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PARLIAMENTARY DEBATES
(HANSARD)

# HOUSE OF LORDS

## OFFICIAL REPORT

*ORDER OF BUSINESS*

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

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# House of Lords

*Thursday 15 December 2016*

*11 am*

*Prayers—read by the Lord Bishop of Peterborough.*

## Affordable Housing

*Question*

*11.06 am*

*Asked by* ***Lord Kennedy of Southwark***

To ask Her Majesty's Government what assessment they have made of the impact of the availability of affordable housing on the ability of both private and public sector organisations to recruit and retain staff.

**Lord Kennedy of Southwark (Lab):** My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare an interest as a councillor of the London Borough of Lewisham and a vice-president of the Local Government Association.

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con):** My Lords, the Government do not do a formal assessment in this area but we recognise that the country's housing shortage can act as a barrier to employers recruiting the skills that they need.

**Lord Kennedy of Southwark:** My Lords, the problem is particularly stark in London, where a survey by Grant Thornton found that 84 % of businesses in the capital believe that London's housing costs and housing shortage pose a risk to its economic growth. When are the Government going to start working with the Mayor of London to build the thousands of council and housing association homes at true social rents that are needed and accept that the overreliance on the affordable rent model, at up to 80% of market rents, is just not working and is damaging businesses, jobs, prosperity and growth in London?

**Lord Bourne of Aberystwyth:** My Lords, the noble Lord will be aware that we have just reached a record settlement in London with a £3.15 billion package, which has been acknowledged by the Labour Mayor of London and widely welcomed, not least by the Labour mayor of Lewisham, Sir Steve Bullock. Therefore, I think the noble Lord will associate himself with that welcome.

**Baroness Eaton (Con):** Will the change of tenure flexibility and additional funding make a difference to the overall supply of affordable housing?

**Lord Bourne of Aberystwyth:** My Lords, my noble friend is right in the sense that it was announced in the Autumn Statement that we would provide funding across a range of tenures. This will enable housing associations and local authorities to step up their delivery of a range of housing to meet local needs.

**Lord Shipley (LD):** My Lords, does the Minister agree that there is a basic principle at stake here—namely, that a person in work on the living wage should be able to live reasonably close to where they work? Do the Government accept that principle?

**Lord Bourne of Aberystwyth:** My Lords, certainly it is right to say that people should be within easy reach of where they work. That informs our policy in relation to affordability. As the noble Lord will know, affordability in London is based on 65% of average property price; outside London the figure is 80%. I associate myself in general with what he says.

**Lord Tebbit (Con):** In view of the remarks from the Liberal Democrat Benches, has my noble friend had any representation from them or, indeed, from the Labour Benches about the efforts of the railwaymen to prevent people getting to work when they are living within a reasonable distance of London?

**Lord Bourne of Aberystwyth:** My Lords, my noble friend's point about accessibility to work, and how important that is, is right. With regard to the noble Lord's Question, I am keen to stress that it is important to be able to get to work; it is not just a question of the physical distance. I associate myself with the general principle of my noble friend's question—that we need a settlement in this dispute.

**Baroness Watkins of Tavistock (CB):** Have the Government considered exactly what the algorithm of 65% of market rent means when set against public health worker and teacher salaries in London? The fact that those salaries have been kept linked to a 1% increase for so long while rents have gone up so heavily makes the algorithm ludicrous in terms of rents for some of those workers.

**Lord Bourne of Aberystwyth:** My Lords, the noble Baroness is right to pose that question. Of course, as I have indicated, part of the answer is that we are looking at flexibility of tenure—it is not just with regard to purchase but also shared ownership and affordable rent. But the noble Baroness is right that there is a problem, and we are seeking to address it.

**Baroness McIntosh of Hudnall (Lab):** My Lords, can the Minister return to the original Question he was asked by my noble friend Lord Kennedy, to which I am not sure he quite gave an Answer? Will the package of funding that has gone to the Mayor of London, which he referred to—although some of us do not know the detail of that—include or be capable of including provision for rents not at the affordable level we have just heard discussed but at levels that people can actually afford?

**Lord Bourne of Aberystwyth:** My Lords, the noble Baroness addresses the issue of the money for London. I can only repeat that it is a record settlement—a point made by the Labour mayor. It addresses issues not just of affordable rent but of purchase for shared ownership. This is the best settlement there has ever been for housing in London, as was stated by the mayor.

**The Lord Bishop of St Albans:** My Lords, the lack of affordable housing in recruiting local workers is also felt acutely in many rural areas. Rural exemption sites have proved a good way of providing affordable housing but, with the uncertainty over the recent extension of right to buy, some landowners are reluctant to bring forward land. In light of this, will Her Majesty's Government publish clear guidelines on the potential for restrictive covenants on rural exemption sites to provide affordable housing in perpetuity for local workers?

**Lord Bourne of Aberystwyth:** My Lords, the right reverend Prelate is right to address the issue of rurality, which is a particular problem in terms of affordability. He is absolutely right that the problem is associated not merely with big urban centres. The Government are looking at this in the broad context of what to define as a rural area, and will bring forward proposals at some stage to seek to address the problem he just outlined.

**Lord Flight (Con):** My Lords, does the Minister accept that buy to let has been extremely important in the provision of additional accommodation, particularly in London and the south-east? Is he concerned that the increase in taxation on buy to let may reduce the number of units, relatively speaking?

**Lord Bourne of Aberystwyth:** My Lords, I do not agree with the noble Lord's last point. Measures were taken by the Treasury to raise finance for this. It is part of the mix, but the Treasury has to assess in the round how to address the deficit in the Exchequer, and one move was to target the taxation of those who were deemed able to afford it.

**Baroness Greengross (CB):** My Lords, has the Minister ever thought about whether underused government buildings are available? If they were made available for housing at low cost or for rent, it might ease some of the issues, particularly around London.

**Lord Bourne of Aberystwyth:** My Lords, the noble Baroness addresses an issue that was tackled to a degree in the Autumn Statement, when we announced £1.7 billion for pilots on surplus public sector land. We will take that forward; it is a considerable investment, but the noble Baroness is right to highlight the matter.

## Brexit: Higher Education

*Question*

*11.14 am*

*Asked by* ***Baroness Royall of Blaisdon***

To ask Her Majesty's Government what steps they intend to take to ensure that the higher education sector is represented in all of the Brexit negotiations.

**Baroness Goldie (Con):** My Lords, the Government have been clear that they want to create an environment in which the UK can continue to be a world leader in research, science and the tertiary education sector more broadly. The Department for Exiting the EU has already engaged with a number of higher education institutions and groups to ensure that their interests are represented in the Brexit negotiations. This engagement will continue over the next few months through a series of round tables, bilaterals and visits across the UK.

**Baroness Royall of Blaisdon (Lab):** My Lords, I declare my interest as Pro-Chancellor of the University of Bath. Will the Government ensure that one of their negotiating priorities is future access by our universities to EU programmes such as Horizon 2020, which is vital to our research excellence? However, in view of the significant decline in EU undergraduate applications for 2017 entry, my immediate concern is that the Government should make a clear statement as soon as possible on the conditions relating to EU nationals who wish to apply for courses beginning in 2018, including with regard to tuition fees and access to finance. Clearly that is vital to enable—

**Noble Lords:** Too long. Reading.

**Baroness Royall of Blaisdon:** I am sorry; it might be too long but I am going to ask my question anyway. It is vital to ensure effective planning for the next cycle for both students and universities. When will the Government make such a statement? And yes, my Lords, I was reading.

**Baroness Goldie:** I am accustomed to getting questions from your Lordships one at a time but the stereophonic effect is a little disconcerting. The noble Baroness raises a very important issue in relation to Horizon 2020. I very much hope that the recent announcement guaranteeing Horizon 2020 funding and the Prime Minister's announcement that we will be investing an extra £2 billion a year in research and development underline the Government's commitment to keeping the UK at the cutting edge of science and technology.

I think that, in among the commentary, I detected a question about university access and funding for EU students. The noble Baroness will be aware that to help provide certainty and respond to the sector's concerns, we confirmed that existing EU students and those starting courses in 2016-17 and 2017-18 will continue to be eligible for student loans and home fee status for the duration of their courses. Applications for 2018-19 do not open until September 2017, and we will ensure that students applying have information in advance of that date.

**Baroness Garden of Frognal (LD):** Following on from the Minister's earlier reply, can she say what assurances she has been able to offer in the discussions with universities regarding the uncertain position of EU nationals—staff and students—who form such a vital part of the success of our British universities?

**Baroness Goldie:** As the noble Baroness will be aware, we have made it very clear that we value highly the contribution of EU and international researchers and academic staff, and we will always welcome those with the skills, drive and expertise to make our nation better still. We have been clear that as a result of the referendum there has been no change in the rights and status of EU nationals who are already in the UK. I reassure the noble Baroness that this matter will of

course be at the forefront of our negotiations, but I cannot pre-empt those negotiations. She will understand that we wish to do everything we can to protect the position of those EU nationals. Equally, in the negotiations we would wish to have recognised the position of our UK nationals, of whom there are 1 million elsewhere in the EU.

**Lord Cormack (Con):** My Lords, once again I make the point that it would generate enormous good will if we could just tell those who are here that their position is not at risk. This would be a good prelude to negotiations and, by leading by example, I believe that we would achieve a very great deal.

**Baroness Goldie:** My noble friend makes a point that he has made before. I can simply respond by saying, as my colleagues have done on previous occasions, that these are important issues. I cannot pre-empt the negotiation detail but that will be at the forefront of our discussions.

**Lord Elystan-Morgan (CB):** Will the noble Baroness confirm that in these negotiations particular emphasis will be laid on the priceless worth of the Erasmus exchange scheme, which is one of the most distinguished projects that the United Kingdom has ever been involved in?

**Baroness Goldie:** The noble Lord makes an important point. Erasmus is a very valuable programme and it has enabled more than 200,000 UK students and 20,000 staff to spend time abroad, which has been of great benefit to them as individuals and to the United Kingdom. There is no change for those who are currently participating in or about to start Erasmus+. As the noble Lord will be aware, Erasmus+ offers a range of programmes to countries across Europe and beyond.

**Baroness Young of Old Scone (Lab):** Could the Minister confirm whether the early indications show that the reassurances the Government have given on student applications remaining under the same conditions in the meantime are working? The evidence from universities across the UK is that applications from European students are declining rapidly. Will the Minister tell us whether the Government have a plan B?

**Baroness Goldie:** The Government have many plans, and the full detail of these exciting proposals will become evident in due course. I am neither privy to what they are at the moment, nor can I disclose any further information. What I can tell the noble Baroness is that EU students are very important. She will be aware that they make up about 5% of the United Kingdom student population. We are very anxious to give reassurances and to try to ensure in the negotiations that we preserve that important component. However, the universities of the United Kingdom have a far-reaching global influence and that also has to be acknowledged and recognised.

**Lord Forsyth of Drumlean (Con):** My Lords, will my noble friend take this opportunity to condemn those who are indulging in scaremongering about Brexit? For example, could she point out that the Erasmus programme has more than 37 countries participating in it and that there are only 27 members of the European Union, apart from us? Is it not time that people started to be constructive and look towards making Britain's future a successful one?

**Baroness Goldie:** As ever, my noble friend makes a very pertinent point—in a characteristically pungent manner. The university sector in the United Kingdom is a world leader in research and academia, and continues to be home to the best universities in the world. That is certainly something that we should trumpet and of which we should be proud. I remind the House that, in giving evidence to the Education Select Committee, Universities UK said that,

"with the right support and investment from Government—both now and in the future—universities can thrive outside the European Union".

**Lord Stevenson of Balmacara (Lab):** My Lords, can the Minister name one other sector of the economy which has better growth potential, brings in more foreign earnings, relies more on working with co-workers across Europe and will lose more in terms of research and student fees funding if it is not present at the Brexit negotiations?

**Baroness Goldie:** The noble Lord will be aware that a Cabinet committee has been constructed to deal with the Brexit negotiations, and that committee is charged with engaging with all departments. The Minister, my right honourable friend Jo Johnson, is also engaging on this. He has set up a forum with senior representatives of UK research and innovation organisations to discuss opportunities and issues arising from the UK's exit from the European Union.

## Criminal Justice System: Diversity

*Question*

*11.23 am*

*Asked by* ***Lord Patel of Bradford***

To ask Her Majesty's Government what assessment they have made of the review by David Lammy MP of racial bias and BAME representation in the criminal justice system.

**The Advocate-General for Scotland (Lord Keen of Elie) (Con):** My Lords, the Government welcome the Lammy review's emerging findings and continue to support it. David Lammy has indicated a number of areas he wants to examine in more detail in the second phase of the review. We look forward to responding to the final report, due in the summer of 2017.

**Lord Patel of Bradford (Lab):** My Lords, I thank the Minister for that Answer. I want to give the House some early figures that we already know. The total number of young people held in secure institutions has halved since 2005, which is good. However, over the past 10 years, the number of young black prisoners has risen by 67% and the number of young Asian prisoners by 75%, meaning that one in four prisoners is black or Asian. In contrast, the number of white detainees has dropped from 75% to 60%. Does the

[Lord Patel of Bradford]
Minister agree that these are shocking figures and that we need a vital step change in our policies for and treatment of young black people in the criminal justice system?

**Lord Keen of Elie:** There is no doubt that a series of complex reasons lie behind the figures that the noble Lord referred to and that custody rates among black, Asian and minority-ethnic males are materially higher than they are in respect of white males. At present and so far in his review, David Lammy has provided research findings rather than final conclusions. He has of course said that he is concerned by those findings but that the issue needs to be explored further before firm conclusions can be drawn.

**Lord Marks of Henley-on-Thames (LD):** My Lords, the Lammy review raises a number of questions. Will the Government continue after the review to monitor disproportionate outcomes in the criminal justice system using the relative rate index method of analysis pioneered in the UK in the Lammy review? Secondly, does not the finding that black offenders are disproportionately likely to receive custodial sentences highlight the urgent need for greater ethnic diversity among the judiciary, which the Lammy review is now also to consider?

**Lord Keen of Elie:** We are of course committed to greater diversity within the judiciary, and are endeavouring to take that forward. With regard to the particular statistics that the noble Lord referred to, there are a variety of complex reasons why these figures have emerged. For example, the rate at which black, Asian and minority-ethnic men plead not guilty at Crown Court and go to trial is distinct from those who plead at an earlier stage and perhaps receive a lesser sentence. The Government are not committed to any particular means of analysing the relevant statistics at this time.

**Lord Beecham (Lab):** My Lords, in addition to the measures that the Minister and the noble Lord, Lord Marks, referred to, will the Government look at increasing the number of prison officers, and magistrates appointed at the lower levels, who are recruited from BAME communities to participate in the administration of justice?

**Lord Keen of Elie:** We are clearly concerned that there should be a suitable element of diversity among magistrates and the other parts of the judiciary, and are committed to that. As the noble Lord will be aware, we are also committed to materially increasing the number of prison officers within our estate over the forthcoming year. A figure of 2,500 has already been referred to. That recruitment process will no doubt seek to engage with the issue of ethnic diversity.

**Lord Laming (CB):** Will the Minister look at the number of black young people who are in care or have been in care who drift into the criminal justice system without any of the necessary support to prevent that happening?

**Lord Keen of Elie:** We are extremely concerned about the youth offender institutions and are taking forward the proposals noted by Charlie Taylor's review with regard to introducing further education and training into that regime.

**Lord Foulkes of Cumnock (Lab):** It is not just in the justice system that black and minority-ethnic people are discriminated against. Is the Minister aware that, at a recent meeting of a Select Committee, the chairman of the Charity Commission had to admit that there are no black and ethnic-minority people on the Charity Commission, which is a disgrace? On top of that, there are no members from the whole of the north of England. The Charity Commission is an elite body run by Mr Shawcross and his cronies and something ought to be done about it. Will he have a word with his colleagues to see what can be done?

**Lord Keen of Elie:** I am not in a position to comment on the constitution of the Charity Commission and I am obliged for the noble Lord's suggestion that I should have a look at it. Clearly, I will. Beyond that, I am not able to comment.

**Lord Paddick (LD):** My Lords, will the noble and learned Lord not agree that the disproportionate number of black and minority-ethnic young people stopped and searched by the police is a contributory factor to higher rates of conviction and incarceration?

**Lord Keen of Elie:** It would contribute to those rates only if the police found something incriminating.

## Rainsbrook Secure Training Centre

*Question*

*11.29 am*

*Asked by* ***Lord Beecham***

To ask Her Majesty's Government whether they intend to seek an alternative contractor to take over the management of Rainsbrook Secure Training Centre, in the light of the recent inspection finding that the effectiveness of leaders and managers is inadequate.

**The Advocate-General for Scotland (Lord Keen of Elie) (Con):** My Lords, the recent Ofsted-led inspection recognised the challenges that the contractor, MTCnovo, has faced since taking over at Rainsbrook earlier this year. We are working with MTCnovo to put a plan in place to make improvements. This includes the imminent appointment of a new director. We are not seeking an alternative contractor for Rainsbrook.

**Lord Beecham (Lab):** My Lords, in October 2015 I tabled a Written Question about the proposal then to replace the abysmally failing G4S in the running of this centre with a US contractor with a controversial record and no experience of running residential establishments for vulnerable children. The then Minister, the noble Lord, Lord Faulks, gave a somewhat bland reply. Ofsted has now produced a report covering eight aspects of the centre's working, one of which was found to be good, five required improvement and

two, including the effectiveness of leaders and managers, inadequate. Among the disturbing revelations, the report states that: reported levels of violence remain high, the use of force and restraint continues to be high; there are shortages of staff and an urgent need for the staffing situation to improve. How long are the Government willing to wait before taking action to ensure that this centre is managed effectively and safely?

