill, which implies that master trusts are able to come to terms with the extra measures they will have to take if they are to be authorised.

Perhaps I may skip over decumulation-only schemes and multi-employer schemes and deal with them in Committee.

My noble friend Lady Altmann asked whether the 1% cap on early exit charges will be confirmed. We are currently considering the level of the cap for occupational schemes as part of our response to public consultation on early exit charges. We intend to publish the response in the coming weeks. My noble friend asked some highly technical questions about definitions, which we can perhaps come to in Committee. She and other noble Lords asked about cold calling and scams. I understand that there will be an announcement in a few weeks' time. At this stage, I can say no more than that, but I hope it will meet the expectations that have been aroused during this debate.

The noble Lord, Lord Monks, made an interesting point, which I had not expected to hear to from the Benches opposite, about whether NEST, a publicly promoted scheme, is unfair competition to the private sector. It is a good point. NEST is a critical partner in the successful implementation of automatic enrolment. In particular, it is playing a key role in supporting small and micro employers to meet their automatic enrolment responsibilities. It is unique in having a public service obligation. What the noble Lord, Lord Monks, said about the need to build a consensus, the need to move incrementally and the need to win public support for the reforms was spot on.

There was an interesting suggestion about whether there should be a new contribution basis for the low paid of a certain amount per pound rather than a threshold. That is also something I would like to think about.

My noble friend Lady Wheatcroft reminded us of the size of the pot people need to put on one side to cater for their old age and welcomed the impact the Bill will have on protecting the brand of master trusts and ensuring confidence in it. She asked about consolidation. I suspect consolidation is likely. Whether the regulator has a proactive role in promoting it, I am not sure. As implementation comes in in 2018 and a number of master trusts look at the authorisation process, it may well be that they decide to merge with others.

My noble friend also mentioned trustees and asked whether they should have greater powers in the event of a takeover. She will know that the DWP Select Committee is conducting an inquiry into this. We are determined that the regulator should have the powers needed, and if legislation is needed, we will legislate.

I apologise for any discourtesy in curtailing my remarks. My noble friend Lord Flight asked whether there will be an ongoing assessment of financial sustainability. Yes, there will. The noble Baroness, Lady Drake, made a number of very detailed and valuable points, which I look forward to addressing in Committee.

There were concerns about the robustness of the Bill due to its reliance on secondary legislation. I hope we have got the balance right. We have put as much as we can in the Bill—all the key elements of the scheme—and left the details to secondary legislation. I welcome what the noble Lord, Lord Hunt, said about the Bill and building trust and confidence.

The Bill builds on the radical changes made to the pension system over the past 10 years. We need to ensure that savers can be confident that their savings are being well managed. The measures in the Bill will help to protect them and to maintain their confidence. I thank all noble Lords for their contributions, and I invite the House to give the Bill a Second Reading.

Bill read a second time and committed to a Committee of the Whole House.

EU: Unaccompanied Migrant Children (EUC Report)

Motion to Take Note

6.34 pm

Moved by ***Baroness Prashar***

That this House takes note of the Report from the European Union Committee, Children in crisis: unaccompanied migrant children in the EU (2nd Report, HL Paper 34).

Baroness Prashar (CB): My Lords, when we published our report *Children in Crisis: Unaccompanied Migrant Children in the EU* we described the refugee crisis as the greatest humanitarian challenge to have faced the European Union since its foundation. Children, many of them unaccompanied, are in the forefront of this crisis. It is deeply shaming that as the bulldozers entered the Calais refugee camp, immigration officials were still struggling to process the many hundreds of unaccompanied children who had been hoping for refuge in this country. Eighteen months into the migrant crisis, and six months after the amendment moved by the noble Lord, Lord Dubs, was passed, how can we have been so ill-prepared? Why did the Government wait until the Calais refugee camp was about to be cleared before starting to bring unaccompanied minors from the camp to the UK? Why was there no strategy for resettling with host families the minors who did reach these shores? Why have we been so slow?

I had to begin with these questions because the report which we entitled *Children in Crisis* describes the truly awful predicament in which thousands of children find themselves. The challenges facing unaccompanied migrant children have huge implications for the children themselves, the EU and its members, including the UK. I very much hope that all noble Lords will take this opportunity to remind the Government of the moral and legal duties that recent events in Calais have so vividly highlighted. Furthermore, Brexit or no Brexit, we are still a full member of the EU with all the responsibility that that entails until the final withdrawal agreement is ratified.

I was disappointed that we did not receive a response from the Government until about an hour ago. At 5 pm today, we got notification that the response was coming, and I was handed it as I entered the Chamber at 5.45 pm. I have not had a chance to digest it.

Before I turn to the report, I would like to thank the following for their assistance with it: members of the Home Affairs Sub-Committee; the principal clerk to the EU Select Committee, Chris Johnson; the former policy analyst to the sub-Committee, Lena Donner; our special adviser, Professor Helen Stalford; all the witnesses, in particular a group of children who arrived here unaccompanied; and the NGOs.

The report sets out clearly the four underlying problems. They might more accurately be described as four aspects of the current state of mind among officialdom and migrant children that give rise to all the practical difficulties described in the report, and which we are currently witnessing.

The first underlying problem is the culture of disbelief and suspicion that prevails throughout the system for receiving and caring for unaccompanied migrant children. At its most offensive, this culture of disbelief is seen on the pages of some of our tabloids and in the remarks of some politicians. The claim that all these young people are trying to play the system and are adults masquerading as children, and the suggestion that we should test them and examine their teeth to prove their age, are offensive and absurd. Of course, there are bound to be a few individuals trying to play the system, but the vast majority of unaccompanied minors are simply vulnerable children, many of whom have lost their families and suffered profoundly traumatic events in their home countries or on the journey to Europe, and we must not forget that.

Along with the culture of disbelief, we found shirking of responsibility across Europe and endless attempts to palm off the problem to someone else. In parallel, there is the failure to deliver on existing binding commitments, including the current principle of the best interests of the child. We have nothing to be proud of here—the Government have also shirked responsibility—nor do local authorities, many of which, as our report demonstrates, have shown little or no solidarity with those authorities, predominantly in London and the south-east, that are facing the heaviest burdens. I hope the Minister can tell us about the support that local authorities such as Devon have received and what the first cohort of young people from Calais can expect from her department and from central government more generally.

The natural consequence of these failures across government agencies is the loss of trust and the frustration experienced by the children themselves. As we have described in the report, when these children lose faith in official channels, they are pushed into the hands of people smugglers and more of them become victims of sexual exploitation and trafficking. Many simply disappear—Europol told us that about 10,000 have, but I suspect this is a conservative estimate and that the number has grown since the Europol figures were published.

In the report we tried to map out a way forward. We pointed out that the solutions have to be built around the fundamental principle of respecting the best interests of the child. Governments and agencies of course pay lip service to this principle, but it now needs to be made a reality, and more must be done to ensure that children are protected and safe. We believe that there is a role for the European Union to legislate and to set binding minimum standards, so that best interests assessments across member states are conducted to an appropriate standard. As far as the UK is concerned—this is still more important in the light of Brexit—we call on the Government to develop, apply and monitor national guidance on conducting best interests assessments. That means taking the views of children into account and talking to them, as we did during our inquiry. That is not easy given the age of these children, the trauma they have been through, the language barriers and the loss of trust in officialdom.

That is why the concept of guardianship is so important. These children need a guardian who is independent—not an immigration official, a social worker or a legal representative, who has a separate stake in the outcome, but someone who is on their side, whom they can trust and who can take a holistic view of their interests, psychological and educational needs and legal status. Such guardians should be appointed as early as possible and provide a single, trusted point of contact throughout the legal proceedings. We call on the Commission to bring forward legislation to set binding minimum standards for guardians, and we call on the Government to introduce a guardianship scheme and service for England and Wales, building on the pilot conducted in 2014 and 2015. I am aware that the Minister, in evidence to the committee, described

the results of that pilot as "inconclusive". But that was contradicted in very clear terms by expert witnesses to our inquiry. I would be grateful if the Minister could tell the House whether the Government now accept the case for a national guardianship scheme.

The elephant in the room is of course Brexit. We have seen abundant proof in recent months that some within our society see Brexit as a pretext for pulling up the drawbridge and behaving as if the refugee crisis is now an EU problem and of no concern to us. They could not be more wrong. We took on an obligation as a nation under the Dublin convention in 1990, and although the Dublin system was subsequently incorporated into EU law, I trust that the Minister will be able to confirm that Dublin will remain a key part of a national policy on asylum and that we will continue to align ourselves with the development of Dublin principles across the EU. During her Statement to the House of Commons on 24 October, the Prime Minister told the House that the Government had been,

"working very carefully … with the French Government, not only to improve matters in relation to Calais, but to ensure that we abide by our requirements, under the Dublin regulations, to bring to the UK children—unaccompanied minors—who have family links here".—[*Official Report*, Commons, 24/10/16; col. 30.]

Could the Minister tell us more about the Government's efforts regarding children in Greece and Italy who are in similar circumstances to those in Calais?

In this context, I also draw noble Lords' attention to the far-reaching reforms of the common European asylum system proposed by the European Commission in the spring. The EU Home Affairs Sub-Committee had intended to report separately on these proposals under the opt-in procedure, but decided in the wake of the referendum not to pursue that work. However, I hope the Minister will be able to update the House this evening on the Government's policy towards proposed reforms of the common European asylum system. In particular, will she indicate how the Government, against the backdrop of Brexit, are contributing to negotiations on these key elements of any future co-ordinated action in response to the refugee crisis?

I also invite the Minister's comments on whether the Government propose to opt in to the new Dublin regulation. If the UK does not intend to do so, at least initially, can the Minister comment on whether the proposed new Dublin rules will be able to operate alongside the existing Dublin system, as the Commission has suggested? I look forward to the debate and to the Minister's reply. I beg to move.

6.46 pm

Lord Dubs (Lab): My Lords, I congratulate the noble Baroness, Lady Prashar, on an excellent report, on the work she has done and on the way she has explained what the report is about and set out the case. If I were to utter a word of criticism it would be that, had the report come a bit earlier, it would have made the discussions on the then Immigration Bill even more straightforward, because we would have had the backing of the evidence that she has collected. But that is the way these things work.

There are still believed to be some 85,000 child refugees in Europe, many of whom have gone missing, and there are enormous dangers for young people and children, who are often in vulnerable situations and have very little protection. That is why I was delighted that the House passed, and the Government accepted, Section 67 of the Immigration Act. The Government said at the time that they would accept the letter and spirit of that amendment but, given the slowness of the response, I sometimes wondered whether they were doing that—it took a long time, and I wish the debate we are having about Calais and so on had taken place a few months ago. The Dublin III children could well have been here long before the Immigration Act, although I suppose the Act acted as a spur to get a bit of a move on.

Those of us who have been to Calais—the noble Baroness, Lady Sheehan, has been there far more than I have, although I have been there on a couple of occasions—know that the camp there is really quite shocking. It is not a place to live; it is a place where people can barely exist, especially young people. I think we all felt that getting rid of that camp was a good thing, but many of us thought that it would only be right that the children should all be taken to places of safety before any bulldozing started. Instead we had the spectacle of the last few days, when there were children there apparently not being fed or looked after while other people in the camp—the adults—had been moved out. I do not know whether the British Government could have done much about that, as it was in the hands of the French authorities, but it was a bit depressing that this was going on. I only heard about it and saw the pictures second-hand, but the noble Baroness was there for quite a lot of the time and testified to what was happening.

At any rate, I understand that the position now is that the children are going to be moved to safer places, but that the Home Office will, as it were, go with them to start monitoring and assessing, so that those eligible to come to this country under one or other heading will be able to do so. I hope that process will be accelerated and that the children can all be here before too long.

It is of course good news that several hundred of the children are here, and the Minister will no doubt give us the latest number for that. It is a good-news story, and there are children here now who are able to live in safety and get the sort of support and education that they have for so long not managed to have. I remember the pleasure with which the leader of one London council told me that the night before—I spoke to him a few days' ago—he had sent two social workers to collect two girls from Lunar House and take them back to his borough. By that evening, they were each with a foster family. He was pretty pleased about that, that was a good-news story and I hope there will be many more such stories.

I regret the fact that age became an issue: those in the media who are hostile to the policy seized on it. Had I been the Home Office, I would have made sure that we had particularly young ones and girls coming in first, or that they were not photographed in Lunar House, but that is the way these things happen. However, I kept repeating to the media that when young people, children, have travelled across half the world in terrible conditions, it may be that that process has aged them;

[Lord Dubs]
it may be that what they escaped from has aged them; and, combining the two, it is no wonder that some of them looked older than I think they are. Equally, if a 19 year-old has got to Britain and that 19 year-old is still legitimately a refugee, I do not think that the world comes to an end. I think we can handle it, but the media made a lot of that.

What bothered me about that episode was that we need public consent for what we are doing, and that damaged the ability to get public consent. The policy will work much better if the British public as a whole—they will not all agree—agree that we should give safety to at least some unaccompanied child refugees. In that way, we can move forward on a happier basis.

I am grateful to the Minister for having kept me informed in detail over the past few weeks; that has been helpful and has enabled me to understand better what is going on, because she gave me some facts and figures. I always intended, and I think we agree on this, that not all unaccompanied child refugees in Europe should come here, but we should take our share, and other countries should step up to the mark as well. We are now concentrating on Calais because it is so close and the situation is not one where many other countries will want to step in, unlike in Greece. Nevertheless, even in Calais, I should have thought that the right answer is for us to take about half and for the French to take about half, provided they meet the criteria underlying our policy.

I understand that in Greece the situation is happier, in that UNICEF and UNHCR both work there and there is better co-operation with the Greek authorities than has perhaps been achieved in France. I do not want to knock the French, because we need their support and co-operation to make progress. However, I also understand that, so far, assessments are being made of those children who are in official shelters and that there are quite a few for whom there was no room in the official shelters. I hope we will not forget about them, because they are probably in a more vulnerable situation than the others.

I do not really know what is happening in Italy. I understand that quite a few of the children who arrived in the south of Italy have made their way to Rome, but I am not sure whether they are in a happy situation or not.

I go back to the issue of public opinion. I have felt all along that the reason why the Government in the end accepted what became Section 67 was that public opinion was largely on the side of this country doing so. I interpret this as a sign that the British people are humanitarians and wanted to express that humanitarian wish by providing support for the most vulnerable of the refugees. We are not taking that many—Germany has become the conscience of Europe, taking a million—nevertheless, we are doing something. I should like us to do more for adults as well.

Most of the emails and letters I have had are supportive. I will not read from one or two of the hostile ones, because I will not waste the House's time. If there is one thread of criticism, it is that we are giving money to support refugee children, whereas British children already here are not getting the same level of support. I say to people, sometimes on the phone, sometimes by email, that it is not my job to defend the Government's policies on cuts in support to local authorities or cuts in social care. Nor, I suppose, is it the Home Office's policy—no, the Government speak with one voice, of course. I have tried to explain that we are a rich enough country and can surely not have to put the well-being of one lot of vulnerable people against the well-being of other children. I hope that argument will eventually win the day.

One criticism covered in the Select Committee report is that, for a long time, the children in Calais were given no information about what their rights were. I sat there asking them, through an interpreter, whether they had had any information about their position, and they said that they had had none at all. The result is that they were vulnerable to information from the people traffickers, of whom there were certainly some in Calais, and that they did not want to exercise their right to claim asylum in France, so Britain was the only place where they could go. That was a serious deficit. I understand that it has been overcome more recently and that they have been given the full information. If not, they are even more vulnerable through not knowing what their rights and entitlements are.

I know that according to the newspaper some local authorities are unwilling to have child refugees, but the majority of them are. I am certainly delighted that the local authorities I have had contact with, such as Hammersmith and Ealing, are stepping up to the mark very well. When people ask me what they can do, I say, "First of all, make a beeline to your local authority and urge them to accept child refugees".

One of the more light-hearted moments—I am not sure that I have mentioned this before—was when a young Syrian who got here on the back of a truck, which was very dangerous, got out on the green opposite. I was chatting to him and he said to me: "Do you know what I want to do? I want to become a politician", and pointed to the Palace of Westminster. I did not know what answer there was to that, except to say, "You'd better meet a few politicians first before you finalise the rest of your life", but it was an endearing comment. He saw what politics had done in his country, Syria, and perhaps he wanted to do something better in a country where there are opportunities to do so.

Today, the Government issued a Written Ministerial Statement, which is a response to an amendment I have tabled to the Children and Social Work Bill. The Statement is an improvement on the amendment—in fact, it goes further—and the Government enabled me to have a look at it in draft and even make a few comments. It does not solve every problem, but it goes further than the amendment in safeguarding children and, as such, I welcome it.

I fear that I cannot be here when we have Report on the Bill next week, but I hope that a colleague of mine will be able to stand in, that there can be a debate and then I hope they will feel able to withdraw the amendment. I have one or two little questions, such as: does it cover the Section 67 amendment as well as Dublin III? Will the best-interest test be an integral part—as it must be? As the noble Baroness asked, when we are out of the EU, will Dublin III still apply? There will still be

refugees who have family here, and they should surely have a right to come. I also flag up the uncertainty for those children who get here and then reach the age of 18, who will feel vulnerable, not knowing whether they will be allowed to stay here or not. That is a minus.

I pay tribute to the wonderful NGOs working with child refugees which I have met and co-operated with—I mentioned Liz Clegg in Calais, who has been mentioned before—including Citizens UK, Safe Passage, Help Refugees, Freedom from Torture, which recently asked me to become a patron, and support groups which have sprung up all over the country.

I believe that there needs to be a common European response, but there is not time to debate that, although I should like to have a chance to do so one day.

For those who come to this country, I hope that they will find safety; that they will be given the support to help them overcome the trauma that they have suffered; that they will have a chance to catch up on lost schooling; and that they will have the support of a loving family.

6.58 pm

Lord Roberts of Llandudno (LD): My Lords, the crisis that we are faced with in the UK and Europe is only part of a worldwide migration crisis. We hear from the United Nations that there are 65 million displaced persons in the world, and we know that in Europe alone, as already mentioned, there are 88,000 unaccompanied children. In the years to come, our legacy will not be a good one for our children, because with global warming, economic disasters and conflict, the flow of refugees could well become a torrent. So we have to face years ahead when we will need to tackle problems such as this far more effectively than we have this migration crisis.

When we debated the amendment of the noble Lord, Lord Dubs, I was very sad to see 200 Members of this House walking into the Not-Content Lobby so as not to accept the 3,000 children mentioned in that amendment. I felt heartbroken that noble Lords could even think of going into the Not-Content Lobby on that amendment. I hope that in the future we realise that this is not a one-off. It is something that our children, grandchildren and great-grandchildren will have to face in a far more serious way than we have. I would really like to see an investigation—a commission, possibly—to look into why we acted as we did on this crisis. Why did we delay, month after month, before taking action to accept them?

Noble Lords are probably very tired of me proposing things and asking questions. I have asked the Government to take positive action in Oral and Written Questions on 13, 16, 22, 27 and 28 June, 7, 12, 13, 14 and 20 July and, since the Summer Recess, on 13, 14 and 15 September and 10, 12, 13, 17, 19 and 24 October. Nobody can say that we have not tried to move the Government on this issue. At one time we were accepting into the UK only one child every 18 days. Requests to local authorities went out on 14 October. There has been delay here. The Minister and Ministers before her know how I have struggled with this and how I have been so saddened, time and again, because we did not move. Because of that, we come to this present situation: the only time the Government moved was when the bulldozers were in Calais. This really is shameful. We are a compassionate people, yet we delay.

I have here lists of the children in the camps. Yes, some are 16 and 17 years old: they are not cuddly children, but they are still under 18. Not only that—as has been mentioned, some of them have been trudging from parts of Africa for two or three years. That must have aged them. I know that nowadays I feel pretty exhausted when I walk a few miles. These kids have suffered tremendously. I had a message this morning from Calais: there are about 2,000 remaining in the camps—no way is it 1,500—and they are in containers. Each container has 12 beds but there are 20 youngsters in each container and they are also sleeping on tables and on the floor. The heating is on, so they are not cold, but there is not enough food to go round. The messenger this morning said:

> "The weaker kids will be struggling because of the pecking order with other kids. They have no idea what is happening to them".