**Lord Keen of Elie:** The Government are taking action to ensure that this centre and other centres are managed effectively and safely. In quoting from the report, it might be appropriate to look at some of the more positive observations made by Ofsted with regard to MTCnovo. As the report points out, and as the noble Lord is aware, the company took over this establishment from G4S in May of this year, but as Ofsted observed, the,

"transfer arrangements were poor and problematic … the inherited staffing arrangements led to too few staff transferring to the new provider".

However, the new provider has,

"responded with speed and purpose to recruit more staff as a priority … Many staff and managers are demonstrating commitment and fortitude during this period of complex change".

On the matter of safety, Ofsted observed that,

"the vast majority of young people report that they feel safe. In the survey completed for the inspection … 93% reported that they felt safe",

in the institution.

**Lord Marks of Henley-on-Thames (LD):** My Lords, it has been stated that Rainsbrook had a new provider as recently as May this year. However, the transfer appears to have been bedevilled by poor arrangements for continuity of staffing and low staff levels, as was identified in the recent inspection. As has been said, high levels of violence and indeed bad behaviour are going unchecked because there are too few staff. Can the noble and learned Lord tell us what lessons the Government have learned from this inspection report about future arrangements for changes of provider?

**Lord Keen of Elie:** It is apparent that perhaps we have to apply more care to the transfer arrangements for institutions of this kind. Indeed, it has been proposed that the original transfer plan for Rainsbrook, which was to complete in November 2016, will probably extend to March 2017 in order to address these issues.

**Lord Foulkes of Cumnock (Lab):** My Lords, has the House noticed that the Questions put to the Government Front Bench today have been answered by one Member from Wales and two from Scotland, while from the Opposition Front Bench we have had one Scot, and from the Back Benches a number of Scots, notwithstanding the excellent contribution by the noble Lord, Lord Forsyth? Does the Minister agree that this shows the value to this House of a whole United Kingdom and that we should redouble our efforts to fight the separatists who would split us asunder?

**Lord Keen of Elie:** I concur with the noble Lord's observations and would observe that this Government are committed to ethnic diversity.

**Lord West of Spithead (Lab):** My Lords, the last two Questions have been looking at incarceration. The Minister may be aware that at this time 77 years ago the "Graf Spee" put itself voluntarily into incarceration in Montevideo because it had been outfaced by three British cruisers—three of the 420 ships we had in the Royal Navy at that time. No doubt the noble and learned Lord will wish to congratulate the small handful of survivors of that very famous victory.

**Lord Keen of Elie:** Absolutely.

## Health and Social Care

*Motion to Take Note*

*11.34 am*

*Moved by* ***Lord Harris of Haringey***

That this House takes note of the case for effective service user representation in health and social care, and of the case for enhancing the independence and capacity of Healthwatch England and of local Healthwatch groups.

**Lord Harris of Haringey (Lab):** My Lords, I am sure the whole House will want to begin by placing on record again its condolences to the noble Lord, Lord Prior of Brampton, who would under other circumstances have been replying to the debate. We are sorry he is not here because of both the circumstances and what he would have brought to the debate as a former chair of the CQC.

I begin by declaring some personal history. For 12 years I was director of the Association of Community Health Councils for England and Wales, which was then the statutory body representing the interests of NHS users at national level and supported a network of 200 or more member community health councils. That is what I bring to the debate.

I apologise in advance if my remarks are coloured by that experience, but it is good to start by considering why patient involvement matters. It begins with the interaction between patients and clinicians, or service users and those who are caring for them. The Eurobarometer qualitative study on patient involvement, produced by the European Commission in 2012, summarised this well, saying that better communication is the central idea of patient involvement:

"For patients, this meant practitioners explaining to them the diagnosis and treatment. For practitioners, it meant patients describing symptoms and keeping them updated".

The objective is a partnership between the clinician and the patient. There is evidence that where such partnerships exist they improve the outcomes of treatment because the patient is more committed to the treatment proposed and understands it better.

Patient involvement is also critical to service design and organisation. Those responsible for a service often have little understanding of what it is like to use the service in question—although, I have to say, they think they do. The reality is different. A senior clinician or senior manager inevitably ends up being treated differently if they suddenly become a service user.

[Lord Harris of Haringey]

At the risk of boring your Lordships, I mention a personal anecdote, which one or two may have heard before. This point of not knowing what the service is really like was brought home to me rather forcefully almost 30 years ago. After speaking at a conference, I began to feel increasingly unwell. To cut a long story short, shortly afterwards I found myself at my local accident and emergency, being prodded by a junior doctor, who was clearly completely baffled—as, indeed was I—as to what might be wrong with me. He then did what a junior doctor always does under those circumstances: he follows the protocol, which is to say, "So tell me, Mr Harris, what do you do for a living?". I know that I should under those circumstances have lied in the interest of getting the true personal experience, but what I actually did was say, "Well, in fact, I'm the director of the Association of Community Health Councils". The junior doctor then went behind the curtain. Of course, it is a fallacy that you cannot hear what is going on on the other side of that curtain. I could hear him phoning the consultant: "I think you should come down, sir. He says he's the director of the Association of Community Health Councils".

That, of course, is the experience when any senior clinician or senior manager is taken into a casualty department or tries to use a service. The reality is that services are better if they reflect the needs of the users of that service, which is why putting patients first at the centre of the NHS has been the mantra underpinning every government statement on the NHS since it was founded in 1948. The noble Lord, Lord Lansley, who is about to speak, will recall using very similar words during his time as Secretary of State. Incidentally, on the issue of personal experience, I seem to recall seeing all sorts of statements on what various clinicians would like to do to the noble Lord if they ever found him in their care, but fortunately that never happened during his period of brief notoriety in that role.

The most recent iteration of this mantra was probably NHS England's five-year forward view, which advocated involving communities and citizens,

"directly in decisions about the future of health and care services".

Since 1974, successive Governments have supported different models of involving the public in shaping services and of representing the voice of service users. First there were community health councils, until they were abolished in 2002 and replaced by patient and public involvement forums, which were in turn replaced by Local Involvements Networks—LINks—in 2008. They in turn bit the dust with the arrival of Healthwatch as part of the Health and Social Care Act 2012.

That Act had a tortuous passage through Parliament. Somewhere along the way, the model intended for Healthwatch at local level was changed. Those changes were given very little parliamentary scrutiny despite my personal best efforts, when I warned that the late changes to the Bill risked weakening the new bodies by starving them of resources and laying them open to conflicts of interest with local councils, which were to be their paymasters. The arrangements for Healthwatch England would inhibit its independence and effectiveness.

I am sorry to say that the concerns I expressed then have been borne out. Healthwatch England remains a sub-committee of a regulator, the CQC, a body that is already overstretched and to which requests for action and, from time to time, criticism may be directed by Healthwatch England or local Healthwatch. For Healthwatch England to be located there compromises its independence and must limit its scope to highlight when the CQC is not being as effective as it should be. Recent changes appear to have made Healthwatch England's relationship with the CQC even more subservient, with changes to the chair and chief executive being used as an opportunity to make the role even more subordinate to the CQC.

I am grateful to have received in advance of this debate a letter from David Behan, chief executive of CQC, seeking to reassure me of the independence of Healthwatch England from the CQC, but in it he records:

"The National Director for HWE will be line-managed and accountable to myself as the CQC Chief Executive"—

apparently a new distinction. He further states:

"The HWE Chair is already accountable to the CQC Chair",

and that the strategy of Healthwatch England has to be submitted to the CQC board for endorsement. That hardly sounds like independence.

Healthwatch England is reasonably generously resourced for what it does, with a budget of £4.5 million, but in 2015-16 it could not spend that and used only £3.7 million, a 17.3% underspend. A very small proportion of that goes on developing and supporting local Healthwatch. Nor does local Healthwatch feel that Healthwatch England is there for them and they have little scope to influence it or its work.

Healthwatch England also seems to fail in capturing and articulating the views and concerns of local groups, so much so that a private company, Glenstall IT, has stepped into the void by collating reports and publications of local Healthwatch groups, something you might have expected Healthwatch England to do, and selling the digest back to 2,000 health and social care professionals. The fact that Healthwatch England is not doing the job means that a private company has come in to sell it back to the people funding the system.

What about the resourcing of local Healthwatch groups? In 2013-14, the Department of Health passed over £43.5 million to be included in the local authority block grant to fund local Healthwatch organisations, but the total funding given to local Healthwatch groups in that year amounted to only £33.5 million—£10 million had disappeared along the way. That is before taking into account the cost of the cumbersome arrangements for competitive tendering and commissioning through third parties imposed by those late changes to the Health and Social Care Bill.

While there was £33.5 million in 2013-14, that fell to £31.8 million in 2015-16 and again to £29.9 million in this financial year—a third less in cash terms than the DoH thought was necessary and had handed over three years earlier. I warned the Department of Health that this would happen and that other pressures on local authority budgets would produce this squeeze, yet it acquiesced in allowing the money to go across unring-fenced. Was this a deliberate attempt to hobble patient representation and independent local scrutiny?

There is a big variation in the funding of individual local Healthwatch groups. Bristol provides £400,000, while Manchester only £80,000. Are the needs of the citizens of Manchester for effective patient representation one-fifth of those of the residents of Bristol, whose population is 50,000 less? Some areas have seen big cuts year on year: Barnsley down 25%; Blackpool down 50%; Bradford down 25%; Ealing down 25%; Harrow down 40%; Hounslow down 50%; Leicestershire down 30%. I could go on.

Some of the reductions are of course a consequence of the enormous continuing pressure on local council finances, but how much is it a consequence of local Healthwatch having a role in monitoring local social care provision—the responsibility of the same local authority that fixes their budget and may perhaps not like the criticism that an effective local Healthwatch group might occasionally have to make? Local authorities have a conflict of interest here and I am told of a number of local Healthwatch areas where this has had a deadening effect, particularly on the willingness of paid staff members to criticise those who provide their monthly paycheques.

One example is of a 30% reduction in funding imposed on Oxfordshire Healthwatch by Oxfordshire County Council, which seemed to follow, as night follows day, from criticisms that the local Healthwatch had made of the county council record on social care—precisely the job that Healthwatch was created to do. As one of its board members tells me, "The cut inflicted on us drove us to relinquish our strategically located premises close to the CCG headquarters and move to the cheapest possible accommodation on the edge of a farmyard in remote countryside. We have had to cut back on project work, assistance for voluntary groups and a range of community engagement activities. All this arose because our funding was not independent and ring-fenced, and was routed through a body we had criticised".

In Manchester, the city council swallowed most of the Healthwatch budget, leaving what has been described to me as, "a puny organisation. They are not very effective and they don't relate to any of the other patient organisations". As the King's Fund put it in its review carried out for the Department of Health:

> "Local Healthwatch organisations are very small in comparison to the potential scope of their statutory activities, and the population and services they cover".

The effectiveness of the input that local Healthwatch can provide is critical at present, as the sustainability and transformation plan process rolls forward throughout the country. According to NHS England, this process is supposed to be about building and strengthening local relationships, and service users should be at the heart of the process.

How has this worked out? Frankly, it is very variable. In some areas—Sheffield, Staffordshire and Bath—there is good involvement, but not in others. In Berkshire, Devon and County Durham, local Healthwatch was neither involved nor consulted. In Liverpool, local Healthwatch complains that the process has not been open or transparent. Its chair says, "We have not yet had the opportunity to review or scrutinise the detail of the plan". In the East Riding, there has been no involvement. The MP for Tottenham had to ask a Parliamentary Question to find out who was consulted during the development of the STP for North Central London. None of the local Healthwatch groups was part of the transformation board. As one local Healthwatch rep from elsewhere in the country put it, "The STP thing is a nightmare. They think we patient reps are just a box to tick and the patronising attitude from some is breathtaking".

Local Healthwatch also has the important power to enter and view services, but the King's Fund study for the Department of Health found that this power was used in a wide variety of ways, with some of the case study sites doing none because they were unclear about what would justify an enter and view visit. Many local Healthwatch groups only carried out visits on a prearranged basis. Some saw it as a routine part of their intelligence gathering, while others felt it was only justified when "serious or multiple concerns are raised". Clearly, there is no guidance and local Healthwatch organisations are left time and again to reinvent their own wheels.

As one local Healthwatch activist put it to me, "Too many of us do little E&V. What they do is announced and done by employed staff who have a vested interest in not rocking the boat", because their salaries are paid by those they are inspecting. All this comes at a time, as the CQC admitted recently to the Health Committee, when it is struggling to manage inspections of establishments every other year. Local Healthwatch could provide an enormous resource to supplement and inform inspections by the CQC, but its potential enthusiasm is simply being stifled.

None of this should be taken to imply that the work done by hundreds, maybe thousands, of local Healthwatch volunteers is not valuable. I am aware, of course, of the many dedicated staff supporting them, but the reality is that the Department of Health has set up a deliberately flawed system. In the name of localism there is allowed to be an enormous variation in how local Healthwatch organisations structure their governance, as highlighted in the King's Fund review. As a result, there is a lack of clarity in who speaks for local service users. Is it the board, is it its members, is it the host organisation, is it the staff or is it the volunteers? As a result, the authority of that voice is undermined. The King's Fund criticised the lack of transparency of local Healthwatch and, as one volunteer put it, its structure and governance should follow the same pattern everywhere and not be determined on the whim of a local authority or a private host company.

It could be so different. As the King's Fund review said:

> "Some of the challenges that local Healthwatch face could be addressed through greater support, advice and shared learning on how to operate effectively".

The tragedy is that Healthwatch has enormous potential. It could be a tremendous force for good in enabling health and social care services to be much more effective and user-centred. It should not be a box-ticking exercise or provide a woolly voice, but provide effective scrutiny with real influence and a real ability to involve the public. That is what the vast majority of those engaged in Healthwatch activities want to do but, alas, their ability to fulfil that role has been hampered by the

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cack-handed way the system was established, by the department's failure to prevent the erosion of funds and, just possibly, by the fact that too many local and national service managers would prefer a quiet life, without having to respond to an effective user voice. I beg to move.

*11.51 am*

**Lord Lansley (Con):** My Lords, it is a privilege to follow the noble Lord, Lord Harris, and I pay tribute to him for his commitment over many years to patient and public involvement in health and care. The House is grateful to him for once more bringing these issues forward so that we can debate them, and I am glad to contribute. I join with him, as I know all noble Lords will, in sending our condolences to my noble friend Lord Prior of Brampton, whose father was a most-esteemed Member of both this House and another place and will be much missed.

The noble Lord is quite right about visiting hospitals. As it happens, I think that I visited the great majority of hospitals in this country in the course of being shadow Secretary of State and Secretary of State, but I was admitted to hospitals only when I was the shadow Secretary of State. If the noble Lord thinks that being the director of the Association of Community Health Councils sends a junior doctor into a flap, he should see what happens when the shadow Secretary of State arrives.

I am in completely the same place as the noble Lord on what is at the heart of patient involvement in healthcare. It is the principle of shared decision-making: "No decision about me without me", as I enunciated it. That was not my original phrase but I adopted it. That should be a driving sentiment and form a cultural shift in how healthcare is delivered in this country. It is often still honoured in the breach rather than the reality but there are mechanisms to make it happen. They are not really structural; they are fundamentally clinical and cultural, and provide for shared decision-making not just in clinical guidance.

I remember, not so long ago, a very promising programme for preparing shared decision-making. The first that I saw was about prostate cancer; those who are familiar with what prostate cancer is, and what it means, will understand that the decisions made about treatment are very personal and important. They are not derived simply from what your clinician tells you should happen but are very much about one's personal view. We have seen in quite recent scientific evidence that the clinical direction might often take people in a way which they would find less than immediately helpful, from a personal point of view.

Patients having the opportunity to exercise the choices that emerge from shared decision-making—clinical choices and choices on treatment and service provision—is at the heart of it. However, the debate about Healthwatch is not about shared decision-making for patients, and we should not confuse the two. There is nothing in the role of Healthwatch which should take away, or in any way substitute for, the central responsibility of any healthcare or care service provider to involve the public in scrutiny and engagement when designing their own activity. There is nothing which should stop them from ensuring that individual patients and care users are involved in their own care and the decisions relating to it.

In my view, Healthwatch is not about that. It may well look at whether people are doing that and comment upon it, but the responsibility lies with the providers of services, not with some external and independent regulatory function. The noble Lord said that it is a deliberately flawed system. I do not agree that it is flawed nor, certainly, that it is in any sense deliberate. The essence of the system is that there are providers of services, those who commission those services and those who regulate them. As we have seen in many other areas of public life, particularly where the Government are involved, it is in the regulatory function that we are looking for independence and scrutiny and, among the regulatory functions, one that is about being the champion for the consumer, the service user. That is what Healthwatch is about: providing within the independent process of regulation a voice that is dedicated to the consumer. It is not without precedent in other areas. For example, Postwatch, which I am sure many noble Lords will remember, was part of the Postcomm regulator but was also an independent consumer champion on behalf of users of postal services. In a sense, that was exactly the model that was to be used and that the Health and Social Care Act implemented for Healthwatch.

The noble Lord, Lord Harris, rather swiftly glossed over the fact that community health councils were abolished under the last Labour Government. He recited it as if one was followed by another which was followed by another, so there were patient and public involvement forums, then there were LINks and then there was Healthwatch. Let me make it to clear to him—I know he would, in truth, acknowledge this—that my experience of community health councils in my constituency was positive. Many of us were aghast in the early part of the Labour Government at their plan to abolish them. We knew perfectly well why they did it: it was because they said things that were inconvenient and unhelpful. Patient and public involvement forums then led to a significant deterioration in the voluntary effort. They virtually saw the paid staff giving executive support to community health councils abolished and the impact lessened. Under LINks, the impact lessened still more and even more of the immensely valuable volunteer effort that went into PPI was lost as a consequence.

Frankly, we did not create Healthwatch on the basis that we were simply rebadging something that had come before. We were setting out to recreate the independence and impact that we had seen in the best community health councils in the past, and I think that is the measure by which we should judge it. Last year's King's Fund report indicated that many in local Healthwatch think that they have made progress. I think Anna Bradley was an excellent chair and that she would probably say that within the structure she was working in, she made progress, but there is still a long way to go. With Imelda Redmond, the new chief executive and new chair in due course, we need Healthwatch England to assert itself much more. My view is very straightforward: it is independent. It is erroneous to suppose that Healthwatch England's position

as part of the Care Quality Commission is not independent. The Care Quality Commission is independent of the commissioners and providers of services, and it is the job of CQC and Healthwatch England to be external, independent, rigorous scrutineers of the performance, and sometimes the design, of the services that are provided to users. Within that, Healthwatch England should use its place within CQC to leverage the power of CQC, which is undeniably great inside the system, to be active on behalf of consumers—patients and care users—in giving them access to the services they want and, especially, to the kind of shared decision-making which is at the heart of this debate.

In my view, it is evident that at the moment the CQC does not see Healthwatch England as giving it that sense of what consumers want for priority-setting and helping to determine CQC's activity and priorities. Equally, CQC should not be seen, to the extent perhaps that it sometimes is, as trying to put Healthwatch England into any kind of box and saying, "Your job is PPI, and you should not be impacting on what our priority decisions are in relation to scrutinising the service and reporting on it". That is where it should be, as part of the CQC's role is about bringing to bear the powers of the overall organisation. But remember that local Healthwatch organisations and Healthwatch England have their own powers, including powers of entry and scrutiny which were not available to their predecessor organisations and not there before. They should use them, although they are not a substitute for the overview and scrutiny of local authorities or for the democratic accountability of those authorities.

The solution reached in 2012 was won in a coalition Government, where the involvement of local government was very much at the heart of the Liberal Democrat participation in decision-making on that Bill. That is why local Healthwatch organisations are, in part, where they are in relation to local government. But we need now to recognise that as you progress inevitably sometimes people lose sight of the powers they have got, the potential they have and the structure that is available. It is not a flawed structure; it is viable structure, but it depends on those who participate in it using their powers to the full and, in particular and most significantly, on local authorities and the CQC recognising that they must use, amplify and assist the voice for the patient and the care user represented by Healthwatch nationally and locally, and not marginalise it.

*12.02 pm*

**Baroness Pitkeathley (Lab):** My Lords, there are very few people who know as much about patient participation as my noble friend Lord Harris, so it is entirely fitting that he should lead this debate. I join others in sending condolences to the noble Lord, Lord Prior, and regret that he is not here—by which I mean no disrespect to the noble Baroness, Lady Chisholm, who I know will have more than an adequate response for this debate.

I have never heard anyone say that patient participation should not be encouraged or that it is in any way undesirable. On the contrary, I have heard the praises of patient participation sung over 40 years or so. Sadly though, its history is not marvellous and we have not made as much progress towards the reality of "nothing about me without me" as the rhetoric might suggest. But being critical of the progress of patient participation as a policy does not mean being critical of individual transactions and relationships between NHS staff and patients. On the contrary, I should point out that my own experience as a patient has always been good. Although I was, at one point in my life, in hospital for six months, I have no complaint to make on that score. In the whole of that time nothing was ever done to me—no procedure was started or undertaken with my consent—without asking my opinion and acting on my opinion when I gave it. Your Lordships might point out that there are not perhaps many Baronesses with an interest in healthcare on NHS public wards, but I always perceived the same care and respect being given to my fellow patients, however frail they were and however poor their English was.

But putting patients first in policy terms is easy to say and hard to do, as the various attempts over the last 20 years have shown. As the King's Fund has observed, despite pockets of good practice, there has been a lack of systematic progress, and it suggests three reasons for this. The first is a lack of clarity about what involving patients and people in healthcare actually means, so people and staff are confused about what is expected. The second is the power issue. The involvement of patients challenges orthodoxies, vested interests and established ways of doing things. If you share power with patients, which everyone says they want to do, it means that someone—the doctor, the nurse, the administrator—has to give up a bit of their power, and that is hard for them to do. The third reason the King's Fund opposes this is that it may have been a goal but was never a priority across the healthcare system.

It is important to recognise that patient and public viewpoints and opinions can make a genuine contribution to debate in shaping national policy and enhancing accountability. It can also help you to manage resources better, as what patients actually want may be less than what professionals imagine they want. The previous attempts to set up effective means of harnessing patient and public views have been set out by my noble friend. We all remember CHCs. I do not think PALS has been mentioned thus far. LINks, forums and the Commission for Patient and Public Involvement in Health have all bitten the dust amid a storm of criticism that they were not representative, too bureaucratic, not good value for money and so on. Many would argue that they were never given either adequate time or resources to prove themselves.

I am on record as saying I was not a fan of the Health and Social Care Act 2012, which in my view has had a deleterious effect on health and social care because it put in place a disastrous and unnecessary reorganisation even though a pledge had been given when the Government came to office that no such reorganisation would take place, and which distracted the hardworking staff of the NHS at a critical time. However, in spite of the late changes to the Bill that my noble friend pointed out, the setting up of Healthwatch seemed like a ray of hope, a concerted attempt to

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bring the voice of the patient and consumer into planning and a means of feeding back the actual patient experience.

The vision for Healthwatch is inspirational. It seeks a society in which people's health and social care needs are heard, understood and met so that people can shape their own care, influence its delivery and hold services to account. I commend the work of its first chair and CEO, together with its board, in setting up the organisation and beginning to establish public trust. The combination of local organisations, fully linked into local concerns, with a national body to influence public policy could provide the best chance that we have yet seen to establish effective service-user representation. The current state of health and social care can leave no one in your Lordships' House in any doubt of how much that is needed.

As we have heard, though, there are two big issues facing Healthwatch. First, it is only as strong as the performance of its local organisations. Funding at local and national level is being squeezed, with about half of local bodies reporting reductions, and in the current year the funding is one-third less than the £44 million originally allocated to local Healthwatch organisations for them to carry out their statutory duties. We should remember that their complaints work is just that—a statutory duty. Many local Healthwatch organisations are already reporting that the situation next year will be even more difficult.

It is now widely accepted that a major problem facing health and social care is the need for service redesign—the integration of budgets across health and social care, for example, and more rationalisation of hospital services. Unless we involve patients and families in this debate, we will waste time and money on dealing with the resistances that such changes inevitabily bring about, so it would be a wise investment to support local Healthwatch. That is clearly not happening, as my noble friend has reminded us.

The second major issue facing Healthwatch, as we have heard, is about independence. Healthwatch was conceived as independent at both local and national level. The trust of the public depends on that independence. The closeness to the CQC—its subordination, some would call it—has compromised this, but there is some feeling too that the Government are too sensitive to criticism, and the decision not to renew the contract of the outspoken first chair is perhaps evidence of that. We have heard that this defensiveness is widespread at local level too.

This has been an all-too-frequent result of previous attempts to set up effective patient representation, from CHCs through to the Commission for Patient and Public Involvement in Health and the other organisations we have heard about. What happens is that Governments commit to effective patient representation with a big fanfare. Then, the body starts to act effectively, asking for change and giving patient feedback. Then the Government of the day say, "Hang on a minute, we did not want that kind of feedback".

If they are really committed to patient and public involvement, governments at local and national level must stop being defensive, be confident about the positive role that the voice of patients can play and use the feedback received to improve services, which is surely the aim not only of patient representatives but of the Government themselves. I hope that the Minister will assure the House that that is indeed the aim of this Government and that they remain committed to a strong, vibrant Healthwatch at both local and national level.

I could not be more delighted by the appointment of Imelda Redmond as the new CEO of Healthwatch nationally, and wish her well. Let us please learn from the history of patient and public involvement, and not make the same mistakes again.

*12.10 pm*

**Baroness Brinton (LD):** My Lords, I, too, thank the noble Lord, Lord Harris of Haringey, for instigating this important debate and add my condolences to Lord Prior's family: his voice will be sadly missed, not just in this House but in the whole of the health and social care sector, to which he devoted much of his political life.

As a patient and service user with rheumatoid arthritis, a life-limiting condition, I have extensive experience of the NHS, but also of the charitable sector, which I suspect is not often mentioned in patient engagement. In particular, I put on record my thanks to the National Rheumatoid Arthritis Society for its advocacy and support, Arthritis Care, which, before I was in my wheelchair, kept me out of one with tai chi for people with disabilities, and Arthritis Research UK, for its medical and practical daily living research.

Over the years, the NHS has launched a number of initiatives to improve patient engagement, and the words are very fine. It is interesting to note from the 2015 report from the think tank Reform entitled *Expert Patients* that the NHS constitution was established to drive greater patient engagement yet, according to one survey, 76% of patients had not heard of the constitution before receiving any treatment and only just over half were aware of their right to choice of NHS services. According to a survey three years ago, nearly 100% of patients wanted to access their electronic records but 67% did not know where to start to get them.

The 2002 Wanless review of health spending projected that higher levels of public engagement could both improve health outcomes and reduce cost—very important in our society 15 years on, with a significantly ageing population and real pressures on our health and social care sector. Under Wanless's fully engaged scenario—your Lordships will remember that he had three scenarios about how seriously the NHS could implement engagement—a key component of healthcare expenditure was public behaviour: not how the service responds over the next 20 years but how the public and patients respond. The problem is that public and patients need education on how to respond. It is absolutely clear that costs could be reduced if that were the case, but I think most patients with experience of the NHS would say that their experience was patchy—even expert patients such as myself, who probably have considerably more than the average interaction with the NHS.

Patient awareness is entirely reliant on information and attitude support from every quarter. It was interesting to hear noble Lords contribute their experience of

A&E. On an unfortunate visit to A&E when people thought I was coming down with an infection, I was told by the A&E consultant that I knew too much about my disease; whereas my consultant is always keen to ensure that his patients know and understand exactly what is going on, so that they can recognise problems. Continuing my theme of using rheumatoid arthritis as my exemplar of where it can work extremely well, the British Society for Rheumatology service care pathway articulates very clearly how even non-health interactions are vital. Patients' understanding of the need for an improved diet and making sure that they get out and meet new people, that a life-limiting disease will also affect their emotional life, that they will need to address that and get help when they need it, and that they need self-awareness of both their disease and self-worth, because people often end up having to give up work—all those things, and the informal education you get from that, will increase confidence. It will also improve health and decrease anxiety, provide better sleep, make patients want to try new things and increase their motivation. All those things then have a knock-on effect for every part of the society that they are in, whether it is with family, work, friends or, very importantly, in the healthcare sector.

Just to give noble Lords a picture of what was happening with rheumatoid arthritis 20 years ago, people with my level of disease would spend perhaps three spells in hospital a year—perhaps a week at a time when they had a flare-up—and they had very little access to physiotherapy. Five years ago, in-patient stays were virtually removed, but treatment was being given as with cancer treatment: you would go in for a half-day a month for an infusion. Now most patients with the sort of disease that I have are self-injecting at home and—whisper it carefully—have interaction with the private sector, which delivers my injections and provides support in the early days to make sure that all is going on well. So it is not just about acute hospital times and costs. With this one disease, through the attitude of the consultants working with patients, the entire patient pathway has been completely transformed within five years and is unrecognisable from that of 20 years ago.

NHS RightCare has articulated very well some of the issues about how we increase patient pathways at an earliest possible date. One or two very good examples are offered by Professor Matthew Cripps, of fictional pathways. The first is for someone with diabetes. In our current standard care system, at the age of 45, after two years of a bit of trouble, Paul—this fictitious patient—goes to the GP, who does tests. She is a good GP, but she does not understand about diabetes pathways, so she manages his condition with diet, exercise and pills, but it is not working. Five years on, he has given up smoking and is reducing his drink. He is certainly managing his exercise, but his condition has worsened and, within two years, he is facing amputation of a leg; his condition further deteriorates, with heart problems as well, and within a few years he dies. The alternative patient pathway would mean that from the moment he first went to his GP, the entire health system would have picked up his support. He would be referred to specialist clinics for advice and support, including on stopping smoking, changing his diet and making sure that he got the right exercise. That first journey costs £49,000 to the NHS; the second, where the condition is managed over the same period, costs £9,000. So not only do we have a happy patient with a significantly reduced exposure to his disease but we have a significant cost saving to the NHS.

The other example is of elder care, which is often not talked about with patient experience. Not many people are aware that the time that somebody aged 65-plus who goes in after a fall, say, spends in hospital can equate to a year per week in muscle deterioration, so that you could come out after five weeks in hospital five years older. Or, if you spend, as is currently common with delayed discharge, 10 weeks in hospital, you could have aged 10 years in your body, with all the concomitant problems that go with that.

It is extremely important that every single part of the health and social care system participates in patient involvement. Wanless predicted that we could save a significant amount of money, but the Reform think tank updated his figures and said that by 2021, with real engagement, the NHS could save £1.9 billion, rising to £3 billion by 2063.

Simon Stevens, in his first speech as chief executive of the NHS, said:

"At a time when resources are tight, we're going to have to find new ways of tapping into … sources of 'renewable energy'"—

by,

"boosting the critical role that patients play in their own health and care".

The example that I just gave from RightCare shows that it is not consistent in the NHS, nor indeed is the balance that we have as a society between health and social care working for us. The public health and social care system—which is where, importantly, Healthwatch comes in; I will not repeat the issues about its funding—is absolutely vital.

I spent a day with Healthwatch Stockport just over a year ago. The groups do not perceive themselves as regulators. They understand that it is part of their role but they are absolutely clear that they represent the voice of the people who use services and carers, and that they have responsibility for overseeing those services and reporting concerns back. There is that regulatory role but it is about the community work that they are doing. I saw this with ordinary people, the patients who had developed their own interest, working as the voice back to the NHS to make sure that things were working in Stockport. It was an extremely impressive community operation.

I support Healthwatch and the health and well-being boards as absolutely vital in local development. The noble Lord, Lord Lansley, is right to say that this was a priority for the Lib Dems when they were in government. The problem we face these days is that the funding gap, both for local councils and for social care, is creating a real problem. The King's Fund said that a £2.4 billion funding gap as a result of the refusal to fund social care in the Autumn Statement is very real. That is one reason why the Liberal Democrats made it absolutely plain that we must prioritise funding immediately—not wait until next year's local government settlement can come in to start to deliver. We hope the announcement will follow later today; it has been

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widely leaked. Two per cent per annum over three years of increased council tax to 3% over two years in council tax is not new money. That will not solve the problem, nor will it resolve the issues about patient engagement.

*12.22 pm*

**Baroness Masham of Ilton (CB):** My Lords, I thank the noble Lord, Lord Harris of Haringey, for having secured this debate, which for some time I have thought needs discussing. I join other noble Lords in sending our thoughts at this time to the noble Lord, Lord Prior. I also congratulate the noble Baroness, Lady Chisholm of Owlpen, for taking on the extra load. As we draw near to Christmas, the ill, disabled, frail elderly people and the vulnerable homeless should be in our thoughts at this time.

We hear a great deal about the patient-centred health service. This should not just be words; patients and patient associations should be part of the system and the patients' voice should be listened to. They should be part of the team, not just a number to be dealt with. I declare an interest as president and founder of the Spinal Injuries Association. We have a wealth of knowledge collected over the years, which we are only too pleased to share with anyone who may be interested. It is a catastrophic situation if you break your neck and become paralysed. SIA supports members and their families. We have a very complex health system. With so many different bodies it is difficult for even health professionals to know their way around and who is responsible for what.

I support flexibility of care and encouraging health and social services to work in co-operation and communication, which must be the best way. But the fact is, both the National Health Service and social care are in crisis due to pressure and shortage of doctors and other staff, so there are demands on the services and a lack of funds to cover the increasing needs of patients who expect and want a high quality of care.

Growth in the workforce has not kept pace with the growth in patients. The Government ought to do a comparison between the UK and Germany to understand why patients seem to get a better service in Germany. When new life-saving drugs come on stream, German patients get them quickly while our patients have to wait, and sometimes never get them. This debate addresses the effectiveness of the local Healthwatch network and its independence from sponsoring local authorities, and the role of Healthwatch England. Healthwatch England and the local Healthwatch organisations have a number of statutory duties such as promoting and supporting the involvement of local people in the commissioning, provision and scrutiny of local care services.

The health and social care reforms of 2012 set a powerful ambition of putting people at the centre of health and social care. To help realise that ambition the reforms created Healthwatch in every local authority area across England, and Healthwatch England is the national body. Healthwatch is supposed to be unique, in that its sole purpose is to understand the needs, experiences and concerns of people who use services, and to speak out on their behalf. Knowing this debate was to take place, I asked many people if they knew about Healthwatch and what it is supposed to do. Not one of them had heard about it, including my sister-in-law who is Lord Lieutenant of the East Riding of Yorkshire.

North Yorkshire is bigger than the whole of Belgium, and that county has only one local Healthwatch, situated in York. There are many problems at the moment in rural areas, with community hospitals and care homes being closed, but I have never heard a comment from Healthwatch supporting the local communities. If there is an important health issue, it is the Patients Association which is asked to comment by the press. Perhaps this debate will help to expose some of the problems. I feel that Healthwatch bodies do not represent rural areas; they are situated in large towns and cities and are spread too thinly to do the job of helping communities. Last Friday morning, my secretary telephoned the Healthwatch in York to get some information but she got only an answerphone. She left a message but we never got a response.