He estimated that there were also 300 people outside the container. This is a situation we should not tolerate as a civilised nation in a civilised Europe. These children are being bussed out in coaches—I think tomorrow—thanks to the noble Lord, Lord Dubs. Queens Park Rangers is ready to be part of this, though I do not think that will happen. But we must keep tabs on all of these children as they are scattered around France. There are many there who have a right to be here under the Dublin III regulations and many more under the noble Lord's amendment for vulnerable children. They have a place here.

I had another message this morning:

> "Tomorrow, underage children from the temporary accommodation centre will be leaving by bus for juvenile centres all over France, where their applications to be transferred to the United Kingdom will be dealt with by the British Authorities. No further applications for transfer to the United Kingdom will be dealt with in Calais. All cases will be handled and all departures for the United Kingdom will take place from the juvenile centres. You will be given a wristband which has your bus number on it. The buses will be leaving throughout the day starting at 8 am".

If you have time for prayer tomorrow, 8 am would be a good time for it. The message goes on:

> "The British authorities will be accompanying you on the journey".

We have tried to face this crisis, but we have not done well at all. The promise is that we will have 20,000 refugees in the UK by the end of this Parliament. If we cannot handle 300 or 400, how can we think of handling 20,000? We cannot delay the organising of this any longer. We cannot have them all coming in the last fortnight; it is impossible. If we are to keep that promise, it must be an ongoing process now. I suggest that we should be in touch with Canada—not just because it has a Liberal Government, though it helps—to see what it has done. It has accepted 32,000 people in three months. They have more land than us, but they have bigger hearts than ours. It gets more difficult as time goes on, but the people here are ready to embrace these youngsters and the others who will follow. It is not easy but it can be done. At the time of the Blitz,

[Lord Roberts of Llandudno]
3 million people were moved from the big cities to places such as north Wales in a month. If we did it then, we can do it now.

In thanking the noble Baroness for leading us on this quest, I hope that what we say might have some influence on the Government and the direction they take in the future.

7.07 pm

Lord Cormack (Con): No one can accuse the noble Lord of being backward in coming forward on this issue. He has raised it repeatedly with passion and determination which we must all recognise. I feel a bit lonely because I am the only Conservative speaker in this debate, apart from my noble friend on the Front Bench.

I would like to begin by underlining the fact that, under the extremely able chairmanship of the noble Baroness, Lady Prashar, the committee was unanimous. There are good reasons why my Conservative colleagues cannot be here tonight, but I know that I can speak for them. I am extremely disappointed that the response from the Government has been so long delayed. The report was published on 26 July and the noble Baroness, Lady Prashar, was given the response at 5 pm on the very day of the debate. If I were back in my schoolmaster days, I would say to my noble friend on the Front Bench, although she is not personally responsible, "Could do much better".

We are all conditioned by our own memories and thoughts. I will never forget meeting Polish refugee children encamped in Lincolnshire at the end of the last war. The event that, more than any other, made me determined on a political career—perhaps like the young Syrian to whom the noble Lord, Lord Dubs, referred—was 60 years ago. I remember, as a sixth-former, picking up a copy of *Picture Post* which had on the cover the words, "Cry Hungary". I remember, too, during my early adult years, after the putting up of the Berlin Wall, the number of would-be refugees shot down in the barbed wire. I remember going to Berlin as a very young Member of Parliament in 1970 and seeing the wall that was built across not just land but through water, and seeing some of the spots where young men had been shot. That is my hinterland, if you like.

I believe passionately that our country, with its marvellous reputation for giving help to those who need it at the point when they most need it, has not exactly lived up to its reputation over the last couple of years. There are understandable reasons, of course. The one note that kept coming to me as we took evidence and talked among ourselves was that everybody has been rather overwhelmed by the sheer numbers of refugees who have come from Syria, Libya, Eritrea and other countries over the last couple of years. The numbers are daunting, but the fact that they are daunting does not mean that we should not have a truly co-ordinated response.

I am afraid that the European Union has not had as unified a response as we all have a right to expect. We are part of that European Union. The noble Baroness, Lady Prashar, in her admirable opening speech, referred to this. Until the day we exit, we are a full member of the European Union, with all the rights, responsibilities and opportunities which that implies. We must not become so obsessed by talk of Brexit and what might or might not happen in the future that we ignore what is happening at present. We will be judged by how we respond and react.

The noble Lord, Lord Roberts, talked about the information he had received from Calais this very day. It is deeply disturbing that 20 young people are sharing 12-bed containers. I very much hope that when my noble friend responds to this debate, she will be able to give us more information and encouragement, and tell us that the Government fully understand, and are taking properly to heart, the unanimous message of the report which our sub-committee produced.

I draw attention to one or two paragraphs in our report and underline—this point was made by the noble Baroness, Lady Prashar, at the very beginning of her speech—our reference to,

"the greatest humanitarian challenge to have faced the European Union since its foundation. Although the outcome of the referendum on 23 June 2016 was that the UK should leave the EU"—

I made this point a moment or two ago—

"the UK remains a full member … with all the responsibilities that entails, until the final withdrawal agreement is ratified".

We compiled our report on that premise.

I draw your Lordships' attention to paragraph 62 on page 21 of the report, because there has been a lot of talk of what is called the pull factor. We say very clearly in that paragraph:

"We found no evidence to support the Government's argument that the prospect of family reunification could encourage families to send children into Europe unaccompanied in order to act as an 'anchor' for other family members. If this were so, we would expect to see evidence of this happening in Member States that participate in the Family Reunification Directive. Instead, the evidence shows that some children are reluctant to seek family reunification, for fear that it may place family members in danger".

We had particularly moving evidence to that effect from a young Afghan who came to see us in our informal evidence session in June.

I draw attention to two other points in our summary and conclusions. My next point is in many ways the most important. The report states:

"All children needing protection have the legal right to receive it, regardless of immigration status, citizenship or background. That right should be recognised, and all those under 18 should be treated as children, first and foremost".

I understand some of the scare stories regarding the age of refugees. It is often difficult to determine someone's age exactly. Of course, in this age of terrorism, when it is suspected that at least some of those responsible for some of the atrocities in continental Europe earlier this year were refugees, we have a duty to be particularly careful as we vet them. However, the mark of a civilised society is that it gives the benefit of the doubt to unaccompanied children. It is very important that we do that for our own national self-respect and honour.

In that context, we refer in paragraph 62 to a point that has already been made by the noble Baroness, Lady Prashar, on the need for a decent, proper guardianship scheme so that young people who come over here have someone—not a government official, or even a local authority official—with whom they can

have true human contact. It is much easier to say that than to bring it to fruition, but it should be our aim so to do.

This is a great country and, whatever the technicalities of the future, we are a great European nation. Whether we are a member of the European Union or not, we have a European responsibility and a European destiny. We have played a crucial part in the history of our continent many times over the 950 years, which we commemorated just 10 days ago, since William, Duke of Normandy, defeated Harold at the Battle of Hastings. Whatever the future brings, we cannot and must not turn our backs on the continent of which we are an integral part.

And so I hope that in the couple of years—a little more perhaps—during which we withdraw from the European Union, we make it plain to all our friends and allies, particularly those who less than 30 years ago were living under dictatorships in the Soviet bloc, that we are not letting them down, and that we recognise that we have as much responsibility as they do to ensure that those who have been displaced and unsettled are able to have some peace in our land. I very much hope that many of these refugees will be able to go back to Syria and other places when the fighting and the carnage come to an end.

7.19 pm

Lord McConnell of Glenscorrodale (Lab): My Lords, I should note my registered interest as vice-president of UNICEF in the UK. Although it is clearly not a financial interest, it is one of some impact on this subject. I start by congratulating the noble Baroness, Lady Prashar, on an outstanding report that is comprehensive, thoughtful and practical, and also on her passionate and very clear introduction to our debate this evening. I also congratulate the noble Lord, Lord Dubs, and the noble Lord, Lord Roberts—who has raised the subject in this Chamber now month after month when many of us were not prioritising the lack of action on it. I am very pleased that he has spoken this evening about the situation in Calais this week.

The report contains 65 conclusions and recommendations and all of them deserve attention. They certainly deserve more respect than a response just before the start of our debate. In looking at the report and considering this debate and what has been happening over recent months I have thought on many occasions about my own childhood. I remember all sorts of things. I remember watching the first man on the moon on the new colour TV and all the other incredible technological advances that were taking place and the hope for humanity that we were somehow going to have a much better world that was more open, corrected and advanced.

There was the decision of the then Conservative—Conservative—Government to admit 27,000 Ugandan Asians to this country because they were being expelled from somewhere they were no longer welcome. There was also the decision of the then Conservative Government to be part of an international effort to relocate more than 20,000 Vietnamese refugees to this country alone and 800,000 internationally, and no matter which side people were on during the Vietnam war, there was support for both of those decisions from local authorities and politicians in all major parties.

I also think back to my own childhood and the complete freedom from violence and fear that I was able to enjoy, and I think about these children and the journeys that they have had, losing friends and brothers and sisters across deserts in north Africa, and across the Mediterranean, whether from Turkey to Greece or from north Africa to Italy or Malta. Presumably there was some hope in their hearts and minds and presumably some promises were made to them before they embarked on those journeys. It is absolutely shameful that they find themselves in civilised, 21st century Europe being ignored, abandoned and neglected, as has been the case over recent months and years.

I have been in about five or six different countries over the last 10 weeks since the summer break and in every country one of the first questions I have been asked by people locally, whether people I just happened to meet or representatives of people in Governments or organisations, is: "What is happening in the United Kingdom and in Europe?". We have thousands of kids vulnerable to sexual exploitation, hunger and disease—as the committee unanimously says in this report—and yet we have seen this determined effort not to act. It is not laziness, not the absence of any solutions or the existence of a vacuum; there has been a determined effort not to act over the months of this year to bring these children to the UK and across Europe, leaving them in what are essentially detention camps after the horrific journeys that they have endured. The international system has been allowed to drag its feet again and again and to make promises to these children that are not kept again and again. We should think about the conditions that have resulted in them coming to the shores of Europe.

We have the cheek to lecture countries around the world about the use of the rule of law. I cannot count the number of times that I have heard when travelling to different places that the UK and Europe stand up for the international rule of law and that other countries —whether dictatorships in parts of the developing world, Russia or China in the South China Sea—do not do so, and yet we are ignoring our international legal obligations to these children, as this unanimous committee report says.

We boast about our efforts to deal with human trafficking and say that we are taking a lead. We see it reported constantly that the Government in the UK are taking a lead in tackling human trafficking and the European Union is taking a lead in tackling human trafficking and slavery worldwide. Yet we leave these kids vulnerable to human trafficking and slavery. We talk about our European values, as the noble Lord, Lord Cormack, has just said, and what we stand for as a civilisation, yet we are willing to walk by on the other side so often on this issue. Future generations will look back and wonder at this hypocrisy and be ashamed of us.

I think the UK has many obligations. We have a huge obligation as a member of the UN Security Council and a huge one still as a member of the European Union. We have an obligation because of our role in Iraq and

[Lord McConnell of Glenscorrodale]
Afghanistan and one because of our history in Africa. These are all obligations that we should be fulfilling by playing a proactive role not just in resettling more of the kids more quickly from France but in trying to find Europe-wide and international solutions to looking after the kids who have arrived in Europe and dealing with the reasons behind this movement of people, not just making promises, particularly in north Africa.

I want to ask the Government three questions today. I hope they will be addressed in the Minister's summing-up. The first is in relation to Calais and the wider European issue. Can we receive today an up-to-date position on these kids—over 1,000—who seem to be either living in containers or actually still living and sleeping on the site in Calais. Are we going to see through this programme of resettlement in a genuine way over the coming weeks and will we continue to be part of an EU effort over the next two years despite the fact that we will be negotiating Brexit at the same time? Can we have a firm commitment from the Government that Britain will proactively engage in the EU-wide effort to provide solutions over the next two years?

Secondly, what is happening in north Africa? There was considerable talk a year ago about trying to prevent the boats and the traffickers coming across the southern Mediterranean and to deal with some of the problems at source and create better conditions and organisation in the north African coastal states. Is the UK involved in any activity there? Is anybody paying any attention to these people any more given that there is so much attention being paid to Greece and Calais and so on? What action are we taking, both through our aid programme and our international efforts in the UN to deal with the countries of origin?

Thirdly, will we take seriously the fact that the kids in detention camps in Greece and the kids in France and elsewhere have the same right to education that we have spoken about in this Chamber regularly in relation to kids in refugee camps in Jordan, the Middle East and elsewhere? Are any of these kids receiving any education just now at all? If not, what are we doing to try to change that situation as part of the international effort to educate refugees that we in the UK, again, boast about being a central part of?

I have mentioned what I think are the key obligations —the UN Security Council post, our membership of the EU, our recent history in Iraq and Afghanistan and our earlier history in Africa, but it seems to me that ultimately this is about a moral obligation. We should be helping these kids because we can. We are one of the five largest economies in the world. We have a history of civilisation, democracy, openness, transparency and caring. The fact that in the second decade of the 21st century we seem to have been willing at the very least to drag our feet but at worst to deliberately slow down the process of helping these kids is shameful and I hope that we have seen a turning point in recent weeks.

7.29 pm

Lord Soley (Lab): It was a privilege to serve on the committee under the chairmanship of the noble Baroness, Lady Prashar, who chaired with her usual skill and determination, and to have able staff to help us throughout that process.

There is no doubt—it has already come out in the debate—that neither the United Kingdom nor the European Union emerge with any credit from what has been happening in the world. As a former MP for a west London constituency that took refugees from all over the world, I know and fully understand both the problems of doing that and the fear of a host community that is experiencing a degree of population movement that the world has never before experienced. However, I also believe that there is, as has been said, a willingness on the part of the British people to help. If we look back on this time in a few years, all of us will be ashamed of the role played by the United Kingdom and the European Union. I often think that if there is a Charles Dickens out there writing a novel like *Oliver Twist*, they will be doing it on this issue. Those who have been involved in trying to delay, slow down or make difficult taking children into care in the way we are describing here might feature rather badly in such a novel.

I say very strongly to the Minister that the Government need to look at how the Home Office responds to such reports. As the noble Baroness, Lady Prashar, said, she got the response an hour before this debate. I went out to the office just now and it is not there, so we do not know what the Government's response is. Therefore I can talk about our recommendations but I cannot talk about what the Government will do in response to them. Equally, in the course of other matters that the committee deals with, there have been delays by the Home Office on a number of important issues. It needs to get its act together. I know that the Home Office is a difficult department to manage in all its complexity, but a major department of state, complicated as it is, has to get its act together and do better than it is now. Not to have a response to this report that we can debate now is a disgrace. I hope the Minister will take that back clearly.

A number of things in the report could and should be done, and I hope I will eventually be able to read a response and understand what the Government intend to do. However, I will start with a point raised by a number of Members, most notably in the excellent speech by my noble friend Lord Dubs, about the media response to this. If you read about the disbelief shown towards the children's ages, it brings home to you what those children, and indeed other, older family members, have experienced. As a number of people have said, it is hard to judge a child's age when they come from a society in which nutrition has not been up to normal standards, reliable dates of birth are not kept, there is intense violence and the child has suffered considerably. I invite a couple of those editors who have been writing stories that stir up hatred and disbelief—I will start with Hugh Whittow, the editor of the *Daily Express*, and Paul Dacre, my old opponent at the *Daily Mail*—to give up a week of their holiday and work in one of the places where there are child refugees. To make their nightmare doubly worse—I think they will regard it as a nightmare—I will come with them to work in that area. I do not think they will enjoy the experience but they may learn a degree of humility, care and concern.

On the age factor, I recognise the problem and recognised it years ago as a Member of Parliament, when we had to deal with these issues. First, however, there is

an understanding that this is such a difficult problem that you would rather make mistakes on the side of generosity than on the other side of the argument. Secondly, bear in mind, as has already been touched on, that when children leave those situations, they are not just desperate in the sense of fearing for their lives but, as my noble friend Lord Dubs pointed out, afraid of being recognised because their families will be punished. Afghanistan is a good example. If you are in a Taliban area, the Taliban will not only punish your family but force boys to join it. This is why quite a lot of boys come from Afghanistan. Are we really saying we would rather they stayed there to be trained by the Taliban to make bombs and kill people? Is that what we are saying? Therefore, when Mr Hugh Whittow and Paul Dacre come with me, we will have that experience together and they will learn, as I learned over many years, about the complexity of this area. If they do not, they might feature in the novel by the new Charles Dickens, who I hope emerges from this terrible time.

I will make a couple of points on the recommendations. The culture of disbelief of age is important. I would not be against having what are sometimes referred to as invasive tests of age, such as on teeth, and so on. But—this is important—very few of them are accurate. The committee was told by the dental professionals that if you judge a child's age by the development of its teeth, you can judge it accurately to within only about five years. There are other medical checks, which again, I would not object to in principle, but they are not that accurate. They may be one of the factors you want to use to assess age. However, what will you do with a child from Afghanistan who may turn out to be 19 or 20, who fled from the Taliban because they did not want to be trained to kill? Will we say to them, "You've got to go back to that situation"? Therefore, the situation is far more complex than editors of the Hugh Whittow and Paul Dacre type understand. I am offering them an adult learning course in an interesting situation. I hope they will respond to it, but I rather doubt they will.

The next thing I want to say to the Minister, which again is important, is that one of the messages we have to get across is that as soon as a child appears in a European Union country, including in the UK, we must register them. Europol was clear in the evidence it gave to us that a number of children—I think 10,000 was the last figure I heard—just disappear, and we then have no way of checking because we have no record of them. Therefore, recording this is particularly important. As the noble Baroness, Lady Prashar, pointed out, we have a legal obligation, which we passed in this country and which has been passed in all other European Union countries, to put the best interests of the child first. If you do that, you do not leave them in camps in Calais or anywhere else. That reflects on all European Union countries, including our own. The best interests of the child need to be put first. The other recommendation, which I think is number 16 on the list of recommendations at the end of the report, is the need for minimum standards in Europe on the definition of,

"the best interests of the child".

In other words, when we decide that a child is in the care of one of the European Union countries, we should have a minimum standard by which to judge that care.

The other recommendation I will mention is that for single authority to look after migrant children. At the moment in the UK, the responsibility for services and so on is split between the Home Office and the Department for Education. I understand that, but as the noble Baroness, Lady Prashar, indicated, a guardian or someone to take the overall needs of the child into account is particularly important, whether that guardian is wholly independent or an institutional organisation. I do not rule that out automatically—I am slightly at variance with the report there—but as soon as you have vulnerable children divided between several organisations or individuals, there is a danger that they will fall through the net, and we need to address that. Perhaps the Minister might take that away and give thought to it.

This report is very important. This situation will be a terrible reflection on this country and on the European Union in years to come. People will look back at those photographs of the children drowned in the Mediterranean or those in the camps in Calais and say, "What was wrong with our society at that time?". We need to rethink this.

7.40 pm

Baroness Janke (LD): My Lords, I too am grateful to be speaking in this debate today. I share the sentiments of other Members who have spoken about the culture of disbelief and the Government's apparent lack of interest in this report—despite the fact that it was produced in July and attracted quite a lot of press coverage and interest. That message needs to be taken back.

I will speak a little more about the part of the process where the children arrive in the UK. As others have said, children's rights are defined by the United Nations convention, which provides a universal basis for how all children should be treated regardless of their status. Our own Children Act sets out the paramount principle that we must, at all times, first consider the best interests of the child. Yet if you look at the evidence, you will find that many agencies do not believe this is happening even in the UK, whatever we are saying about the camps at Calais or elsewhere.

It is true that there are many challenges. For example, we have a major shortage of housing in this country, and these children need supported housing. Also, they stop being children after 17. The lack of housing and lack of funding for young people after the age of 17 are already major issues in this country. As far as refugees are concerned, they have the added threat of being returned to their own country.