I want to tell noble Lords about a positive project. Independent Age, a voluntary organisation, has joined with Healthwatch Camden. Independent Age has developed a quality assessment for care homes based on the things that older people and their families want and need. Because Healthwatch Camden has a statutory right to enter care homes on request, it has partnered with Independent Age as part of a pilot programme. This will increase the amount of information available to older people when making decisions about their care, as there is often not enough transparency over which care homes are good and which are not. It is good to hear of bodies working together. So much time and energy is wasted when organisations work in silos.

North Yorkshire's health watchdog, the county council's Scrutiny of Health Committee, will hold a high-profile conference on 16 December—tomorrow—in response to NHS England's plan to reorganise services in the area. The Government are rolling out sustainability and transformation plans—STPs—which cover 44 different areas of the country and are intended to accelerate the implementation of the five-year saving plan. The fear is that plans are being rushed through and modelled around the needs of urban centres, depriving the needs of rural areas.

The county has already seen reductions in health provision, with the closure of the Lambert Memorial Community Hospital in Thirsk and the downgrading of the maternity unit at Northallerton. The distances in rural areas can be immense. People do not mind travelling long distances to specialised expert services, but for respite care and general medical matters they need to be nearer home. Can the Minister give an assurance that the special needs of rural areas will be safeguarded across the country? There is suspicion of STPs, which do not seem to be open and transparent.

Everyone wants a thriving NHS, not a failing service. Many people thought that if they voted for Brexit, the money saved would go to the NHS. They will feel that they were led up the garden path if things do not get better.

*12.32 pm*

**Baroness Warwick of Undercliffe (Lab):** My Lords, I thank my noble friend for introducing this debate and commend him for his continuing interest in this issue. I join with other noble Lords in offering condolences to the noble Lord, Lord Prior. The headlines earlier this week following the Care Quality Commission report sharing the experiences of families seeking information about the death of a relative make this, regrettably, a timely debate. I declare an interest as chair of the National Housing Federation, and in a moment I will say something about the importance of the role of housing associations in supporting users of social care. First, however, I will support my noble friend in his comments about Healthwatch England.

Just over a year ago, NHS England published its *Patient and Public Participation Policy*, which pledged to,

"work in partnership with patients and the public, to improve patient safety, patient experience and health outcomes; supporting people to live healthier lives".

Those are laudable aims. The problem in achieving them—as the King's Fund and others have pointed out—is that it is not entirely clear what involving people in health means; and when you attempt it, difficulties arise because often this challenges vested interests and the established way that people do things. Yet, as the chief executive of the CQC, David Behan, has said, what distinguishes many of the good and outstanding services that exist is the way that they work with others: hospitals working with GPs, GPs working with social care, and all providers working with people who use services.

Those services, we hardly need reminding, are under increasing pressure. This makes the role of Healthwatch England and local Healthwatch groups all the more important. As other noble Lords have said, having a local voice for users of the health service is critical to the development of the service. They are the only organisations with an overall view of an entire local health and well-being system. Their responsibility to use public experience to drive service improvement is a vital one. We now have a network of local Healthwatch organisations across England's 152 local authorities, supported by more than 6,000 volunteers. Almost four years on, it is certainly right to ask about their effectiveness.

I share the concerns already voiced about Healthwatch England's independence. When it was established in 2012, it was hosted by the CQC but reported directly to the Department of Health. A restructuring this year means that the national director now reports directly to the chief executive of the CQC and aims to "work more closely" with the CQC. How free will Healthwatch England be to criticise the CQC if it is embedded within it? A too cosy relationship makes it harder to be a critical friend.

I think that the point about relationships is particularly important when it comes to local Healthwatch groups, which are commissioned by local authorities. Large organisations such as local authorities and NHS bodies tend to understand the world through analysis of quantitative data and research evidence. This contrasts with the way that individuals and communities operate, where the emphasis is on personal experiences and the stories that describe them. To be effective, local Healthwatch needs to operate between the two—to bring the public into the discussion in a way that is understood and accepted by these large organisations.

However, I believe that the groups must also be at arm's length from local authorities. They must be prepared to ask difficult questions and to have enough knowledge to square up to consultants or hospital chief executives, and perhaps tell them that they are not doing a good enough job. We know that this was part of the problem in the tragedy of Mid Staffordshire.

It is easy to forget that local Healthwatch groups are still small and relatively new organisations, still developing their expertise. I wonder to what extent local authorities and health trusts are helping Healthwatch by, for example, including an explanation of the Healthwatch role in inductions for new staff, by briefing managers on the role and activities of their local Healthwatch, or by agreeing what good practice should be when working with the local Healthwatch on an investigation. The effectiveness of a local Healthwatch can be helped by bigger players in the system.

My noble friend also referred to the capacity of Healthwatch England and local Healthwatch. It is a concern to me that the funding for local Healthwatch groups is still not ring-fenced. I have heard the arguments for local autonomy and the rationale for not telling local authorities what to do but, if the end result is that some regions or councils are not using the money for its intended purpose, this can surely only harm the local community and the patients in those areas.

I should like to mention here the work of housing associations. Our social care system is at crisis point for both patient and taxpayer. A recent National Audit Office report, *Discharging Older Patients from Hospital*, highlights a problem that we are all too aware of but the figures are still startling: £820 million of taxpayers' money is spent every year on unnecessary acute care and 2.7 million patient days are wasted waiting for transfers from hospital which have been delayed. If we did more to help older people recover at home, rather than in hospital, the estimated savings would be around £640 million every year. Housing associations are helping to make this happen, and I want to give one example.

Curo, a housing association in the south-west of England, has over 13,000 properties and a successful care and support division. Its "step down" service is made up of six homes that have access to a care team round the clock. Patients are discharged from hospital and move into a home in the service for a set period of time, agreed with their clinician when they leave hospital. They receive individually tailored care and support, and are given opportunities to familiarise themselves with telecare options for when they move on from the service. This reduces the likelihood of further readmissions to hospital.

The step down service was commissioned in 2011 by Bath and North East Somerset Council and the local clinical commissioning group with funding from the better care fund. It has enabled emergency discharge from hospital as part of a wider "discharge to assess" pathway, providing a value-for-money route for hospital discharge where assessments can be

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conducted outside a primary care setting. It has been recommissioned and continues to deliver a cost-effective solution for discharge and reablement, particularly for older people.

The financial benefits are huge. It is estimated that an excess hospital-bed day costs £303 per day or over £2,000 per week. In contrast, Curo's step down facility costs £60 a day. In 2015-16, Curo delivered 1,721 days of step down from hospital, equating to a saving to Royal United Hospitals Bath NHS Foundation Trust of over £520,000—or £390,000 once costs are taken into account. Feedback from patients who have benefitted from Curo's services reflects the value, independence and dignity of care from a housing-led service around hospital discharge.

This is just one example of a housing association scheme that is saving the NHS money and helping people to recover with dignity. Working in partnership with the NHS and local Healthwatch groups, so much more could be done. If the Government wish to ensure that the health and social care system works for everyone, more incentives to work together need to be provided to encourage new and alternative approaches to delayed hospital discharge. The current consultation into the future of supported funding offers the perfect opportunity for the Government to work with the sector to end this crisis in provision.

It is clear to me that now, more than ever, we need independent evidence-based thinking to address key public health concerns. Healthwatch England's special inquiry last summer into the lack of care for vulnerable people discharged unsafely from hospital made the headlines and highlighted the need to put patients at the centre of health and social care. But reports have real value only if they are listened to and acted on. The case for supporting Healthwatch England and local Healthwatch organisations to grow their expertise and experience in undertaking this sort of work is undeniable.

*12.41 pm*

**The Earl of Listowel (CB):** My Lords, in listening to the noble Baroness speak about housing concerns, particularly for the elderly with health conditions, I am reminded how important it is for policymakers, senior decision-makers and those who hold the money to visit people in their own home to see for themselves what the circumstances are. I suggest that on top of listening to service users, we need to see them in context if we are to really understand what we need to do.

I will concentrate my comments on the service-user element of the debate in the name of the noble Lord, Lord Harris. I want to ask the Minister this question: will she look at how she can improve continuity of mental health care for young care leavers in transition, after the age of 18 and into their early 20s? In much legislation, we recognise the continuing needs of care leavers, who have rights up to the age of 25. I suggest that we need to see that in the mental health care that they receive. Perhaps the noble Baroness might take this to her colleague and ask him to talk to the expert working group on the mental health of looked-after children.

I also join your Lordships in expressing my condolences to the noble Lord, Lord Prior of Brampton, and his family. I thank the noble Baroness for stepping in in his absence. I am also grateful to the noble Lord, Lord Harris, for calling this important and timely debate.

Noble Lords have expressed concern at the lack of White and Green Papers in various legislation in recent years. It seems to me that, if we want to engage service users, we need to follow the proper process. I welcome the fact that the Government have recognised this and will do it more in the future. The Committee stage of the Children and Social Work Bill is going on in the other place. During the Second Reading debate, the honourable Member Tim Loughton said that this aspect of the Bill is a,

"very radical proposal that warranted at least a Green Paper and a White Paper and proper consultation, but there was none".—[*Official Report*, Commons, 5/12/16; col. 52.]

The hon. Member Mrs Emma Lewell-Buck commented:

"In short, it is a Bill about children and social work with negligible input from children and social workers".—[*Official Report*, Commons, 5/12/16; col. 73.]

Those are the concerns expressed about a current Bill. I should say that I welcome very much what the Government are trying to achieve in that Bill and so much of their work in that area. However, I think that there has been an omission in the past to consult properly in a way that would allow service users to be fully involved in developing policy and legislation.

I declare my interest as a patron of the Who Cares? Trust, recently rebadged as Become. It was established many years ago to ensure that children in care in different local authorities were fully aware of their rights. It published *Who Cares?* magazine, so that young people in care would know their rights whichever local authority they were in. Over the past 16 years, the Who Cares? Trust has clerked the All-Party Parliamentary Group for Looked-After Children and Care Leavers. That group brings 40 young people in care and care leavers into Parliament once every two months while the House is sitting. They come from all over the country and are different ages. The honourable Member Edward Timpson MP was our chair for a couple of years and the honourable Member Tim Loughton was our chair at another time. I would be interested to hear what it meant to them to have this contact with their service users. I think that it contributed to them being highly successful Ministers and I note that when Tim Loughton became a Minister he set up various panels of young people in care and leaving care to consult with regularly. As Minister of State, Edward Timpson has sustained those service user groups. Both Ministers took the trouble to visit the parliamentary group each year to present what the Government were doing and to hear the young people's views.

Many noble Lords have commented on the importance of service user involvement to good policy, and I should add how therapeutic it can be for young people. Some 60% come from families who have experienced serious abuse and many will never have felt that their voices were heard before entering care. To come into Parliament or speak in a Children in Care Council meeting to senior members of the local authority are positive experiences. Of course, they need to feel that action is taken on concerns that they raise.

I point out a few pitfalls that can arise around user involvement. It is important not to assume that because we are listening to a service user we no longer need to listen to the professionals. I have a sense that in the past one would consult service users many times and hear their views without properly consulting the professionals—I refer to experienced practitioners who are still in practice and not too far from the front line—and taking their views about how hard it is to bring about changes that meet the requirements of service users. I emphasise that point.

With regard to young people and children, of course in law the Children Act 1989 makes it clear that it is our duty to listen to the wishes and feelings of children, but adults remain responsible for their interests. Just because a child or young person says they wish to do something does not necessarily mean that we should do it. There is a risk of policymakers sometimes assuming that because young people or perhaps other service users say something, it should be done. It needs to be put into context and we need to think about the professionals nearest to them and consult with them.

Such consultation needs to be properly facilitated. There needs to be a context. It can also be very useful for policymakers and those in high authority to build relationships over time with service users so that they can put into context that service user's experience and deepen over time their understanding of that particular service user group's need.

To return to the mental health of looked-after children and care leavers, we had a very important meeting of the parliamentary group last year, which the noble Baroness, Lady Tyler of Enfield, attended and made great use of in the recent Children and Social Work Bill in her successful campaign to push the Government a little further on addressing the mental health needs of looked-after children. We heard at that meeting from a young man who struggled for a long time to access mental health services while in care. Just at the point when he appeared to be gaining the help he needed, he turned 18 and was no longer able to access the help. Similarly, we heard from a care leaver in her early 20s and the mother of two children, about how frustrated she was that she could not access the long-term psychotherapy that she felt she needed to recover from early trauma and thus become a good mother to her children. We also heard about instances of best practice such as at the NHS Tavistock and Portman clinic which provides an all-through service for care leavers up to the age of 21. I look forward to the Minister's comments on that.

While we need to hear the voices of service users, I would encourage noble Lords to consider how very important it is to listen to the professionals in this area such as social workers who work with children in care and those on the front line who have been around for a long time and therefore have a vast amount of experience to help inform policy. I end with the question I set out at the beginning of my speech but I will not repeat it. I look forward to the Minister's response.

*12.50 pm*

**Baroness Watkins of Tavistock (CB):** My Lords, I congratulate the noble Lord, Lord Harris of Haringey, on securing this debate, to which I am pleased to have the opportunity to contribute. I join with other Members of the House in offering my condolences to the noble Lord, Lord Prior. I am sad that he cannot be here today but delighted that the noble Baroness, Lady Chisholm, will respond. Perhaps I may declare my interests as outlined in the register.

The briefing paper from the Library rightly identifies how public and patient involvement often appears to be a nebulous and ill-defined concept that means different things to the multiple stakeholders. We heard recently that some health service commissioners in partnerships with local authorities have spent less than 1% of their total budget on mental health/public health initiatives, yet this House has heard consistently about the growing problem of self-harm among adolescents. Investment in public health initiatives in mental health, for example through school nurses, is chronically underfunded. There are ongoing difficulties in accessing children and adolescent mental health services, and indeed I have heard people say that CAMHS stands for "Can't Access Mental Health Services". So where, I must ask the Minister, is the voice for some of the most disadvantaged service users in health and social care? If you cannot access a service, you do not become a user, so what structure do we need in the future to ensure that influencing the health and social care spend will involve the widest range of people in society?

I believe that user representation in health and social care is still biased towards those who speak the loudest and have physical healthcare needs because of cancer, heart disease and diabetes. We are told, for example, that cuts in health visiting of around 20% are likely to be made soon. Again, this will affect a very disadvantaged group, the under-fives. The King's Fund has observed that putting patients first has become a "mantra" of politicians and senior policymakers with the aim of ensuring,

"a stronger voice in decisions about health and care, and that services should better reflect their needs".

I will not go over the national structure of Healthwatch which has been so ably described by other speakers, but it is important to note that areas of good practice have emerged. However, it is acknowledged that there has not been systematic progress in the field of Healthwatch and user representation. As outlined by others, the King's Fund gives three core reasons for this, the first of which is a lack of understanding of what involving people in health decisions means. As outlined by the noble Baroness, Lady Pitkeathley, this is working well at the clinical level but at the strategic level is it often much more problematic. It is difficult, suggests the King's Fund, because it challenges "vested interests" and current "orthodoxies" about the way funding is controlled, as well as asking whether it really has been a priority. The differences in Healthwatch's allocations as outlined by the noble Lord, Lord Harris, show that although I was going to argue that Devon is underfunded, when compared with Manchester it is doing well. That reflects the difficulties of prioritising in different places.

In fact, some real advances have been made. User involvement is seen as a real priority in the context of the phrase that other speakers have referred to: "No decision about me without me". That is a key part of

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any university healthcare curriculum designed to prepare students for professional registration, whether as a nurse, midwife, doctor or physiotherapist. I assure noble Lords that in my own nursing education 40 years ago, which was not dissimilar to that of the noble Baroness, Lady Chisholm, it was not a key part of our curriculum. User involvement in their own care plans is now an established expectation.

Problems emerge when the healthcare professional and patient—or user—cannot access the right care at the right time because of lack of investment or priority. If I go to my GP with a breast lump that he thinks might be cancer, we will both agree that I should be assessed by a specialist team within two weeks. In most parts of the country, this will be achieved. Hypothetically, if I go to the GP with a 12 year-old daughter who is cutting her arms and losing weight, the GP may agree with her that she should be assessed by a child and adolescent mental health team within two weeks. She may at that point be ready and willing to go for this assessment, but in many areas of the country it is quite likely that it will not be arrangeable within two weeks. Indeed, in some parts of the country, the reported waiting time for such an assessment exceeds six months.

This moves the debate on to the extent to which patients and service users really influence how much is spent on different healthcare services by different bodies. The new strategic development plans are designed to have this debate at a local level, using approved networks to try to get the most appropriate healthcare spend for the vast majority of the population. I believe the SDPs are fundamental to the redesign of health and social care services and that Healthwatch is fundamental to engaging the local communities in this process.

How do I think we are doing where I live in Devon? I asked the chair of Healthwatch Devon to assist me by saying how much she feels they are involved in the SDP process in Devon. I will give your Lordships some idea. There are three Healthwatches in Devon, all of which agree that the definition of patient and public involvement needs clarification, following the numerous NHS documents and references to involvement of patient and public experience in service review, engagement and consultation.

In Devon, the three Healthwatches have come informally together through their chairs to work with the SDP to lobby for engagement and consultation, but they point out to me that the three chairs of Healthwatch are not engaging fully with the community because they have neither the time nor the resources to do so. However, they are also very confident that they are endeavouring to pursue the role of advocate for the community and challenger of the commissioner as independently as they can, but they say that, given they are funded by the LA, they also see the need to work in partnership with strategic players if they are to achieve respect and understanding of the drivers and strategies integral to service review, and therefore lobby at the most senior level for patient and public involvement. These are two roles that many academics have pointed out are to some degree in conflict.