Another major issue is that there is very little English language provision for the newly arrived. Classes have been cut—certainly over the last five years to my knowledge—and the lack of opportunity to learn English means that many young people are not able to access mainstream education. We hear that sometimes children receive no education for as long as nine months. In addition, there are health issues. We all know of the serious pressures on our National Health Service, and this adds to the view that the noble Baroness mentioned earlier—that somehow the issue of child refugees is not seen as our problem.

[Baroness Janke]

But it is our problem. These children have suffered in suffered in unimaginable circumstances, receiving violent, inhuman treatment. Often their friends and families have been killed or injured in front of them. As the noble Lord, Lord Cormack, mentioned we heard from young people who, after some years, were still experiencing flashbacks, difficulty sleeping and severe headaches. One witness became so distressed that he was quite unable to speak about his experiences. These young people have a great fear of being sent back. We heard earlier about the young Afghan and what would be likely to happen to him. Many of these young people fear being sent back more than anything else, so they go missing and are quickly found by human traffickers.

We have all welcomed the Government's belated acceptance of some of their responsibilities. But my understanding is that the general lack of leadership and lack of resource has left public agencies and voluntary groups struggling to meet the demands of the people they work with.

There have been camps at Calais since 1999, yet little has been done until the British Government were shamed into taking some of the refugees in recent weeks. That is despite it being widely known that many of the children in Calais have relatives in the UK. The current action being taken seems to be characterised by an acute sense of crisis management. I spoke to some of the people who were receiving children over the weekend. They are pleading for a bit more notice, a bit more of a long-term view. How can they get people in to support these children? They have been using volunteers because of the urgency of the situation.

We really need to think about what experiences we are giving these children when they get to this country. They cannot be held responsible for what has happened to them. It is not their fault that their homes are being destroyed, their families killed or taken from them. Many of them have faced horrors that we can scarcely imagine yet, when they reach a place of safety, they are greeted with suspicion, threatened with being returned to their own country, often isolated and desperate for affection and a secure home.

It is good to see today that the Government's statement commits to a safeguarding strategy for unaccompanied asylum seekers and refugee children, to be delivered by 1 May next year. As others have said, I am sure this will receive wide support, so long as the six months are used to consult the children themselves, as well as the wide range of people and groups with knowledge and experience.

One of the recommendations in our report, as has already been mentioned, was about children being allocated an independent guardian. I would very much support the introduction of an independent guardian service. I understand this has been successful in Scotland and I hope the new strategy will include this proposal.

It also seems to me that unaccompanied children should have the right to sponsor their parents. Adult refugees can sponsor their spouse or partner and their children to join them; unaccompanied children in the UK currently have no family reunion rights despite the fact that they go through the same asylum system.

Lastly, I hope the Government will look into these inadequate current practices of age assessment which, again, others have mentioned. The report details how these assessments have been mistaken and led to quite unsuitable treatment for many of the children. In the light of this, if age assessment has to be done, I hope we will look at practices which are known to provide much better evidence.

I very much welcome the Minister's statement today and the comments that Members have made this evening. I hope the committee's recommendations will provide what appears to me to be a rigorous basis for moving forward. I feel that the strategy must address some of the urgent issues that have been raised today, because the cost of getting this wrong will be borne in my view by the world's most vulnerable people.

7.47 pm

Baroness Massey of Darwen (Lab): My Lords, I was delighted to be part of the excellent Home Affairs Sub-Committee, which conducted this inquiry into unaccompanied migrant children. I pay tribute to the skill and dedication of the noble Baroness, Lady Prashar, who chaired the committee. Like her and others, I have not had time to study the government response, which arrived on email at about 5 pm.

Reference has been made to the quality of the evidence we received and to the excellent contributions made by our secretariat and our adviser, Helen Stalford from Liverpool University. It was apparent that many NGOs and other agencies are striving mightily, not only in working with children on the ground, but in publicising the situations that those children face. But as we point out in the report in paragraph 340:

> "The admirable work of non-governmental organisations is not a substitute for effective Member State action. The individual Member States should remain ultimately responsible for meeting the needs of unaccompanied migrant children".

I shall return to this issue later. Much of the evidence we received was disturbing, particularly when we interviewed four young unaccompanied migrants and heard of their experiences. One was clearly still traumatised. During the inquiry and again after our report was published, I looked back on the UN Convention on the Rights of the Child, with its 54 articles, which of course came into UK law in 1992. I remain shocked that so many of those articles have been contravened during the migrant crisis. The general principles say it all: children should have the right to non-discrimination, the right to be treated in their best interests, the right to life, survival and development, and the right to be heard.

The recent demolition of the Calais camp provides evidence of the continuing disrespect for the rights of the child. As UNICEF and other agencies working on the ground have recently pointed out, a number of children have been forced to sleep rough. After queuing for days, dozens of children seemingly were unable to register and get their official wristbands before registration closed. Children have been left in dangerous situations, vulnerable to smugglers and traffickers.

A question to the Minister today is: what happens now to these children who travel to the UK? The Home Office is to be commended for its efforts but there is much safeguarding to be done. I refer particularly

to the guardianship situation, which was mentioned by the noble Lord, Lord Cormack, and others. The UN Committee on the Rights of the Child has recommended that all unaccompanied and separated children in the UK should have statutory independent guardians, as in Scotland and Northern Ireland. I know that England has trial programmes for trafficked children at three sites, and such a scheme should be rolled out—it has been well evaluated—as soon as possible. Children desperately need this kind of help. Our inquiry discussed the issue of guardianship on many occasions and the children's agencies that we spoke to were unanimous in their support of it.

I also ask the Minister whether we are ensuring that there are sufficient facilities, such as those for education and health, to cope with the migrant children who will need extra language tuition and extra help with socialising. How will they be helped to integrate? When we asked one young man from Afghanistan who had entered Britain as an unaccompanied migrant what had helped him to integrate, I was surprised when he answered, "Cricket". I am glad that cricket is so popular in Afghanistan. This chap is a spin bowler—we may need him. The story illustrates that school and community activities can be good facilitators of integration. We need more of them.

Many contentious issues are discussed in the report. Family reunification is a particularly troubling issue across EU member states. In Greece and Italy, for example, children are being denied access to rights and protection. In the UK, we need reassurances about how the children from Calais will be able to access the right to family reunification.

We have seen headlines in much of our press in the last few months about the lack of co-ordinated effort in member states of the EU, and our committee heard similar criticisms from witnesses. I consider this lack of co-ordination to be a serious flaw in dealing with migrants and, in particular, unaccompanied migrant children. Our report makes it clear, at paragraph 334, that the,

"lack of clear structures for involvement by civil society and international organisations at EU and national level risks further diffusing Member States' responsibility for unaccompanied migrant children".

We heard from witnesses and read reports of children travelling alone, with the threat of trafficking and abuse. We heard about the squalid conditions they had faced, about them losing siblings on harsh journeys, and about the dreadful conditions they often had to live in, with poor health resources and no education. Some had particular health issues, such as sexually transmitted infections. These children then had to deal with complex legal processes, with challenges to their age, and with uncertainty about their future as they approached 18. Some, not surprisingly, go missing—Europol estimates the figure to be around 10,000; it is probably higher.

The committee was concerned that in the current refugee crisis the Commission and member states seemed to have lost sight of unaccompanied migrant children. These children are somebody's child or grandchild, and somebody's brother or sister. They are children and should be treated as such. I hope that this report by the Home Affairs EU Sub-Committee will serve as a call to action. It received a good deal of press coverage and was discussed in media interviews. We raised issues to which all answers have not yet been forthcoming. Maybe they are in the government response, which I look forward to reading. I hope that the concerns expressed by our witnesses and set out in the report will be monitored for action by government and EU member states. This is an enormous EU problem with great challenges. Unless we face those challenges and look for solutions together, across all our nations, we shall let down a generation of children and fail the test of humanitarian concern.

7.55 pm

Baroness Afshar (CB): My Lords, I add my thanks for the excellent work done by my noble friend Lady Prashar and her committee and for the excellent report they have produced. It sheds a bright light on the current crisis faced by unaccompanied migrant children, who have travelled across the globe and find that the world they have come to is failing them.

Friends and colleagues who have been working in the Refugee Community Kitchen at Calais have told me that, regardless of what is being announced, the Calais camp is not empty. The kids are not safe and have not been sorted. Those working in the kitchen are cooking and serving at all hours of the day and night.

I received another message that on Friday morning more than 100 children were still stranded in the smouldering fires, waiting for the police to sort them out. Dejected and in despair, they huddled in makeshift shelters in a school on the perimeter of the camp. Fifteen British volunteers spent the night guarding them from potential fires or people traffickers. The abandoned school is an unheated structure, made from chipboard and tarpaulin by volunteers. It is not a place where we would like to see vulnerable children huddled together.

I fear that there is some misinformation and a great deal of confusion. The most vulnerable victims are the children who mistrust the authorities, which regard them as a problem. They fear the authorities to such an extent that they choose to take to the hills, running away and disappearing. Surely in all conscience we owe a duty of care to all children, regardless of colour, creed, place of birth or even their mode of travel. They must not be labelled as immigrants and treated as a burden to society. Children are the harbingers of our future. They, along with our grandchildren, can contribute to making our future safe, comfortable and bright. Children are an asset to any country, particularly one that has a falling birth rate.

We need only to look at this country's health and social care services to recognise the impressive contribution made by many who have been labelled as immigrants. Without more help from them, in a decade or so the increasing proportion of older and wiser citizens in this country may find it difficult to function. Mere self-interest dictates that we should welcome these children in the hope that in due course some of them will turn their hands to the care and health services and look after us.

As we know all too well, these children are here because their homes have been bombed, their villages burnt down and their families killed. There is little left

[Baroness Afshar]
for these youngsters to return to and very little offered to them to go to at this stage. Without systematic and humane assistance, evidence suggests that many of these youngsters may be caught and drafted into slavery, prostitution, petty theft—possibly even terrorism—and a raft of other misdemeanours.

By welcoming these children we can only be serving the interests of the nation. Not all these kids are traumatised or unable to help; some of them even play cricket. Many of them, given care and protection, could become invaluable citizens of our country. They could bring a great deal to this country. It is the most enterprising, brightest and best of the kids who not only manage to embark on such journeys but manage to survive and get to this country.