While it is clear that CCGs are required to consult Healthwatch, there is not necessarily a requirement to accept its recommendations. Indeed, the Francis report raised concerns about its flexible framework, suggesting that there needs to be greater consistency.

The health budget is indeed under consistent and prolonged challenge. It is vital that local communities reach sound conclusions about their strategic development plans. As has been pointed out, in many rural areas it is being suggested that community hospital beds should be closed to reinvest the health service pound into rehabilitation services that would more readily reach the population through swift access at home to physiotherapists, occupational therapists and nursing. Yet that changeover will need transitional funding if it is to be conducted safely. Any debate about SDPs will be difficult, but I urge the Minister to ensure that young people are involved in working with Healthwatch and other patient user networks to influence the development of sound mental health and learning disability services as well as the appropriate redistribution of services and resources for physical health provision. To do this, I suggest that Healthwatch, or an equivalent structure, needs to be less nebulous and mandated to include independent scrutiny of the comprehensive health services, including public health and social care. Only in this way will local people have real influence in shaping the degree of services that are needed to meet the challenges in local communities.

*1 pm*

**Baroness Walmsley (LD):** My Lords, I congratulate the noble Lord, Lord Harris of Haringey, on introducing this debate and I add my condolences to those expressed to the noble Lord, Lord Prior, on the loss of his father. I congratulate the noble Baroness, Lady Chisholm of Owlpen, on the way she has stepped into the breach this week. There has been a lot of health business, so she has been kept very busy.

This has been an interesting debate. The main issues to come out of it have been the independence and funding of Healthwatch England and local Healthwatch; what the Government really want out of PPI; and the difficulty of defining what a good system of service user representation should look like.

Like the noble Baroness, Lady Watkins of Tavistock, I was interested in the King's Fund's analysis. I shall not repeat them, but it asked three very interesting questions that need to be answered to look at what would make a good service user system. That was a very useful analysis.

Although highly desirable, user representation has a chequered history. Phoebe Dunn, a policy researcher at the King's Fund, has observed:

"Local Healthwatch organisations represent the latest in a long line of attempts to give patients and wider communities an effective collective voice".

Since the 1970s, successive Governments have implemented a series of structures, beginning with the community health councils, followed by the patient and public involvement forums in 1973, with the LINks replacing those in 2008. Interestingly, along with health services, they also covered state-funded social care and were,

"designed to reflect a more integrated approach to social care".

We are still trying to do that eight years later. Dr Pam Carter and Professor Graham Martin, from the University of Leicester's Department of Health Sciences, have suggested:

"Successive reforms arguably demonstrate political commitment to, and sustained high-level interest in, PPI in its various organisational forms".

I am sure we can agree about that, but we do not appear to have achieved it just yet.

Healthwatch's establishment was part of the coalition Government's desire to increase public involvement in how the health and social care system worked. The 2010 White Paper, *Equity and Excellence: Liberating the NHS*, which set out the coalition's vision for the future of the NHS, stated:

"We will put patients at the heart of the NHS, through an information revolution and greater choice and control".

I want to comment on what the noble Lord, Lord Lansley, said about that and clarify the situation. The Liberal Democrats indeed wanted local authorities to be involved, but we warned against the funding coming directly from local authorities because, of course, they are commissioners and providers of the services. My noble friend Lady Jolly emphasised that to me a little earlier, because I was not working on health at the time.

Over the years, ways to consult patients and the public have been set up, but they quickly either become subsumed by NHS organisations or are effectively ignored, although their suggestions are always politely listened to. Healthwatch was meant to be far stronger and more influential than those bodies that went before. Part of this intention came in response to the Mid Staffs scandal. The Francis report commented on the shortcomings of the various PPI policies of the past. In the case of Stafford's main hospital, the report argued that,

"patients and relatives felt excluded from effective participation in the patients' care".

It also suggested that the policies that followed the community health councils did not succeed in giving patients a voice. It stated:

"It is now quite clear that what replaced them, two attempts at reorganisation in 10 years, failed to produce an improved voice for patients and the public, but achieved the opposite".

In the current climate, it is unfortunate that local Healthwatch funding is provided by local authorities because of the drastic funding cuts for local government. It is not surprising, I suppose, that some of the funding provided has not reached local Healthwatch. There is also the cumbersome bureaucracy mentioned by the noble Lord, Lord Harris, which causes some of the money to seep away. Healthwatch is saying all the right things but, without proper funding, even the best policy and the best structure will fail to fulfil its brief.

One good example of the contribution of service users and their carers used to be the Experts by Experience programme, which the CQC uses to augment its independent inspections. These are skilled workers who have personal experience of using health and social care services. They provide the patient perspective to inspectors. Sadly, since three-quarters of this programme was taken over by Remploy, the number of experts used by inspectors has fallen considerably because of serious shortcomings in the way the programme is now run. I know the CQC is looking carefully at that.

A group of Experts by Experience and former experts—some have now given up in disgust—gave evidence to the House of Commons Health Select Committee and this has been published. It makes very sad reading. The contracts in different parts of the country were awarded to two different companies, with the majority going to Remploy. Problems with the Remploy contract have been well documented and I do not have time to go into all of it, but the real victims in this sad saga have been the most vulnerable people in society, whose views are not sought in as expert a way as they should be during inspections, at least in three of the four regions of the country. I am looking forward to the comments of the Commons Health Select Committee on that evidence.

The hot topic in health at the moment is the STPs, the sustainability and transformation plans. There was recently an article in the Consultation Institute magazine which gave the views of Paul Parsons, who is actively working with institute clients, considering how best to implement STPs. He believes that some common themes are emerging from conversations with commissioning leaders since the first STPs started to seep into the public domain. First, commissioners are not yet won over to the principle of an open public dialogue about the principles and objectives contained in the plans they have published; secondly, each appears to be concerned with the extent to which they have met their legal responsibilities on public involvement in developing the plans; and, thirdly, there is a range of acceptance of, or resistance to, the concept of formally giving the public a chance to comment on the plans at this stage.

Each of the 44 commissioning partnerships are at different stages in their change process and have different challenges in their area. NHS England recognises that and is keen that the plans involve a range of stakeholders and are all led locally. So it is understandable that guidance does not provide a paint-by-numbers approach to the public engagement requirements of these exercises. But Parsons feels that a lack of specific guidance can create some inertia in the system that prevents organisations wanting to be one of the first to commit to a course of action, including consultation on the plan itself. He outlines the advantages to commissioners of formally engaging on the plans at an early stage with patients and the public. He says that it would, first, give STP partnerships the chance to fine-tune the content and understand the priorities that key stakeholders would apply; secondly, help identify people and groups who want a say in the plans; and, thirdly, give the partnerships an opportunity to reduce the risks of challenge later in the process by documenting that they have met the requirement for public involvement at an early stage.

The noble Lord, Lord Harris, mentioned the NHS *Five Year Forward View*, which sets out a vision for the future of the NHS. As we know, it was developed by the partner organisations that deliver and oversee health and care services, including NHS England, NHS Improvement, Health Education England, the National Institute for Health and Care Excellence, Public Health England and the Care Quality Commission. I note that that list does not include any patient-centred organisations. I want to ask the Minister why the Government did not insist that it should do so.

[Baroness Walmsley]

Some experts, such as David Gilbert, co-director of the Centre for Patient Leadership, believe that the basic premise is that in the NHS all patient consultations end up with the professionals saying, "Thanks, but now we will go back and decide what to do". That is very unfortunate, even if it is only the impression of one person. He explained in a recent lecture why he feels we must move forward to a model of patient-influenced change and away from the current model of "them and us" that exists between professionals and patients. The simple fact is that patient involvement results in better services. Does the Minister agree?

*1.11 pm*

**Lord Tunnicliffe (Lab):** My Lords, I, too, would like to be associated with the condolences from all parts of the House to the noble Lord, Lord Prior of Brampton, and his family. Nevertheless, I have utter faith that the noble Baroness, Lady Chisholm, will answer all our questions in her normal, thorough fashion.

I, too, congratulate my noble friend Lord Harris on securing this important debate. He has a long and distinguished record of championing involvement of the public, patients and staff in key decisions about the future of health and social care. He speaks with great authority. It is a timely debate, five years on from the introduction of the Health and Social Care Act 2012. This was a huge Bill, as your Lordships will recall, providing an unnecessary, disruptive and costly reorganisation of the NHS that David Cameron had said his party had no intention of doing. Noble Lords will also recall the Government's unprecedented "pause" in the face of widespread opposition to the Bill while a full-scale consultation exercise was undertaken through the NHS Future Forum.

It is worth reminding ourselves of the Future Forum's ambition, which led many to hope that it could mark the start of the sea-change in consultation and involvement, independent scrutiny and shared decision-making that was needed. To quote the forum's report:

"Involvement must extend beyond the decisions about an individual's care, and apply to decisions that affect the design and provision of care for communities: as part of designing services for a particular group or condition; in strategic decisions about commissioning of services at the local level; and at a national level, in decisions about commissioning and the operation of the health and wellbeing system … commissioners cannot expect to design integrated, efficient pathways to deliver high quality care if they do not involve the people who will be using the services in their design, as well as patient representatives and patient organisations".

As we know, the Health and Social Care Act created duties to involve patients and the public at all levels of the health and well-being system. Most importantly, this year's guidance to CCGs states that they must:

"Involve people early on, not as an afterthought".

Unfortunately, too few CCGs have put this into practice. As we have heard on sustainability and transformation plans, the "afterthought" approach has sadly dominated in many of the 44 footprints.

I have a number of questions for the Minister. On reporting back to NHS England on their participation approach, can the Minister provide any analysis of the information provided by CCGs? Can she confirm whether there is a breakdown of the best and worst-performing CCGs or areas in this respect? What action is being taken by NHS England to address poor performance and to seek improvements in involving and consulting local patients and communities, including local Healthwatch groups? During the passage of the HSC Act, the noble Earl, Lord Howe, spoke at length about how the legislation would lead to,

"a fundamental shift in the balance of power away from politicians and on to patients themselves".—[*Official Report*, 9/11/11; col. 269.]

If this was the case, why has NHS England removed patient groups from membership of the patient and public voice assurance group, leaving only individual members of the public to hold NHS England to account?

The noble Earl said that Healthwatch groups will act as the independent eyes, ears and voice of patients and service users in a local area. The Future Forum was ambitious in the key leadership role it wanted national and local Healthwatch organisations to play. As we have been reminded, there was concern across the House about the authority and independence of Healthwatch England in the light of the Government's insistence on its relationship to the Care Quality Commission. The Labour Benches strongly supported full independence. The Future Forum clearly saw Healthwatch England, with sufficient funding, as,

"one of the key national players in the new system".

The extent to which it has been able to fulfil this role so far has to be questioned, given the scale of budget cuts to Healthwatch organisations, the overall funding crisis in the NHS and social care, and the fragmented NHS structures which have made integrated working even more difficult to achieve.

The Healthwatch network received 5.9% less funding this year than last year, and 31.3% less than was given to councils for local Healthwatch groups ahead of their first year in operation. The recent Autumn Statement could have addressed this, or addressed some of the wider funding issues in the health service. Sadly, the Chancellor chose not to act. For the record, under its first chair, Anna Bradley, we felt that a good start was made in establishing and developing Healthwatch England. The Government's failure to reappoint her when her term of office ended is a mystery. She was an excellent ambassador for the organisation, interacting with the health and social care community to explain the watchdog's work, meeting local Healthwatch groups and listening to the voices of local people. Some excellent work was undertaken.

The Healthwatch report on hospital discharge, *Safely Home*, with its particular focus on the elderly, people with mental health conditions and the homeless, was just one example of the strategic overview and scrutiny function that Healthwatch must play if it is to be an effective watchdog of care and performance. However, the Government must give Healthwatch England and the local groups additional support if they are to truly fulfil their role. The King's Fund has identified local groups' lack of capability and their need for additional advice and resources as they seek to gain legitimacy and credibility in their communities. How do the Government propose to address the patchy and fragmented local system that has emerged thus far?

Finally, I turn to sustainability and transformation plans. Specifically, I record my concern about the huge inconsistency in the roles and treatment of local Healthwatch groups as these "footprints" are created by health and care organisations across the country. Despite the Government's commitment that STPs would provide a means for communities to shape their local health and care provision, a number of local Healthwatch groups have reported being frozen out of the decision-making process or involved at only a superficial level at the very latest stages. In light of these concerns, and wider concerns that STPs are merely vehicles for cuts to local services, can the Minister confirm what steps the Government are taking to ensure all local Healthwatch groups are properly consulted on the contents of the STP in their area?

The Labour Party took important steps to promote user participation in local health and social care provision. This Government's stated intentions on user representation are honourable but, as we have heard in this debate, there is a growing body of evidence that patients' voices are not being heard and, in some cases, not even being sought. Healthwatch England and local Healthwatch groups have the potential to play a significant role in ensuring that health and social care provision reflects the needs of local communities, but they must step up to the mark and speak out forcefully when needed. Almost five years after the passage of the Health and Social Care Act, the Government must act to deliver on the promises they made to patients. It is incumbent on the Government to provide proper resourcing to Healthwatch and to include other specialist user groups in discussions where they have relevant expertise. Only by properly listening to the views of patients can we have a health and social care service that responds to their needs.

*1.20 pm*

**Baroness Chisholm of Owlpen (Con):** My Lords, I thank the noble Lord, Lord Harris, for securing a debate on this important issue and for his kind words, and those of other noble Lords, towards my noble friend Lord Prior of Brampton. I know that they will be much appreciated. I also wish that my noble friend was here but I will try to answer the questions raised and, if I fail to do so now, I will make sure that I do so in writing. I shall also try to put the department's view.

Capturing, listening to and acting upon the views, preferences and experiences of individuals, including those mentioned by the noble Earl, Lord Listowel, and the noble Baroness, Lady Watkins, such as young people in care, those with mental health issues and all types of service users, and of communities, is crucial if we are to deliver the first-class services that people not only expect but deserve. Healthwatch England has two principal roles: first, to gather intelligence locally, which it can then feed back into the CQC and its inspections; secondly, to be the strong voice of users of care services at a national level. There is a powerful rationale for its close working relationship with the CQC. The CQC needs to hear the patient voice in the exercise of its responsibilities, while service users benefit significantly from Healthwatch being able to trigger action by the CQC where it finds that things are going wrong.

The recent changes to the accountability arrangements mean that Healthwatch England remains a statutory committee to the CQC, with its chair a CQC non-executive director. Under the new arrangements it retains a line of accountability to the Secretary of State, via the CQC chair, because the Healthwatch England chair is a Secretary of State appointment. The national director of Healthwatch England reports to the CQC chief executive on a regular basis. They continue to remain accountable to the Healthwatch England committee for delivering Healthwatch England plans. The CQC will be responsible to Parliament for the effective delivery of its statutory duties and finances, and for the delivery of the statutory functions of Healthwatch England through its framework agreement with the Department of Health. In future, the CQC will be responsible for allocating sufficient funds to Healthwatch England to deliver its role and statutory duties.

Let me stress that Healthwatch England's important role is not changing; there is no change to the functions set out in legislation. The Healthwatch England committee will continue to set its own priorities and publish its own business plan and annual report. We expect it to continue to act as a strong, independent voice for patients and share its findings with the system. These new arrangements reflect the changed landscape since Healthwatch England was set up. The Government remain committed to strengthening the role of patients and communities, with greater focus on local leadership of the health and care system, and we have given the Care Quality Commission itself a stronger role in hearing patient views.

A big part of Healthwatch England's role is to work with the Healthwatch network to provide leadership and support, as each local Healthwatch builds its profile and impact on local services. In answer to the question from the noble Lord, Lord Tunnicliffe, about a patchy and fragmented system, it is a priority for Healthwatch England. In fact its number one priority as set out in its business plan for 2016-17 is:

> "To provide leadership, support and advice to local Healthwatch to enable them to deliver their statutory activities and be a powerful advocate for services that work for people".

Healthwatch will continue to develop its own business plan and priorities. It will also continue to produce an annual report, which will be laid before Parliament.

This Government have a collective ambition that the people of this nation should have their voices heard, and have local health and care services designed and delivered around their local needs. Whether that be helping to set up a new local community provider of domiciliary care services in Cornwall or investigating mental health services in Birmingham, proper involvement and representation is indeed required to amplify this citizen power and to influence change. This is where local Healthwatch organisations fulfil a pivotal role. Their aims can be neatly summarised as: giving citizens greater influence over the commissioning and provision of local services; using people's experience of services to bring about improvements locally and nationally; and providing local people with information about health and social care services, and their choices in respect of those services. I am very pleased to inform

[Baroness Chisholm of Owlpen]
the House that these aims are now a reality for many local Healthwatch organisations up and down the country.

None the less, I am aware that there is some concern about the perceived lack of independence of local Healthwatch organisations which are funded by, and accountable to, their local authority. I do not consider that the funding and accountability arrangements for local Healthwatch organisations undermine their effectiveness or independence. We are not aware of any specific accusations that a local Healthwatch has felt unable to raise issues for fear of repercussions. Local Healthwatch organisations set their own priorities, based upon information and intelligence gathered on issues relating to local health and social care services. Their place on the local authority health and well-being boards helps to promote their independent role in representing the views and experiences of local communities.

Local authorities are well practised in commissioning organisations to deliver services that benefit communities and, at the same time, scrutinise the council. Local Healthwatch organisations also have independence in that they will be able to feed information directly to Healthwatch England, ensuring that a local voice has influence at a national level. Healthwatch England is assisting by providing leadership, support and advice to local Healthwatch organisations to enable them to deliver their statutory activities and be a powerful advocate for services that work for people.

However, the fact needs to be acknowledged that local authorities are facing challenging funding decisions. In such times, it is crucial that in fulfilling their statutory duty to commission local Healthwatch, local authorities have the freedom to ensure that their arrangements meet the needs of their local population and represent value for money. Central control of local funding decisions would diminish the voice of local communities and ignore other voluntary or partnership arrangements that a local authority may already be funding for the benefit of its population. But let me be clear on one important point: local authorities are still accountable for the funding that they allocate to local Healthwatch.

This Government are committed to transparency around local Healthwatch funding. Healthwatch England publishes figures showing how much councils are spending so that local communities can hold their councils to account. Your Lordships may have seen Healthwatch England's report on 2016-17 local authority funding. I will say up front that the data show that some local Healthwatch organisations have large reductions in their funding. It is in the interests of local authorities and other local care system partners to have a well-performing local Healthwatch that will help to drive up the quality of local services. Those local authorities will need to demonstrate how their local Healthwatch organisations can still carry out their duties effectively. None the less, I am pleased that Healthwatch England reports that local authorities are recognising the overall value of local Healthwatch and, when compared with other council-run services, are continuing to invest. This is encouraging.

I now turn to some of the questions that were raised by noble Lords during the debate. The noble Lord, Lord Harris, talked about local Healthwatch not influencing CQC inspections. CQC actively seeks intelligence from patients, the public and staff prior to its inspections, including from local Healthwatch. The noble Lord and the noble Baroness, Lady Warwick, raised a point that I want to emphasise. Local Healthwatch has an independent voice and its statutory powers to relay patient and user voices at national level remain unchanged and unfettered.

The noble Lord, Lord Harris, also said that there is underspending and that not enough is spent on local Healthwatch. Going forward, much more of Healthwatch England's resources will be spent on supporting local Healthwatch as this strand is being given a stronger priority by Healthwatch England. Changes to the governance and organisation of Healthwatch England reducing the duplication of, for example, corporate functions mean that Healthwatch England will be able to refocus more of its resources on its essential duties, especially on supporting local Healthwatch. It retains independence of voice and will continue to speak truth unto power, including, where necessary, to the CQC itself.

Several noble Lords, including the noble Lord, Lord Harris, spoke about problems with IT. The IT company concerned, Patient Experience Library, provides an existing service which draws together a range of reports and reviews from organisations across the country. Healthwatch England subscribes to the service rather than going to the expense and duplication of setting up a parallel system. Healthwatch England also undertakes analysis of the reports as part of its national role to understand and relay the user voice and concerns to national decision-makers. The service is a subscription service, and local Healthwatch organisations are free to decide how to spend their funds.

My noble friend Lord Lansley mentioned the independence of Healthwatch England within CQC. I agree with him that Healthwatch England is independent and acts as a rigorous scrutineer to use its place within CQC as leverage to support the voice of users. As my noble friend said, Healthwatch England has powers to challenge at national level which were not available to predecessor organisations, which puts it in a unique place to bring the voice of users to national decision-makers.

The noble Baroness, Lady Pitkeathley, made, as always, an extremely good speech on this subject. She comes with so much knowledge. She mentioned Healthwatch England's subordination to the CQC, as did several other speakers. Local authorities are accountable for the funds they allocate to local Healthwatch organisations to ensure that they meet their statutory functions. Healthwatch England will be closely monitoring the ability of local Healthwatch organisations to deliver their statutory functions while also continuing to engage with local authorities in order to support the sustainability of local Healthwatch organisations.

The noble Baroness, Lady Masham, asked about the profile in local communities, particularly rural communities. Simon Stevens and Jim Mackey wrote a letter on 12 December to STP leaders saying how important local engagement is and that rural areas must be included in this. It is an ongoing problem which we must keep addressing.

The noble Earl, Lord Listowel, mentioned the important problem of continuity of mental health between young and old. I am going to take that back to my noble friend Lord Nash. This is a problem that keeps cropping up, and it is something we must keep bringing up. It is very important. There is no doubt that there is a problem when you leave children's services and move on to adult life. People are definitely slipping through that net, so I will take that back.

The noble Baroness, Lady Walmsley, mentioned the experts by experience groups. CQC is strongly committed to the involvement of patients and service users in its inspections. The new contracts for experts by experience provide a more flexible and cost-effective method of engaging service users to carry out this important role. CQC is taking action to improve contract delivery, which has indeed been less than what is required in some areas of the country. Meanwhile, CQC has been very clear that there has been no diminution of the involvement of service users in the inspections programme.

The noble Lord, Lord Tunnicliffe, raised several very important questions. One was about providing analysis of information provided by CCGs. There is no analysis, but each CCG has to publish an annual report, and these reports are taken into account as part of the CCG assurance process with support provided to those not performing to a suitable standard. The noble Lord also asked whether there is a breakdown of the best and worst performances of CCGs or areas in this respect. NHS England does not do this. It focuses on supporting, not naming and shaming.

The noble Lord also asked NHS England to address poor performance in involvement. NHS England offers bespoke support according to local need. It is currently refreshing the statutory guidance for CCGs in partnership with local Healthwatch, voluntary organisations, patients and the public. He also asked about removing patient groups from the membership of the patient and public voice assurance group. I understand that this is not to be the case and that the membership of that group has been reviewed to refresh and strengthen it.

I hope I have answered all the questions, but I shall make sure that I go back and read *Hansard* to see what else the department needs to consider following this very important debate. Effective representation of the public voice is vital if we are to have a health and care system that meets the needs and preferences of individuals and local communities. Healthwatch England and local Healthwatch are powerful champions for this public voice and, as the noble Baroness, Lady Walmsley, said, the patient voice is vital.

*1.38 pm*

**Lord Harris of Haringey:** My Lords, I am enormously grateful to all noble Lords who have contributed to today's debate. I am particularly grateful to the noble Baroness, Lady Chisholm, for standing in at short notice and speaking from the Front Bench, and to my noble friend Lord Tunnicliffe, who at even shorter notice has stood in for our Front Bench, who are also away for reasons of illness and other matters.

This has been an interesting debate, and lots of important points have been made. I particularly welcome the point made by the noble Lord, Lord Lansley, that shared decision-making in terms of the individual should happen anyway, irrespective of the structures in place. He outlined—and I do not dispute it—that when he was Secretary of State the Government's objectives in creating Healthwatch were good, and the intention was to improve the system. It is just a question of how well it has worked subsequently. He asked a very valid question about why the Labour Government abolished community health councils. That is a question that I certainly asked at the time. I am sure that, had he been in his place, my noble friend Lord Hunt of Kings Heath, who was the Minister at the time, may well have wanted to comment on those matters. The fact that the arrangements that were then put in place were felt not to be working only a few years later suggests that perhaps the model was not absolutely right.

My noble friend Lady Pitkeathley, along with a number of other contributors, talked about the whole point of the involvement of patients being that it challenges the existing power structures and orthodoxy, which therefore produces a backlash. She also made the point, which I agree with, that in the Bill that ultimately became the Health and Social Care Act, the creation of Healthwatch was potentially a ray of hope in terms of how things would progress.

The noble Baroness, Lady Brinton, quite rightly reminded us of the role of the voluntary sector and the way in which users can shape the different patient pathways that are available. That too is something that often gets neglected. The noble Baroness, Lady Masham of Ilton, talked very pointedly about the lack of local knowledge about Healthwatch and its role, as well as the suspicion that is growing about the STP process—which could be extremely important, because it is intended to be transformational—in terms of the lack of openness and transparency. It is an important process, which is why it was so vital that health service users and social care service users were fully involved in the process.

My noble friend Lady Warwick of Undercliffe talked about how the role of local Healthwatch could be critical and said that it was one of the few organisations that really has an overview across the health and social care divide. She highlighted the concerns about the changed relationship between Healthwatch England and the CQC. She also reminded us, very importantly, of the potential role of housing associations. The noble Earl, Lord Listowel, talked about the value of senior people listening to service users. That is the essence of most of the models that have existed over the years—senior people directly hearing the voices that are there. The noble Baroness, Lady Watkins, also made that point when she talked about challenging the orthodoxy. She made interesting points about how users should influence and shape things.

I was very amused by one element of the speech made by the noble Baroness, Lady Walmsley, because she said it was not the Liberal Democrats who had said that the structure should work through local authorities. In that case, I am beginning to wonder whose idea it was. The noble Lord, Lord Lansley, speaking 10 years ago about the previous system, said that LINks may "struggle to be credible as long as they are funded through local government". Just a few

[Lord Harris of Haringey]
years later, he felt impelled by something or someone—we now know it was not the Liberal Democrats—to say that the new system should be funded through local government, with the consequences that I have described.

The noble Baroness, Lady Chisholm, in her reply, tried to reassure me about the relationship between Healthwatch England and the CQC, and reiterated what I already see as the accountability lines which render independence slightly more difficult. She then told us that the CQC would in future be deciding the funding of Healthwatch England, which seems to put even more into question the way in which that independence would operate. She also talked about local councils' accountability for how much they allocate to Healthwatch England. This is very important, but the sanction Healthwatch England has available—which I think we have discussed before in your Lordships' House—is that it can send a letter to the council lead saying it is not good enough. As a former council leader, I know what response I always gave to letters saying that something that my local authority was doing was simply not good enough.

In conclusion, I am grateful to all noble Lords who contributed to the debate. There is a great warmth around the House about what could be achieved by Healthwatch, both locally and nationally, and the message going back to the Department of Health must be that it is important to build on the Healthwatch network. If it really wants to get this right, and deliver what all your Lordships have said they want to happen, then it needs to resource local Healthwatch organisations properly through a freestanding Healthwatch England. I suspect we might then well find that we have a system which genuinely delivers a user voice and influence into the centre of health and social care in this country.

*Motion agreed.*

## Child Sexual Abuse: Football Clubs

*Question for Short Debate*

*1.45 pm*

*Tabled by* ***Lord Addington***

To ask Her Majesty's Government what action they are taking to respond to the multiple allegations of child sexual abuse within football clubs.

**Lord Goddard of Stockport (LD):** My Lords, on behalf of my noble friend Lord Addington, and at his request, I beg leave to ask the Question standing in his name on the Order Paper. I think the Minister and I would agree that we have both drawn the short straw today, for different reasons, but I hope we can have an interesting debate on the subject, which is not the most pleasant one.

Football—the beautiful game, which we gave to the world—is in crisis at the moment over allegations of sex abuse. All I wanted to do when I was young was to play football. There was only one thing wrong with that, which was that I was not any good at it. Somebody who was very good at it was a chap called David White. He rang me when he heard I was speaking today, and I met him on Sunday. He started playing football at five years of age. His father took him everywhere, and he clearly had the ability and the skill. At 16, he signed professional papers for Manchester City; at 18 he made his debut. In his career he played almost 400 games, scored 100 goals and won an England cap. He was a good footballer. He scored the first Premier League goal for Manchester City when the league was formed in 1991. You would think his life was complete.

I went to meet David for three hours. The story he told me was a difficult one, but one he wants to be heard, for a number of reasons, which will become evident. When he was 10, a coach at a local football team said he was taking the team to Spain for a week to bond, to learn to work together and to learn about different cultures and lifestyles. He said it would be good for the boy, whose parents happily sent him on his way to Spain with all the other lads. On the second day in Spain, the abuse from the coach started. The boy is 10 years of age, in Spain; he does not speak Spanish, there are no mobile telephones and he is at the mercy of this coach for a week. It is absolutely appalling. He comes back and has the dilemma of whether to tell his father—he knows what the consequences of that will be, including probably prison for his father—or to keep quiet. He kept quiet and told nobody. For 20 years, he told nobody.

The police called in about 1999, asking about abuse and whether he had any evidence of it and whether he knew about anybody else or had been involved himself. He said, "No, I knew nothing about any of this", because he still had his father. His father was alive and he knew what it would do to him, so he denied it. Then it was in the newspapers. His mother asked him about it and he denied it, but in the end he could not deny it, and explained it all to her one night. He told me that that was cathartic and lifted the weight off his shoulders, as it had been in the back of his mind all his career. His mother was made to promise not to tell his father—they had separated by now—and his father, who died a few years later, never knew, for which he is really grateful. He and his mother now knew, but no one else knew for another 15 years, until Andy Woodward admitted that he was abused. David and other footballers then came forward to say that they were as well.

You think that is the story, but then at 6 pm on Sunday, I get a phone call from his mother, who wants me to go and see her to discuss the matter. So on Monday, I left this Chamber on the 6 pm train back to Manchester, and then got in my car and drove to Eccles to meet his mother, an absolutely wonderful woman. In her mid-seventies, she lives in Eccles and is still active in the community. As you go in, there is a photograph on the wall of Harold Wilson in the Rose Garden with a number of people, some of whom Members to my right may remember. Her father was Jack McCann, the Labour MP for Rochdale from the late 1950s to about 1972, when he unfortunately died. So she is a socialist in background. She is at the heart of the community now, attending Christmas parties and so on. We sat for a couple of hours, and what came from her was a sense of guilt. There is a disconnect between your head and your heart; your head tells you that it is not your fault and these things happen, but your heart tells you that you should have looked after your son and somehow you are responsible. The more you tell the story, though, the more people understand

it and the less that guilt is there. I hope that telling David's story today will help other people to come forward and explain the problems that they have had.

David White has no problem with the FA or with the football club. He is not seeking compensation or publicity. All he wants is for this not to happen to anyone else. There have been big changes now. I have met people from the FA; I met James MacDougall yesterday and we had a good discussion. There are checks and balances now in the football league and the FA. I would say it is one of the safest industries for young boys and girls to go into because those checks and balances are second to none and the child protection unit works really well.

However, the approach needs to be more holistic. As David said, these people operate down paths. If they go down the path of football and we cut that path off, that is great, but what is to stop them opening a little judo club in Urmston, a badminton club in London or a dance school in Newcastle? It is the holistic problem that David wants challenging. It is all very well for these organisations to begin to run to cover, call for reports and say it is all very terrible, but there needs to be an outcome from this. That outcome has to be the message that, "If it doesn't feel right, tell someone", together with a phone number.

What David wants is for the football league and the Premier League, the people with the big money, to be a conduit for all other sports to pull together and get this to happen. I cannot make it happen and neither can noble Lords, not even the Minister, because children do not listen to us—they listen to Wayne Rooney, Andy Murray or Lewis Hamilton. People like that should be persuaded to pass that message down to children. Now, unlike 1979, children have mobile phones and are all on Snapchat and talking to each other. There is much less chance of these people manipulating and frightening them and making them their "special people" because they have no one to talk to.

What David wants is for people to understand the darkness and despair. He tells me he could have played more for England and for his football clubs. He would have a fantastic two or three weeks where he would score goals but then something would trigger him, the mist would come over him and he would be useless for two or three weeks. Managers would say, "He's a great footballer but he doesn't put his heart into it", or, "He's a great footballer but he's a Champagne Charlie". They did not know what David was going through. I would like to ask some of the managers who have managed David White to pick the phone up and chat to him now, because he was not not trying—it was just that he was in a place where it was almost impossible for him to function. Then that would go, and he would carry on. This is a difficult subject for me, and indeed the House, to talk about, but I emphasise that if we can get the message right this will not happen for anyone else. That is the most important thing that we want to happen.

I ask the Minister for her view on the following. David White, an ambassador for Manchester City who does corporate hospitality, also does the commentary for Radio Manchester on match nights. Last night City played Watford, but he had a phone call from the BBC saying that it no longer wanted his football-commentating services until, in its words, "this matter is dealt with". That is incredible and unforgivable of the BBC. He is a victim; he has not been charged, he is not giving evidence and he is not sub judice—he is just a person—yet the BBC has arbitrarily decided that he cannot speak about football any more. Does the Minister think that was a sensible thing to do? Does it send out the right message to people to come forward, to help to change the situation? I do not think the situation is as bad now as it was. That was then; in the 1960s and 1970s there was a different culture. It still needs addressing, though, and there are far more people in far more sports in the same situation. I hope the Minister will address those points.

*1.55 pm*

**Baroness Bertin (Con):** My Lords, a good friend of mine stood in the witness box nearly 20 years ago and helped to successfully prosecute a sports teacher who had abused many boys over a long period. I still vividly remember his fear of people finding out. He knew he wanted to stand up and testify but he never wanted to speak about it ever again, and who can blame him? I do not think we can ever overestimate how hard and painful it is to open up about abuse. So for Andy Woodward and others to publicly speak out is incredibly brave—even more so against the sometimes macho backdrop of football.

I praise the swift response of the NSPCC. For many victims, an anonymous helpline is the only way that they can bear to talk about it, and is often the first step on the road to reporting it officially. The NSPCC's work offering support and guidelines to clubs over the past decade will have helped to prevent further abuse, one hopes, but there can be no room for complacency. Predatory abusers will always be on the lookout for new ways to fool the system. That is why it is so important for clubs, volunteers and parents to work together to ensure that sensible vigilance is maintained, and to equip children with an understanding of what is appropriate and give them the confidence to speak out if behaviour is not suitable.

It is clear the Government are taking this issue extremely seriously, but can the Minister give any more detail about how they are supporting non-statutory organisations in their work to help victims of abuse? According to figures obtained by the NSPCC, a shocking 90% of those who experience abuse at an early age develop mental health issues by the time they reach 18. Can she reassure the House that victims will be able to draw on the support of properly trained specialist professionals across the police, social work and the NHS? Intervening early and offering focused help and support is crucial in rebuilding lives. It must not be left until a crisis point has been reached.

The Football Association has rightly understood how grave this situation is. However, is the Minister confident that its inquiry will be independently run and published in full when the time comes?