Many have relatives in this country who are very willing to receive them provided they are not scared of being demonised. Many others have been welcomed by generous families who have already opened their doors and offered to have them. It is not only humanitarianism and altruism that demand that we accept these children and care for them; self-interest dictates that we make the most of the situation and turn a human tragedy into a national asset. I suggest that we would do very well by accepting these children among us.

8.01 pm

Lord Judd (Lab): My Lords, those last remarks are very powerful. It is important to bear in mind the cost in so many ways of not being positive and welcoming and embracing these refugees at their young and sensitive age. This has been a rather solemn debate with a lot of powerful contributions. Unless I completely misunderstand and misread the Minister, I am sure that, as the person she is, she will take it very much to heart and consider it not as a debate to be refuted and rejected but one to be embraced by the Government to see what they can do to try to make the best of a bad situation.

I thank the noble Baroness, Lady Prashar. I had the privilege of serving on her committee and she and her colleagues have produced an outstanding report. The way that she introduced it tonight was effective and irresistible. My noble friend Lord Dubs mentioned one regret. If I have a regret, it is that we did not all focus on this report way back in the summer so that we could have had a better chance of influencing the Government. The report, after all, was published in July and it is now November before we debate it. We need to look at why it takes so long on such an important issue before we debate it and help the Government to focus.

Having mentioned my noble friend Lord Dubs, I want to say what a joy it is to have him in our midst and hear him speaking. He has been a fantastic leader to us all in terms of the personal stand that he has taken. I know that he does not really like me making these remarks, but one of the things that I find most important about him is that, having been through it all, he has not put it behind him; he lives with it and sees what that demands of him in current action. That is a very strong position and we are fortunate to have him challenging us and being so effective.

I am sorry that I cannot say this after she has spoken, but I am also very glad that the noble Baroness, Lady Sheehan, is here tonight. She is also someone who has been working very closely with the situation on the front line and is very much in touch with the realities and the people about whom we are talking tonight.

If I may, coming so much at the end of the debate, I want to mention one other person. The noble Lord, Lord Cormack, demonstrated tonight his humanity and sensitivity. It was rather a courageous speech to make from his position, and we should all welcome the fact that he made it.

Having listened to the debate, it seems that there are certain questions outstanding that I will emphasise. First, what plans does the Home Office have to create expedited family reunions and "Dubs transfers" in other EU countries such as Greece and Italy to stop children feeling forced to make their way to France and to attempt dangerous journeys across to the UK? What will now be the situation of new children who, whatever has happened, perhaps inevitably still arrive in Calais or the French coast? How will we be able to ensure that they are able to access family reunion or "Dubs transfers"?

How will the Minister ensure that unaccompanied and separated children in England and Wales are not disadvantaged and receive the same level of protection as those in Scotland and Northern Ireland, who have access to independent guardians? The role of independent guardians has been emphasised in the deliberations this evening. For children who have been through this kind of trauma and experience, one cannot overemphasise the importance of having a reliable friend to whom they can turn and who is with them, taking their hand and walking with them into the future to try to make a life in our midst. It is really shameful that we in England are lagging behind Scotland and Northern Ireland.

What will the arrangements be to ensure satisfactory follow-up and monitoring of what is happening to these youngsters in their long-term future? What will happen when they turn 18 to make sure that the backing is there to enable them to make the best of their lives in terms of further or higher education or whatever?

The noble Lord, Lord Cormack, remembered meeting refugees at the end of the Second World War. I am not trying to one-up him, but I was taken by my parents to an international summer camp in Scotland in 1943 for refugee children mixing with young British children, and it was a very good and enjoyable occasion. I remember at the tender age of eight being so impressed by the spirit of these children after what they had been through. There were even youngsters who had come from Norway across the North Sea in open boats to get to England. This was all happening in a grand baronial Victorian castle in Scotland called Drumtochty Castle. As I say, it was a very important experience in my formation as a youngster.

What has happened to us as a nation? We played a leading role in the creation of the United Nations and provided some of the most outstanding civil servants to serve that organisation with dedication, of whom Brian Urquhart was a particularly great example. We played

a key part in the formation of UNHCR, as we did in the formation of UNICEF, and under a Conservative Government we played a key part in achieving the UN Convention on the Rights of the Child. We had a sense of international belonging and international responsibility. We were proud of that and wanted it to be the hallmark of the nation in which we were living. What has happened to it?

If we are to have a future outside the European Union—and, again, the noble Lord, Lord Cormack, made the point most powerfully and rightly—how are we going to build an alternative? What are we going to do? Are we going to regenerate and put the resources, leadership and drive that should be in place to create a new and stronger future for UNHCR, UNICEF, the World Bank and the UN itself? Where is the evidence that we are planning for that? It is not just about our trade, although of course it matters desperately, but what is the real role in the world that we want to play and how are we planning for it?

I conclude by simply making this point. Do not let us think that this is a one-off situation, because it is not. With global climate change and all the instability in the world, we are going to see this story repeated in one way or another over and over again. Let us think about the children, the mothers and the fathers who have been dying in despair as they drown, trying to escape tyranny and oppression. We must think of the predicament of those children who have made it here. Let us remember that the same thing is happening right now in Lebanon, Jordan, Turkey, east and west Africa, and in the Horn of Africa. There are children in those places who are every bit as desperate. If we as a nation are to have any kind of future at all in which we can take pride, we must base it on a commitment second to none in terms of humanity and world responsibility. Our participation in the international institutions is going to become more important than it has ever been.

8.13 pm

Baroness Sheehan (LD): My Lords, I start by thanking the noble Baroness, Lady Prashar, and her committee for the very thorough evaluation they have undertaken of this difficult and emotional subject where the welfare of vulnerable children is under the microscope. I add my voice to others who have expressed great regret that we were not able to hear the response of the noble Baroness to the Government's response to the committee's report, given that they only delivered it to her at the eleventh hour. Before I go any further I should like to associate myself with the remarks made by every noble Lord who has spoken in the debate. I have not been here very long, but I honestly do not think that I have sat through a debate and agreed with every single word that has been spoken. I pay tribute to the work that the noble Lord, Lord Dubs, has put into this issue. His authoritative voice comes from personal experience and speaks volumes. I also pay tribute to my noble friend Lord Roberts whose terrier-like qualities in keeping this issue alive week after week have kept us all on our toes and aware of what is happening around us.

I shall speak from a narrow but I hope well-informed perspective about the camp in Calais known as the Jungle. The first of my numerous visits to the Jungle took place in October 2015 when I took some basic humanitarian aid in the boot of my car and headed out to meet a representative of Save the Children. To say that I was shocked by what I found would be an understatement. The Jungle was a muddy swamp with very few toilets, flimsy tents providing little protection from the biting wind, few water taps and no drainage. It was a filthy quagmire and a humanitarian apocalypse. Even more shocking was the revelation by representatives of Save the Children that they could not work overtly in the camp as they were not recognised by the French Government. However, they knew that there were young children in the camp and that more and more unaccompanied children were arriving. Fear for their protection was growing following a statement by Europol that, of the 90,000 or so estimated minors in Europe, 10,000 had gone missing, with evidence suggesting that some had fallen into the hands of child traffickers. Sexual exploitation at the hands of organised crime was feared.

To add to my consternation, not only was Save the Children not there, but no recognised humanitarian NGO was present either. It was left to young volunteers with no previous experience of relief work to provide the very basic humanitarian needs of food, water, shelter and warmth. Without these young people, some of whom have stayed throughout the time of the camp's existence, people would have died in the winter cold of 2015-16. I salute these individuals, and put on record my admiration for the humanity they showed and the hope they gave to some of the most desperate people I have ever met.

However, their actions put into sharp relief the failure of the Governments of two of the richest countries in the world to adhere to their moral and legal duties. The report is persistent in highlighting the lack of regard on the part of almost all EU countries for domestic and European law. Paragraph 35 sums up our Government's legal duties well:

> "So far as domestic law is concerned, the UK ratified the UNCRC"—

the UN Convention on the Rights of the Child—

> "in 1991, and the rights of unaccompanied migrant children are now enshrined in national legislation. Specifically, the Immigration Act 2009 imposes a statutory duty on the Secretary of State, and those acting on his or her behalf, to ensure that all decisions relating to the 'immigration, asylum or nationality' of children are discharged having regard to their welfare".

Our duties could not be clearer. However, not only were the most horrendous conditions allowed to persist, but the plight of unaccompanied minors with family reunification claims on the UK was alleviated at only the slowest possible rate. Only in the last few weeks, faced with a barrage of adverse publicity concerning the demolition of the Jungle, have we seen any sense of urgency from the Government.

I was in Calais all last week during the demolition of the Jungle and witnessed the most appalling treatment of minors. If I may, I will read out an extract from an email I sent to the Home Secretary on the morning of Wednesday 26 October:

> "I am writing to express my extreme anger at the treatment I witnessed last night of around one hundred minors who were denied access to the processing centre. These young people had queued since 6 am at the registration warehouse on a grass verge.

[Baroness Sheehan]

The early mornings here are very cold, and many wore only sandals and light jackets. Having been herded about all day like cattle, with no water or food, they were told at 3 pm that registration for minors had been closed for the day. They did not know where to go—they were too frightened to go back to their tents because adults who had been keeping an eye on them had already left and they were now on their own.

At one point it was thought that they would be able to stay overnight at the registration warehouse as many beds were available, however that option was rejected. It was then thought that the containers may be able to give them shelter, but that too was rejected by the sous-préfet.

I, together with some of the young volunteers, found accommodation for some in a school, whilst others went to a mosque. We managed to find something for them to eat, as they hadn't eaten for 24 hours. They then had to move a few hours later because of fires in camp. They spent what remained of the night in 'No Man's Land', sheltering as best they could under the motorway bridge.

This morning they are back in the queue. These are mostly young boys who are fourteen plus but, nevertheless, still obviously minors. To their credit, throughout yesterday's events they remained calm and compliant; they do not deserve this inhumane treatment".

This series of events was repeated on Wednesday night and Thursday night.

This is a shameful indictment of the failings of two of the richest countries in the world. We in Britain cannot escape blame for failing to remove children from the camp through the family reunification route under Dublin III, and for ignoring our legal duties under Section 67 of the Immigration Act 2016, popularly known as the Dubs route.