Many parents may be surprised to learn that not all sports clubs are regulated. Clubs that receive public funding have to meet the highest safeguarding standards, but privately-funded clubs are not required to have stringent systems, while some newer sports with no

[Baroness Bertin]
national governing body may not be required to DBS check at all. Does the Minister think that greater transparency for parents may be helpful in this regard?

Despite all this, it is important to remember that the majority of coaches and volunteers have children's best interests at heart, and that children up and down the country are able to flourish and play sport thanks to their dedication.

*1.58 pm*

**Baroness Grey-Thompson (CB):** My Lords, I very much welcome this debate. It is sad that we are in this position, although perhaps not surprising considering the number of cases that we have heard about outside sport. I admire the bravery of those who have come forward; it is a huge burden to carry. Right now the focus is on the abuse of children and that is quite right, but we should not forget adults and the potential for longer-term grooming, and those who can be vulnerable by being involved in sport. It is true that sport has a dark side; it is a place where you can get close to children and build a relationship with them and their families.

I declare an interest in that I was asked to do the review of duty of care by the right honourable Tracey Crouch, the Minister for Sport in another place, after the Government's sport strategy *Sporting Future* was published in late 2015. I am due to report to the Minister shortly. I thank her for starting this work, and I am indebted to her officials at DCMS for the time that they have given me. It would be unfair to cover the details of my review or its conclusions before the Minister has had the chance to formally review it, but recent events bring into stark focus what duty of care means in sport, and what it means to participants. In the simplest terms, it means that at all levels, we treat people how we would like to be treated ourselves.

Sport has a special place in the nation's heart—and quite rightly. There is much celebration of success, whether it is a medal at the highest level or a grass-roots game. Sport is amazing. It means a lot to us as a nation. As an individual, it is about developing your physical and mental health and well-being. For me, it changed my life. But driving a positive culture that has duty of care at its heart is a fundamental responsibility of leaders, managers and coaches at every level in every organisation in sport.

If someone knows that something inappropriate it is happening, they need to feel able to step forward and bring about change without fear of recrimination. We must have an opportunity for whistleblowers to raise concerns. We have seen that a lack of duty of care has resulted in behaviours and actions which are unacceptable and furthermore should not be tolerated in sport. We have seen what that has led to.

Participants should not feel that they are just a number on a spreadsheet. The drive for success and the desire to win should not be at the cost of the individuals involved. What we have seen has been dominated by fear. There is fear of not being believed. There is fear that a young participant's word will not be taken against a trusted, respected and successful coach—and the words "successful coach" hide many things. There is fear of letting their family down. There is the expectation, if they play sport; there is the amount that families put into a child who has a dream. The biggest fear is that your dream may be taken away from you. It is amazing what people will tolerate to hold their dream true to themselves. There is no place for fear within our sports system.

I have never experienced sexual harassment in sport, but I have many friends who have. Some of the culture that exists in sport is tough: there is training and commitment. If we think outside sport, there is dance, there are the arts. That is what it takes to achieve, but a tough and challenging system should not equate to abusive relationships. The bottom line is that those in sport should be safe and free from bullying, abuse and harm. Sport cannot think of itself as something different or special.

I believe that things have changed in recent years and that measures are in place that safeguard those who currently participate, but then and now participants have the right to be free from harm. Then and now, they have a right to be free from bullying. Then and now, they have a right to be free from sexual harassment and sexual abuse. We cannot assume that it has just gone away; nor can we assume that it is just in football.

I know how seriously the Government are taking this issue—I have been party to many meetings and discussions in recent weeks—but I hope that the Minister will confirm that the Government are doing everything they can to close the loopholes that exist in sport around criminal record checks and reporting, and that they are looking at wider funded and non-funded sports which want to have safeguarding policies in place. Sport is too special to allow these individuals to have a place in it.

*2.02 pm*

**Baroness Vere of Norbiton (Con):** My Lords, and so it goes on. Another day, another part of our society has to face up to the enemy within, whether it is now or many, many years ago. So far, we have had Churches, charities, hospitals, schools and others—all sectors that should have the highest level of care and safeguarding for young people—but they have been and sometimes are being found wanting.

The Question asked today is what the Government should be doing about it. It is without doubt that victims of these crimes have suffered enormously and have shown great courage in standing up to talk about what happened to them. I am sure that all of us in your Lordships' House would commend them on their bravery and hope that, if others have suffered, they, too, decide that now is the time to speak up, because time is of the essence: for the accuser, but also for the accused.

The grown-up sons of a friend of mine had an experience recently. She was woken by a knock on the door very early one morning, allowed to make one phone call and then had to sit in her sitting room all day, guarded by the police, as her house was searched. All devices were removed, including hers, and her sons were taken away for questioning.

To cut a long story short, it was a hugely traumatic experience for all concerned, and it went on and on. The sons were asked to report back to the police

station again and again. On one occasion, they turned up and were told: "Didn't you get the letter? We don't need you today". The letter actually arrived the next day.

After well over a year, it was all finally over. One son was completely exonerated of any wrongdoing; the other was given a bit of a slap on the wrist for something he did many years previously which was not malicious, possibly not even illegal, but quite stupid. I am sure that all of us with teenage children know that they do stupid things.

I am not saying that the police are wrong in most of their actions—of course they are not; they must investigate fully—but the impact on that family was enormous, although there was no wrongdoing. The impact on the boys, in particular, was massive. One lost his job; the other was at university and his studies were severely disrupted. Whatever must be done—and I agree that we must do things—in this case and in all others it must be done quickly, effectively and with minimal distress to all those involved, both accuser and accused, because sometimes they have not done something wrong.

What does this mean for the recent revelations surrounding football? First, I sincerely hope that all affected individuals come forward and speak up so that the full scale of the issue can be understood. Then I hope that all those charged with investigating the actions of the few are empowered and resourced such that they complete their investigations as quickly as possible; and then that action against those who have abused is swiftly taken. It would be a terrible shame to blight the hard work of the vast majority of those in football, who love the game and are as appalled as we are to hear about these events. We must investigate, take action and allow everyone, in football and beyond, to try to move on.

*2.06 pm*

**Baroness Brinton (LD):** My Lords, for those of us who have for decades supported football at all levels, from being the mum on the touchline on the Sunday boy's league through to being a season ticket holder at professional games at various levels, the recent revelations cast an ugly shadow on the beautiful game. That is why I start by paying tribute to all those who have had the courage to come forward and witness through their personal stories, saying what until now has been unsayable.

We know that child sexual abuse is a society-wide problem. The problem has been getting everyone in society to accept that. The one good that can come from these revelations is that it will, I hope, become easier for others who have been abused to come forward in future.

Anne Longfield, the Children's Commissioner, in her 2015 report on protecting children from harm, cites the following in her assessment of the impact of child sexual abuse in the family environment, but it is just as pertinent outside the family environment:

"Many victims do not recognise that they have been sexually abused until much later in life … Victims and survivors face considerable barriers to telling anyone and accessing help … Child-sexual abuse … casts a long shadow over the life of victims and survivors".

I particularly welcome the proposal this week that a trust should be established to assist former young footballers who have been abused. The scale of abuse is huge, and no doubt there is more to follow in football and other sports where coaches come into contact with young people.

However, it is of deep concern that victims' charities and organisations are not currently regulated by any governing body, statutory or voluntary. In effect, that means that anybody could establish a charity without the necessary qualifications. This in itself raises safeguarding issues, especially due to the vulnerability of the victims. That is why I tabled amendments to the Policing and Crime Bill that would place statutory duties on elected policing bodies and the Commissioner for Victims and Witnesses to ensure that quality standards are developed, published and adhered to.

Your Lordships' House debated the amendments and agreed to them on Monday night and, if implemented, they would ensure that a quality standard in relation to the provision of victims' services was prepared and published. They would also ensure that the quality standard is reviewed at least every five years; and that, in preparing the quality standards, the commissioner and the policing bodies would have a duty to consult the public. These quality standards would cover appropriate qualifications: minimum standard of experience; correct indemnity insurance; compliance with data protection and safeguarding laws; complaints procedures; regulatory bodies to take complaints and ensure that the standards are adhered to; and a strict compliance with the victims' code. Those quality standards would ensure much-needed services for abused boys and girls, men and women in sports and elsewhere, and that they are adhered to to protect everyone. Can the Minister help us to progress these when the amendments return to the Commons?

Finally, I mention the excellent work of Mandate Now, the campaigning group, which makes the important point that we need mandatory reporting of possible child sexual abuse, which we do not have. Here I pay tribute to my noble friend Lady Walmsley, who has long been advocating this in your Lordships' House. Mandate Now makes it plain that the FA's own safeguarding policy is confused and inconsistent. While it says that it is mandatory to report, when it is not, its procedures are only guidance, not a requirement on its bodies. Worse, it is not clear who should undergo a criminal records check. When will mandatory reporting be introduced, and when will those inconsistencies be clarified? The time for prevarication on this is now over.

*2.11 pm*

**Lord Ouseley (CB):** My Lords, listening to the noble Lord, Lord Goddard, introducing this debate and telling the story of David White was truly moving. Like many people in this country, I have heard some of the stories and experiences of former professional footballers who have told their stories, and that is the moment when it gets through to you that there is a real problem that has to be tackled. As the noble Baroness, Lady Brinton, said, very often we do not understand what child sexual abuse really is. From my own experience

[LORD OUSELEY]
of playing football as a youngster, some of the things that went on we would call child sexual abuse now—but certainly, in those days, we did not.

Child sexual abuse as we understand it now is abhorrent; it is criminal. It occurs in the UK, and not just in England—inquiries are going on in Scotland, Ireland and Wales—on a scale that requires urgent government action if it is to be reduced and eliminated. It thrives because there is often a lack of moral leadership locally and nationally on issues like this; there is a prevalent culture in an environment frequented by children of fierce secrecy and shame. The sex predators know how to exploit those environments; they carry their confidence on their shoulders, believing that they can get away with whatever they do. We salute those individuals who have come forward to share their experiences of abuses which have haunted them, some for as long as 40 years. They now want understanding, support, investigations and answers.

Several local inquiries have been launched, and the FA has set up its own national independent inquiry, led by Clive Sheldon—and it is for government to oversee the content of that, to ensure that it is truly independent and provides us with the answers that are necessary, not only for those who have complained but for all of us who have an interest in ensuring that action is taken. I hope that it will be able to shed light on what happened—when, how, why, who did what and who did nothing when they should have done something, what is happening now and how effective and appropriate the current safeguarding arrangements are covering all those who work with children and young people in football at every level. Of course, the police services are pursuing their own investigations, and Operation Hydrant is co-ordinating police investigations. These are all very important actions, as part of providing us with the information that we need to know about what is happening to provide safeguarding while we wait for those answers.

Football is a massive national industry, involving families, their children, paid staff and volunteers, some within the control and the ambit of safeguarding and some not. There is currently a network of 8,500 designated safeguarding officers, carrying out 55,000 criminal record checks, with 35,000 people going through the safeguarding children training each session. But we should recognise that this latest scandal of child sexual abuse must be seen within a wider context of how abuse against children is taking place—the culture of shame, fear and secrecy that enables it to thrive. There is so much domestic violence, rape and child sexual abuse being committed, on a scale against children and women—and, occasionally, men—which requires strong action and leadership. We look to government to seek the action that it takes within the context of the inquiries about football to deal with it and give leadership on that bigger scale.

*2.15 pm*

**Lord Holmes of Richmond (Con):** My Lords, I thank the noble Lord, Lord Addington, for securing this debate and the noble Lord, Lord Goddard, for introducing it. In those thanks, I express incredible sadness at the reason why we have to have this debate. We have only one national sport in Great Britain and, for better or worse, at the moment that is football. The headlines in recent weeks have not been made by the top goal-scorer, promotion, or the relegation positions of particular clubs; it has been a far darker side of not just football or sport generally but society. Those statistics run like this: more than 1,700 calls so far have been made to the NSPCC helpline; 21 police forces are investigating, to date, 83 suspects, involving 98 clubs, at every level of football in every region of the United Kingdom. We have to ensure that every allegation is thoroughly and fully investigated. Everything must be out in the open, with no cover-ups and no smoothing away, no hush-ups this time around. Does the Minister believe that the Football Association and other football bodies have the competency to conduct an independent and thorough inquiry and fulfil their responsibilities in this respect?

That was then—what about now? I have serious concerns as to whether football is in shape, not just to investigate these horrific historic events but to deal with the potential abuse taking place today. Is the governance in place? What about values and culture? When you consider the rather pick-and-mix approach that football has taken to inclusion, equality and stadia, never mind this most fundamental issue of safety, does it have the right structures, attitude, approach and culture that we need from a modern organisation in sport today?

As other noble Lords have said, this obviously goes wider than the sport of football. Does my noble friend the Minister believe that all sports have the right governance, culture, systems and approaches in place to ensure not just that all historical events are fully and thoroughly investigated but that nobody today should have to suffer or experience the events that have come out over recent weeks—events that have shown the darker side not just of sport but of our society, which none of us can allow to continue for want of good governance and for want of the right culture?

Sport, the media, the health service—we are talking about society. The only way that we can ensure that people have a positive experience in sport—the fun, the enjoyment, the excitement, the reason why we all love sport—is if that is built on the bedrock of safety for all concerned. This has to be the first principle and the starting point. We can only reform this issue across society if every element plays its part, starting with sport. Does my noble friend believe that football is competent to investigate the historical cases and competent to go forward and ensure an exciting, fun experience for all who seek to enjoy it?

*2.20 pm*

**Baroness Newlove (Con):** My Lords, I know that my time is very limited and I am grateful to be able to speak in this important debate, although it is quite a short time to talk about this abuse. As Victims' Commissioner for England and Wales, I have found it very saddening to hear about this abuse. It is very courageous of everybody to come forward about what has happened to them. We must recognise their courage and not use it just to tell a story. I will keep my speech short and just ask when the Government are considering

looking into investigating this child sexual abuse within football. I want to make sure that everybody co-operates and that health, schools, colleges and housing, to name a few areas, are involved. This has to be a seamless package, to ensure that all victims and survivors get the right support as we go forward.

We must also ensure that we have enough practitioners qualified to assist survivors. Good intentions are laudable but, on their own, they are simply not enough. I know from working with NAPAC—the National Association for People Abused in Childhood—that there has been a tenfold increase in abuse survivors coming forward. We need to ensure that we have quality training for support workers so that they can give the right support to abused survivors. This is only the beginning of the journey that they have spoken about—we have to ensure that their future is supported. This means that there will have to be money put into the pot, which must be from central funding. We cannot have a postcode lottery. All police and crime commissioners have a purse for victims' services but we cannot hide behind that—we must ensure that funding comes from central government to make sure that everybody has the same level of support as they go through their journey. Anything short of that is not good enough. Can the Minister ensure that there will be enough funding? We need to understand how to progress, but first and foremost we must make sure that survivors have access to that support.

What saddens me today is that child sexual abuse is being talked about in a lot of areas. Everybody has different terms of reference but, as Victims' Commissioner and a victim of crime myself, I do not want to see this issue placed in silos. We have a sexual abuse inquiry that is looking at establishments and we are also now looking at football associations—but what about the victims in all of this? We cannot work in silos. These victims have been very courageous in coming forward. This is not window dressing; it is these victims' lives. We have to ensure that we create a happy, healthy sport where people can feel safe.

*2.23 pm*

**Baroness Walmsley (LD):** My Lords, I start by saying how impressed I have been by the bravery of those footballers who have found the strength to talk about their painful childhood experiences; I thank them for what they have done. We all have a duty to ensure that their suffering has not been in vain. I have talked to some of them, including Ian Ackley and Paul Stewart, and it is clear that their main motivation is to try to ensure that these terrible experiences are not suffered by vulnerable children in the future.

I have long been a campaigner for mandatory reporting. I and many of the footballers feel that if we had had a legal duty to report 20 years ago, someone would have told the authorities about their suspicions—indeed, there were disclosures in some cases—and the abuse would have stopped. This is what children want when they disclose abuse. They want action and they want the abuse to stop. The Government agreed in 2014 to have the public consultation on mandatory reporting, which has recently ended. The responses have not yet been published and, of course, neither has the Government's response. It took them over 18 months from promising the consultation to actually reporting it. I do not want to wait for another 18 months before they respond to the views expressed. When will the responses be published and when will the Government respond? In doing so, will they take seriously the victims' demands for legislation to try to ensure that this never happens again? Will the Government now accept that all the guidance, training, professional sanctions and so on have not worked? Not all the cases that the police are investigating are non-recent. It is still happening. Mandatory reporting would include national sporting bodies, so some of this abuse could be stopped before more young people are damaged for life.

I am not looking for custodial sentences for those who ignore suspicions of child abuse and fail to report it to the authorities, but I am looking for a criminal offence and a fine, not in order to criminalise people who work with children, most of whom do wonderful work, but to act as a disincentive to the perpetrators. If they know that thousands of eyes are watching and they have a legal duty to report what they know, some will be deterred from acting and many will be caught before they damage any more children. One of the footballers said to me yesterday that if parents realised that no legal duty to report exists—just guidance and professional sanctions—they would be more hesitant about exposing their children to the opportunities that are so readily taken up by paedophiles. Current measures have patently failed to protect children and it is time to go further.

I believe that those who have reported suspicions in the past, and risked damage to their own careers, would be protected by a law that mandates them to report what they know. Mandatory reporting works in Northern Ireland and in Australia, where a seven-year study has been carried out by Professor Ben Mathews. He found that there was initially an increase in reports, but resources must be made available to deal with them. I fear the Government have resisted this for as long as I have been pressing for it because of money. That fact is being disguised by spurious claims that increased reports would prevent services being provided for the worst cases. In the end, MR would save money because of the mental health costs avoided and lives destroyed. Ian Ackley's late father raised his concerns 20 years ago. I have here all his letters from organisations which passed the buck and said that they could not do anything until the Government acted. Do we have to wait another 20 years before the Government act?