Why did our Government not earmark some of the millions given to the French to manage this problem to make conditions in the camp just a little more humane? The reason, and the reason behind the refusal of the French to recognise the camp and allow humanitarian NGOs to work there, is that both countries are consumed by a belief that this will increase "pull factors" and attract more people to the camp. I am pleased to see that this was tackled head on in the report in several places, as highlighted by the noble Lord, Lord Cormack. Professor Crawley says in paragraph 59:

"We are dealing with push factors rather than pull factors—of war, terrorism, extreme poverty, and others".

The report does well to demolish the theory that allowing unaccompanied minors to be reunited with their parents is a "pull factor". It states:

"If this were so we would expect to see evidence of this happening in Member States that participate in the Family Reunification Directive. Instead, the evidence shows that some children are reluctant to seek family reunification, for fear that it may place family members in danger".

I think the noble Lord, Lord Cormack, quoted something very similar.

Britain has a responsibility to come to a shared solution with the French regarding Calais. That it recognises this responsibility is clear, because we have seen millions of pounds of taxpayers' money handed over to the French to help them manage the problem. It is a problem that exists on French soil because of the arrangement whereby juxtaposed border controls exist on the two sides of the Channel ports. However, from the French perspective, the reciprocal arrangement is looking increasingly one-sided. The French President, François Hollande, demands that Britain take more of the 1,500 or so unaccompanied minors than it has so far committed to do. Our Prime Minister has said no. Will the Minister comment on the future viability of this agreement and on the extent to which she thinks the benefits to the French outweigh the disbenefits now that we live in a Brexit era?

We cannot do much to help the children of Aleppo escape their desperate plight, but once those who seek sanctuary arrive on our doorstep in Calais, surely we can treat them with humanity and some dignity. There remain in the remnants of the Jungle 1,500—maybe more—unaccompanied minors housed in converted shipping containers. We are told that tomorrow they will be relocated to special reception centres for children, and that Home Office officials will go with them and resume processing Dublin III and Dubs children on Thursday. Will the Minister undertake to ensure that this in fact happens and that the youngest are prioritised? I seek this assurance because on so many occasions I and the associations working with young people on the ground in Calais have been disappointed. Unless we deliver on this latest promise, children will go missing as they leave the reception centres in despair.

The mass movement of people that we are seeing—the largest mass movement of people in Europe since the Second World War—is a challenge that we in the West must rise to resolve. No one country can provide the answers; it needs leadership with vision and a commitment to bear our share of the burden. I hope that our Prime Minister will rise to the challenge and fulfil our moral and legal duty, as we have done proudly in the past. She could do worse than follow the recommendations within this excellent report.

8.27 pm

Lord Kennedy of Southwark (Lab): My Lords, like other noble Lords who have spoken in this debate, I thank the noble Baroness, Lady Prashar, for this Motion and for bringing to the attention of the House the excellent report of the European Union Committee. I should declare that I am an elected councillor in the London Borough of Lewisham and we have accepted a number of children from the camp at Calais in recent days. I am also a vice-president of the Local Government Association.

I want to place on record my thanks to the committee for producing this report, which enables us to discuss these matters—which are a human tragedy—and the efforts of the European Union to respond, especially in dealing with the thousands of children caught up in conflict. The report quite rightly points out that this is the greatest humanitarian challenge to have faced the European Union since its foundation. We are a full member of the European Union and, until we formally leave, we have a duty to play our full role, as the noble Lord, Lord Cormack, said. I hope, as I am sure do many other noble Lords, that even after we have left the European Union there will be no question of the United Kingdom not playing its full role as part of the family of nations.

The refugee crisis, which some of us see only through the television and newspapers and via reports from the noble Baroness, Lady Sheehan, and others, is truly heart-breaking. Images of people drowning in the

Mediterranean Sea and of bodies of young children being picked out of the ocean or washed up on beaches only bring to the forefront the tragedy unfolding before us.

It is important to remember that we are focusing here on unaccompanied migrant children. As the noble Baroness, Lady Prashar, outlined, these are young people under the age of 18 who need particular support and protection to ensure that they do not become the victims of people traffickers, smugglers and other criminal gangs who want to abuse and exploit them.

The figures for children suspected of having gone missing should be of the greatest alarm to us all. It is clear that, despite the various agreements, legal acts and court decisions that form the basis of the protection of refugees, especially children in the European Union, as a whole the European Union is fundamentally failing in its obligation under EU and international law. Looking at the application of existing standards, I think it is clear that the application of agreements and compliance with obligations vary considerably among the member states. The European Asylum Support Office needs to be strengthened to help with the monitoring of compliance and the provision of data to highlight failures in this respect. The inconsistent application of standards should be something of considerable worry to this House.

Conditions at the camp outside Calais before its destruction were described as wholly unsuitable for children. I accept entirely that this camp is, or was, on French territory and that the UK Government and UK agencies have to work within the parameters set by the French authorities, but the Government must prioritise and work with the French Government to ensure that children are given safe accommodation while their asylum claims are assessed. What assurance can the Minister give the House that such action is taking place, especially now that the camp is in the process of being demolished?

It would also be useful to the House if the Minister could give us an update on the number of children who have been brought to the UK, what provision has been made for them here and where they have been relocated to. As I said in my opening remarks, I am aware that my own authority has taken some of the children.

I thank those local authorities that have responded and taken children. I particularly pay tribute to Kent County Council, which has for many years stepped up and delivered when dealing with migrant families and children. Councillor Paul Carter and his team deserve our thanks for the work they have undertaken over many years.

The disappearance of unaccompanied migrant children is, as the report highlights, the final consequence of failure by member states, including the United Kingdom, and that should be a matter of grave concern to us all. Will the Minister tell the House what action and assistance the Home Office, the police and other agencies are giving the French authorities and other authorities to locate these missing children? What assistance are they giving to prevent any more children going missing?

The situation in Italy is one that we appear to hear less about than that at Calais or in Greece. It is my understanding that twice as many children have arrived in Italy in the last year than in the previous 12 months, but there have been no transfers to the UK from Italy, as far as I am aware. Will the Minister update the House on the work the Government are undertaking with the Italian authorities to identify children who would be eligible to transfer to the UK under either Dublin III or Dubs? Will she comment on why there have been no transfers to the UK, if I am correct about that? What staff do we have on the ground and which are the local agencies we are working with? Does she see any particular failures or blockages in the system that urgently need to be addressed?

Will the Minister update the House on the situation in Greece? What action is the UK undertaking there? All reports say that the care system in Greece is overwhelmed. How many children have been transferred to the UK from Greece? Can the Minister confirm whether officials on the ground in Greece are only working with the Greek authorities in respect of children inside the formal shelters, or is work also taking place to assist children who are outside the formal shelters?

Noble Lords have made excellent contributions to this debates and I agree with every one of them. The noble Baroness, Lady Prashar, asked in her opening remarks how we were so ill-prepared. That is a question the Government need to answer. To have received the response to the report today, an hour before the debate, is just not acceptable—my noble friend Lord Soley referred to that.

My noble friend Lord Dubs has championed the cause of these children and I agree with him that it is unfortunate that age became an issue. I also agree with him that all countries should step up and take their fair share of the child refugees. We owe my noble friend a great debt for his tenacious campaigning to enable this country to live up to its obligations and its reputation.

The noble Lord, Lord Roberts of Llandudno, highlighted the pressure that has been brought to bear on the Government to get them to move on providing an effective response to the crisis. The noble Lord has kept this issue on the table in your Lordships' House and we thank him for that.

My noble friend Lord McConnell of Glenscorrodale painted a picture of some of the terrible journeys that these children and young people have endured. The question he posed is very pertinent: what have the European Union and the UK been doing in recent times and why have obligations not been taken up and international and European law not respected? Our specific obligations, as a member of the UN Security Council and because of our history in the world, need to be addressed.

The noble Baroness, Lady Janke, made some excellent points about the support and funding these children receive when they are in the UK, the struggle some of them have to access mainstream education and their need for specific healthcare services.

My noble friend Lady Massey of Darwen spoke, among other things, about the dangers that children face when sleeping rough, the squalid conditions they face when trying to find a place of safety, and the risk they face from people smugglers, criminal gangs and people who want to do them harm.

[Lord Kennedy of Southwark]

The noble Baroness, Lady Afshar, highlighted the dangerous situation that the children in the Calais area still face. This shows how important it is for the British Government to be fully engaged with this dreadful situation and provide protection and a place of safety to as many of these young people as possible.

My noble friend Lord Judd made a very important point, asking: how is it that such an important report on such an important issue—very much a live issue, developing day by day—was not debated when we were sitting in September? I have no idea how these reports are selected for debate at a particular time. It is regrettable that this report was not considered by this noble House six or seven weeks ago.

The fact is that there have been many failures by the European Union. Responses to the humanitarian tragedy have not been co-ordinated, states have not worked together, and the responses and solutions have been piecemeal and have created their own problems. This country is not immune from that criticism, which should be of great concern to us all. We have always played our full part among the family of nations in responding to the disasters and crises that engulf our world. We should all be very proud of that fact and ashamed that we have not taken the lead in this situation as we should have done. We have dragged our feet and finally have been forced to take action.

Reports such as this one—which challenge what we and our European partners have done—and the actions of many Members of both Houses, the charity and voluntary sector and the general public have shone a light and brought pressure to bear that has finally enabled action to be taken. However, I feel that we could have done better. I very much agree with the comments of the noble Lord, Lord Cormack, in this respect.

In conclusion, I thank again the European Union Committee and the noble Baroness, Lady Prashar, for an excellent report, which has resulted in this excellent debate tonight.

8.38 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank the European Union Committee for producing its report on unaccompanied migrant children in the EU, and thank all noble Lords who have spoken so powerfully in this debate.

The Government recognise the plight of unaccompanied migrant children in Europe and we are addressing this on a number of fronts. We take our commitments towards these unaccompanied migrant children extremely seriously. We have already made significant progress in speeding up the transfer of children who already have close family members in the UK. The Government began work on this under the Immigration Act immediately after the Bill gained Royal Assent. Since Royal Assent and before 1 October, we have transferred more than 50 children—commonly known as the "Dubs children"—under the criteria of the Immigration Act. Since 10 October we have transferred more than 300 children from Calais, including more than 60 girls.

I must make it clear, and I am sure noble Lords know, that we need the permission of sovereign member states to operate on their territory and we need to abide by their laws. We are focusing on France, Greece and Italy but we can operate only in ways agreed with those member states. It is important to make that clear at this point.

We are also working with local authorities to ensure that children are fully supported on arrival in the UK, and we are making progress on the national transfer scheme, including a commitment to increase funding. We encourage more local authorities to come forward. At this point, I pay tribute to the local authorities which have come forward. People have mentioned local authorities which have been so good, such as Hammersmith and Ealing—what was the other one?

Lord Kennedy of Southwark: There is Lewisham.

Baroness Williams of Trafford: Lewisham, yes. Because people were mentioning London, I thought that I would pick out some really good ones there. There is also Kent, of course, which should really be thanked for its efforts. Accompanying what local authorities are doing, we have substantially increased their levels of funding to provide care for these unaccompanied children. The daily rates have increased by more than 20% and we have made an additional £60,000 available for each region to co-ordinate its efforts.

The noble Lord, Lord Roberts, talked about the wider commitment regarding the 20,000 refugees from the Syrian region. We have had pledges from local authorities which will enable us to meet that commitment. So far, we have had nearly 3,000 people from that total of 20,000, so we fully expect to meet that commitment by 2020. The children accepted under Dublin III or the wider Immigration Act criteria are in addition to, not subtracted from, that 20,000. In addition, the UK supports a number of unaccompanied children who arrive directly in the UK through our resettlement schemes and the refugee family reunion visa route.

As well as bringing children to the UK, we are supporting partners across Europe. The UK has established a £10 million refugee children fund for Europe particularly to support the needs of vulnerable refugee and migrant children arriving in Europe. The fund includes targeted support to meet the specific needs of unaccompanied and separated children. That support includes identifying children in need, providing safe places for children at risk, data management to trace children to their families and services such as counselling and legal advice. However, our overall approach must focus further upstream to reduce the incentives for refugees to put their lives at risk by making perilous journeys to Europe. We are and always have been clear about our moral responsibility to assist those who are suffering, including by providing support in conflict regions, development work upstream and protection to those who need it. The Government are fully committed to providing a wide-reaching response to the refugee crisis that protects children.

Perhaps I may move on to some specific questions from noble Lords. There were quite a few, so I hope I can get through them. I start with the noble Baroness, Lady Prashar, who asked about speeding up the process.

I think I have gone through that but she also talked about guardianship, as did the noble Baroness, Lady Massey of Darwen. The Government believe that the addition of a guardian to the existing framework risks adding another level of unhelpful complexity to those arrangements. The statutory arrangements for unaccompanied asylum-seeking children are that they are looked after by local authorities, in keeping with the arrangements for all children in the UK.

A number of points were made by the noble Lord, Lord Dubs, and I think by the noble Lord, Lord Judd, about whether our children will be treated the same as children who might come into our care from other countries, and vice versa. The answer is absolutely yes. Once children are in our care, it is the responsibility of local authorities and, indeed, the state to ensure that they are looked after as if they were our own children. Unaccompanied asylum-seeking children are provided with a professional social worker and will also have an independent reviewing officer to oversee their care arrangements.

The noble Lord, Lord Dubs, asked about the latest figures from Calais. I think I provided them. There were more than 300 children. We are still working to transfer further children eligible to come to the UK. Over the next few weeks we expect several hundred more children to come to the UK. The noble Lords, Lord Judd and Lord McConnell, also asked that question.

The noble Lord, Lord Dubs, alluded to the fact that the Government committed to publishing a safeguarding strategy by 1 May 2017 which will set out details on how unaccompanied and refugee children arriving in the UK should be safeguarded. I am glad the noble Lord mentioned the strategy so that I can say something about it. It is being published today and will cover both Dublin and Dubs. Best interests will be part of evaluating our process. The noble Lord, Lord Dubs, is always very clear about the best interests of the child being met. Whether the UK will participate in Dublin following Brexit will be a key part of the considerations as part of the process of leaving the EU.

We are working to identify children in Italy and Greece. We must remember that for Dubs we are identifying children who entered the EU before 20 March. We do not want to incentivise children to take perilous journeys. That has been clear all along. We are working closely with the Greek authorities, the UNHCR, the International Organization for Migration and NGOs operating in Greece to identify children. We are doing all we can, but we must remember that we are working on Greek territory and can work only with Greece's full agreement. We have a full-time secondee based in Greece, plus a number of staff deployed as part of wider efforts on migration, and we have 58 experts under the EU-Turkey deal. We are working hard to overcome a number of challenges including varied lists of children; a number of separated rather than unaccompanied children; nationalities that would not normally qualify for refugee status; and the EU's relocation scheme that may relocate some of the children. In Italy, we have offered to help process cases, but so far we are waiting for agreement.

The noble Lord, Lord Cormack, talked about the delay in the Government's response to the report. I take this opportunity to apologise for the delay. The Government welcome the report and have fully considered it. I am sure noble Lords will agree that the visible progress we have made with transferring children to the UK demonstrates our commitment to the issue. We support the principle of family reunion, which the noble Lord, Lord Cormack, asked about, but the Government have no plans to change their policy on family reunion because there are several routes for families to be reunited without the need for children to travel to the UK illegally. The Government believe that the wrong kind of family reunion policy will lead to more children setting out unaccompanied on journeys that will put their lives at risk, and we do not want that. We have granted more than 22,000 visas under this policy over the past five years.

The noble Lord, Lord McConnell, asked about the wider refugee effort. We believe that the best way to help the majority of the many millions of displaced individuals across the globe is through practical and political action within the affected regions. As noble Lords will know, we have pledged £2.3 billion to the Syrian relief effort, which is double the amount originally pledged. Helping the people in Syria and the neighbouring countries in the region reduces the need for them to make perilous journeys to the EU. Our approach is to resettle the most vulnerable directly from the affected regions.

In terms of the Mediterranean response and Africa, the UK is providing £70 million to the Mediterranean migration crisis response, while nearly £9 million is allocated to the wider response in Africa and to research. The UK participates fully in vital life-saving and countermigration activities in the Mediterranean. To date, the UK assets of Operation Sophia and those operating in support of FRONTEX have saved more than 17,000 lives, I am very proud to say.

The noble Lord, Lord Soley, asked about best interests, which I dealt with in my response to the noble Lord, Lord Dubs. We absolutely think it is a primary consideration and we welcome EU efforts to ensure this principle is fully implemented in all member states. The Government also agree that children must be registered as quickly as possible in the first member state in which they arrive.

The noble Baroness, Lady Janke, asked about age assessments and support for over-18s. We use a number of determining factors for assessing age including credible and clear documentary evidence proving a claimed age, and physical appearance and demeanour, although I take the point about children being changed as they undergo extreme hardship and stress. The Merton-compliant age assessments which we use in this country are undertaken by a local authority and must be signed off by two social workers. As I explained to the House the other week, we do not use dental X-rays. The British Dental Association is opposed to using them, and has described them as "inaccurate, inappropriate and unethical". In terms of support for over-18s, in July the rates for care leavers rose by 33%.

The noble Lord, Lord Judd, talked about expedited family reunions and the process from Greece and Italy. We have obviously prioritised in France given

[Baroness Williams of Trafford]
that the situation was particularly difficult, but we are working closely with the Greek authorities, UNHCR, the International Organization for Migration and NGOs operating in Greece, as I said earlier. He also asked about access to Dublin and Dubs across the EU. The Dublin regulation obviously applies across the EU, while Dubs is part of our own national law and is not EU law. However, we continue to ensure that the Dublin process of transferring cases into and out of the UK works effectively, while for Section 67 of the Immigration Act, we are focusing on France, Italy and Greece. The Act is clear that it must be refugee children. In responding to the migration crisis, we must remember that not all migrants are refugees.

In terms of Jordan, Lebanon and Turkey, the Syrian vulnerable persons resettlement scheme is supporting vulnerable children. In the year ending June 2016, almost 50% of those included were children.

The noble Baroness, Lady Sheehan, talked about minors in the camp. Ahead of the camp clearance, the French authorities gave their assurance that any migrants, including children, would be accommodated and supported if they were willing to claim asylum in France, and more than 5,000 migrants took up that offer. She talked about our relationship with the French. We continue to work closely with them. On managing the Calais camp clearance, we are prioritising the assessment and transfer of the youngest, as she asked, and those at high risk of sexual exploitation, which is only right and proper. She talked about the UN refugee convention. As a signatory to the 1951 convention, the UK has a long tradition of providing protection to those who need it most, and we fully consider all asylum claims lodged in the UK.

The noble Lord, Lord Kennedy of Southwark, talked about unaccompanied children. Of course we recognise the plight of, and terrible experiences suffered by, some of those unaccompanied migrant children in Europe, and we continue to work with the Italians and the Greeks to identify them. The noble Lord made a really important point about working with member states and the EU to protect children and ensure that they do not go missing, and we note the European Commission's new proposal to lower the age of fingerprinting of children from 14 to six. The Government welcome that proposal in respect of safeguarding children.

I think that I have answered all the questions. If I have not, I will write to noble Lords. I thank noble Lords for the very good points that they have made in this debate and apologise for the late arrival of the response. As I said, I shall follow up in writing any points that I have not answered.

8.57 pm

Baroness Prashar: My Lords, I thank all Members who have participated in this debate. The strength of feeling about this issue is unanimous, it has been a powerful debate and I hope that it will be followed by proper action.

I thank the Minister for her response. She has attempted to answer the questions, but I must say that I am a little disappointed that the question of guardianship has been dismissed as adding another layer. Apart from dealing with the current crisis humanely and with compassion, it is extremely important that once children are here, they are properly supported. Otherwise, we are storing up problems for later. We need to consider that. She made another point that goes against the evidence that we received: family reunification does not act as a pull factor; it is the push factors that are at play.

Having said that, I thank the Minister for her response and all the Members of the House who participated in the debate.

Motion agreed.

Investigatory Powers Bill

Returned from the Commons

The Bill was returned from the Commons with reasons. The Commons reasons were ordered to be printed. (HL Bill 68)

House adjourned at 8.58 pm.