The Government have resisted demands for legislation on MR for years. Ian Ackley was in a supermarket yesterday and was charged 5p for a plastic bag. He says that if the Government can legislate to save plastic and marine life, surely they can legislate to save children. I remind the Minister of how few people used seat belts until it became illegal not to. Legislation is not a silver bullet but it works. Will the Minister agree to meet with me and some of the footballers to discuss how we can move forward?

*2.27 pm*

**Lord Stevenson of Balmacara (Lab):** My Lords, as many other noble Lords have said, football is not simply a sport or pastime but more important even

[Lord Stevenson of Balmacara]
that life and death. It is part of our national fabric, and the news that we have been hearing has shocked us all. I did not know some of the details that have been revealed today but I felt that David White's story, as mentioned by the noble Lord, Lord Goddard, was very moving indeed and got to the heart of the problem.

We have to reassure parents that everything possible is being done. When we last spoke about this issue in the House, I said that it had the makings of a major scandal. As the noble Lord, Lord Holmes, mentioned, since then the number of football clubs that have been named has gone from six to 98 and all tiers of the game have been affected. Twenty-one police forces are now opening investigations and the helpline set up by the NSPCC is working extremely well—sadly so. It has become a UK-wide scandal and needs a high-level response.

I reiterate our support from these Benches for the actions the Government have taken so far; I am sure they are taking this issue very seriously. However, it is important that we get reassurance today about what the strategy is and whether it will be all-encompassing, as it needs to be, and in particular whether the victims will be supported in that. I pay tribute to the Minister for being here for the whole morning and still on her feet—well, not quite, but I am sure she will be shortly. When she responds, I would be grateful if she shared with us, after telling us last month that the department was in touch with all sporting organisations, what the preliminary responses have been. We need to know whether this is restricted to one or two sports or whether it goes—as I think we fear—to all sports, whether or not they are, as it were, in the same league as football.

Although the FA is doing as much as it can on this issue and the independent report is valuable, do we not now need a proper independent inquiry to pick up on all the points that have been mentioned today? It has been said that the independent inquiry into historical child abuse is competent to look at this issue. Can the Minister confirm that that will be the case and, if not, what steps will be taken? What is being done to ensure that the question which underlay the speech of the noble Lord, Lord Goddard, is answered—namely, is it now safe for today's children? As I think other noble Lords said, reports and prosecutions may not be enough in this case. We need an educational initiative and an all-sports initiative, and we need access to help to be signalled more clearly. We probably need leadership from within the sport, and a number of top sports people need to be involved in that.

In a vain attempt to maintain my physical health, I sometimes run at the weekend. Usually, it is an excuse to take the dogs out. My route takes me past the local secondary school. Last Sunday, I noticed several hundred young children out there having what seemed to be the time of their lives. It is a measure of the way this scandal has hit me that I could not see that and enjoy the innocence that was obviously on display. Rather, I worried about what was happening behind the scenes, and the darkness that we have talked about. We need to think more clearly about some of the points made by the noble Baroness, Lady Grey-Thompson, about duty of care. That is a very important initiative which I hope will be supported when she produces her report. She talked about the right to be free from sexual harassment. It is now well past the time that we had mandatory reporting.

*2.31 pm*

**Baroness Chisholm of Owlpen (Con):** My Lords, I offer my thanks to the noble Lord, Lord Goddard, who spoke so movingly about how tragic this issue can be, and about the bravery of people who come forward, whose only wish is that this does not happen to anyone else.

This is a very important debate. It is clear from the considered and heartfelt contributions we have heard that this is an issue which strikes right to the heart of our society. It raises many important and, in some cases, uncomfortable questions. It is right that we do not shy away from any of these questions. We must look at what these recent allegations tell us about our national game and learn all that we can to ensure that children playing football and, indeed, all sports today and in the future are as safe as they can possibly be.

The noble Lord, Lord Ouseley, made an interesting point about how—thank goodness—awareness on this issue has changed over the years. I pay tribute to the former footballers who have so bravely come forward to talk publicly about the abuse they have experienced. We have seen the impact this has had, with so many people now coming forward to the police and the NSPCC helpline to talk about their experiences. It is only through people talking about abuse that we can hope to identify perpetrators, bring them to justice and ensure that no one else has to endure the suffering that child sexual abuse can cause. It is only through people talking about abuse that we can ensure victims and survivors are offered the support they may need.

As has been reported, the Football Association has launched an inquiry into its past processes, to be led by Clive Sheldon QC. This review will look at who knew what and when, and what action was, or should have been, taken. The full terms of reference for this review have been published, and the FA has given assurances that the process will be as transparent and open as possible. The child protection in sport unit will also be conducting a review of the FA's current child protection processes to ensure that these are as robust as possible. We have seen further actions from the FA, such as the excellent video featuring Wayne Rooney and other English captains, encouraging people to speak up if they have any concerns, as the noble Lord, Lord Goddard, pointed out.

As my noble friend Lord Holmes mentioned, it would be naive to think that this is an issue that affects only football. We must be open to the possibility that this is an issue across other sports as well. To that end, the Minister for Sport has written to more than 40 sports to ask them to redouble their efforts relating to child protection. She has asked them to ensure that they have processes in place to manage non-recent allegations, and that their current child protection processes are as robust as possible. The Culture Secretary and the Home Secretary have also chaired a meeting with some of the biggest sports, the police and sports agencies to ensure that current processes are in place

and as strong as they possibly can be. This demonstrates the strong cross-government co-operation on these issues. We are working with sports bodies, as a matter of urgency, to identify where systems and processes can be strengthened still further, and how government can support them in doing so. We look forward to receiving the report of the noble Baroness, Lady Grey-Thompson, on the duty of care in sport, which is looking at safeguarding issues.

Noble Lords asked several questions. The noble Lord, Lord Goddard, asked about David White being taken off a BBC programme. This is obviously a decision by BBC Radio Manchester. We applaud Mr White's bravery in coming forward to talk about the abuse he has suffered. It is thanks to the courage shown by him that so many others have come forward. As noble Lords can imagine, I cannot comment on the details of this case. However, I understand that the BBC is saying that it made the decision on legal advice. That is all I can say at present, but at least the noble Lord has raised the issue.

My noble friend Lady Bertin referred to victims of non-statutory organisations. In January 2016, the Government announced that the £7 million funding for non-statutory organisations supporting victims and survivors of sexual abuse, including child sexual abuse, will continue in 2016-17; £4.7 million has been provided directly to police and crime commissioners to support organisations working with victims and survivors locally; £1.7 million has been allocated as an uplift to female rape support centres; and £0.6 million has been distributed directly by the Home Office to organisations working with victims and survivors of sexual abuse over a large geographic area. We have funded bids across a broad spectrum of activity, including services such as counselling, advocacy, helplines, online support, outreach, raising awareness and training. We recognise that service providers are under considerable pressure, and this funding will ensure that victims will receive the support they need, when they need it.

My noble friends Lord Holmes and Lady Bertin and the noble Lord, Lord Ouseley, all raised the issue of confidence in the FA. I think that I have more or less covered that, but we should allow the FA the opportunity to carry out its review. As I said, it has taken a number of steps to ensure the transparency and independence of the review into past practices, including through the appointment of the independent QC, Clive Sheldon, as mentioned by the noble Lord, Lord Ouseley. It has also published the terms of reference and committed to publishing any reports, where possible.

The noble Baroness, Lady Brinton, brought up the statutory responsibilities of the police and asked about amendments to the Policing and Crime Bill, on which she and I have spent long hours. I will take her comments back to the department and no doubt we will have further conversations on the subject.

I thank the noble Baroness, Lady Grey-Thompson, for the incredible work that she is doing. I know that the Minister for Sport is looking forward to receiving the noble Baroness's report, which will be considered seriously, and I think will result in a lot of measures that we need to take forward being put in place.

As regards closing loopholes in background checks and reporting, the Government are determined to do all they can to help prevent child sexual abuse and are keen to understand where more can be done, including with background checks. The Department for Education and the Home Office carried out a joint consultation on mandatory reporting. I understand that responses are being considered at the moment, and that a response will be forthcoming shortly.

My noble friend Lady Vere talked about the speed of police investigations, and I understand her point on that. It is important to remember that the police do a fantastic job in challenging circumstances, and I know that they do everything possible to ensure that investigations are carried out as swiftly and efficiently as possible.

The noble Lord, Lord Ouseley, asked about government leadership, and I welcome his comments very much. The Home Secretary and Culture Secretary met sports bodies, including the Football Association, yesterday. The Government entirely support sports in ensuring that they have the robust processes in place to prevent child sexual abuse.

My noble friend Lord Holmes mentioned football governance. My honourable friend the Minister for Sport has had several discussions with the FA about governance, including on Monday, where she was clear that the mechanism is through compliance with the new code of governance for sport, which was published in October.

The noble Baroness, Lady Walmsley, talked about whether the Government's response will be published. As we know, the Government launched a consultation in July on possible new measures relating to reporting and acting on child abuse and neglect, including the introduction of a new mandatory reporting duty or a new duty to act. It is important to get this right, which is why we have sought views from practitioners and professionals as well as the wider public. The consultation closed on 13 October. We are carefully considering responses and will update Parliament on the Government's conclusions in due course. I will of course pass on to the office that the noble Baroness would like a meeting. I am sure that it can be arranged, although it will be with somebody who is far more able to answer her questions than I am.

The noble Lord, Lord Stevenson, brought up several points, which I will probably have to write to him about, as he knows. We now have a constant correspondence back and forth. We may find that quite a lot of his questions will be answered when the review led by the noble Baroness, Lady Grey-Thompson, appears shortly.

I end by saying that the protection of our children and young people is of paramount importance, and the Government will give whatever support they can to ensure people can take part in sport safely. This is ridiculous—this is probably my last debate in this House before I go to the Back Benches, and now I am getting all emotional, which is stupid. I am sorry. I will pull myself together immediately. The vast majority of people take part in sport with no experience of abuse, and likewise, most people who work in or volunteer in sport do so with people's best interests at heart. But no

[Baroness Chisholm of Owlpen]
abuse in sport can be tolerated, and we must do all we can to ensure that sport in this country remains something of which we can be proud.

## Local Government Finance Settlement
*Statement*

*2.42 pm*

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con):** My Lords, with the leave of the House I will now repeat a Statement given earlier today by my right honourable friend the Secretary of State for Communities and Local Government. The Statement is as follows.

"With permission, Mr Speaker, I will make a Statement on funding for local authorities next year. Local government accounts for almost a quarter of public spending, and it is making a significant contribution to reducing Labour's record-breaking budget deficit. Councils have dealt with this admirably; public satisfaction with local services has been maintained. There is much that other parts of the public sector can learn from councillors across the country when it comes to delivering value for money, but no one is disguising that more can be done to improve efficiency and further transform services.

In last year's spending review we delivered a flat cash settlement for local government, which gives councils more than £200 billion to spend on services over the course of this Parliament. In February we published a historic four-year offer for councils, and core spending power figures have been made available in the Libraries of both Houses. The added certainty provided by the four-year offer will increase stability for councils as we transition to a world where they retain 100% of locally raised taxes to fund local services. By 2020, we will see local councillors deciding how to fund local services using local money—true localism in action.

Meanwhile, stronger incentives to support local firms and local jobs may increase business rate revenue for local government as business expands. In the new year we will introduce a Bill to provide the framework for the new system, with trials beginning later in the year. The March Budget announced that London and the devolution deal areas of Greater Manchester and Liverpool City Region will pilot 100% business rates retention. I can confirm today that these authorities have reached agreements to begin rate retention pilots in 2017-18. I am pleased to say they will be joined in this by authorities in the devolution deal areas of the west of England, Cornwall and the West Midlands.

The new homes bonus is an important part of our commitment to reward communities and authorities that embrace ambitious housebuilding plans. It also provides valuable income for councils seeking to grow their local economies, and they can spend it as they see fit. Since its introduction in 2011, over £6 billion has been paid to reward housing supply and over 1.2 million homes have been delivered. But, for all its success, the system can be improved.

A year ago, we consulted on a number of possible reforms to the scheme. Having studied the results closely, I can today confirm that, from next year, we will introduce a national baseline for housing growth of 0.4%. Below this, the new homes bonus will not be paid. This will help to ensure that the money is used to reward additional housing rather than normal growth. From 2018-19 we will consider withholding NHB payments from local authorities that are not planning effectively by making positive decisions on planning applications and delivering housing growth. To encourage more effective local planning we will also consider withholding payments for homes that are built following an appeal. A consultation on this will take place in due course.

We will also implement our preferred option in the consultation—to reduce the number of years for which payments are made from six years to five years in 2017-18, and to four years from 2018-19. This will release important funding for adult social care, recognising the demographic changes of an ageing population, as well as a growing population.

I am sure that all Members on both sides of this House agree on the need for action to meet the growing cost of caring for some of our most vulnerable citizens. Every year, councils spend more than £14 billion on adult social care. It is by far the biggest cost pressure facing local government. The spending review put in place up to £3.5 billion of additional funding for adult social care by 2019-20, allowing local government to increase its spending on this service in real terms by the end of this Parliament. However, more needs to be done.

Over recent months, we have listened to, heard and understood calls from across the board saying funding is needed sooner in order to meet short-term pressures. Today I can confirm that savings from reforms to the new homes bonus will be retained in full by local government to contribute towards adult social care costs. I can tell the House that we will use these funds to provide a new dedicated £240 million adult social care support grant in 2017-18, to be distributed fairly according to relative need. I can also confirm the indicative allocations of the improved better care fund we published last year. The Department of Health will shortly be confirming allocations of the public health grant to councils for next year.

Last year we agreed to the request by many leaders in local government to introduce a social care council tax precept of 2% a year, guaranteed to be spent on adult social care. The precept puts money-raising powers into the hands of local leaders, who best understand the needs of their community and are best placed to respond. In recognition of the immediate challenges faced in the care market, we will now allow councils to raise this funding sooner if they wish. Councils will be granted the flexibility to raise the precept by up to 3% next year and the year after. This will provide a further £208 million to spend on adult social care in 2017-18, and £444 million in 2018-19. These measures, together with the changes we have made to the new homes bonus, will make almost £900 million of additional funding available for adult social care over the next two years.

However, we do not believe that more money is the only answer. There is variation in performance across the country that cannot be explained by different levels of spending. Some areas have virtually no delayed transfers of care from hospital. But there is a 20-fold difference between the best and worst performing 10% of areas. It is vital that we finish the job of integrating our health and social care systems. We know that this can improve outcomes and make funding go further, helping people to manage their own health and well-being and to live independently for as long as possible.

There are already some strong examples of where this works. For example, in Oxfordshire joined-up working has seen delayed discharges plummet by over 40% in six months. Meanwhile, Northumberland has saved £5 million through joining up with its local health trust, reducing demand for residential care by 12%. The better care fund is already supporting this, with £5.3 billion of funding pooled between councils and clinical commissioning groups last year. But we also want to make sure that all local authorities learn from the best performers and the best providers, and we will soon publish an integration and better care fund policy framework to support this. In the long term we will need to develop reforms that will provide a sustainable market that works for everyone who needs social care.

We also need to recognise that demographic pressures are affecting different areas in different ways, as is the changing cost of providing services. So we are undertaking a fair funding review to thoroughly consider how to introduce a more up-to-date, more transparent and fairer needs assessment formula. The review is looking at all the services provided by local government and will determine the starting point for local authorities under 100% business rate retention. This is an opportunity to be bold and an opportunity for bottom-up change. We are working with representatives from local government on the review and I will report on our progress to the House in the new year.

Council tax is a local decision, and local councils will need to justify social care precept rises to their taxpayers. They will need to show how the additional income is spent to support people who need care in their area and how it improves adult social care services. However, it is worth noting that the extra flexibility to raise funding for adult social care next year will add just £1 a month to the average council tax bill. The overall increase to the precept in the next three years will remain at 6%, so bills will be no higher in 2019-20.

In our manifesto we made a commitment to keep council tax down, and this is exactly what has happened. Since 2010-11, council tax has fallen in real terms by 9%. By 2019-20, hard-working families will be paying less council tax, in real terms, than they were when we came to power.

However, last year we saw a worrying 6.1% rise in precepts by town and parish councils. That is why, earlier this year, we consulted on extending council tax referendum principles to larger town and parish councils. These councils play an important role in our civic life, and I understand the practical considerations of scale. So we have decided that we will defer our proposals this year, while keeping the level of precepts set by town and parish councils under close review. I expect all town and parish councils to clearly demonstrate restraint when setting increases that are not a direct result of taking on additional responsibilities. I am also actively considering with the sector ways to make excessive increases more transparent to local taxpayers.

This local government finance settlement honours our commitment to four-year funding certainty for councils that are committed to reform. It paves the way towards financial self-sufficiency for local government and the full devolution of business rates. It recognises the costs of delivering adult social care and makes more funding available sooner, and it puts local councillors in the driving seat and keeps bills down for hard-working taxpayers. I commend it to the House".

*2.53 pm*

**Lord Kennedy of Southwark (Lab):** My Lords, I thank the noble Lord, Lord Bourne of Aberystwyth, for repeating the Statement made in the other place earlier today.

This is a settlement that will leave the people of England paying higher taxes and getting worse public services for their money. It will not pay for a single extra carer this winter. With a current crisis in social care and care budgets stretched to breaking point, we have heard nothing from the noble Lord that will give any comfort to those who need good-quality care or to their anxious loved ones.

The Association of Directors of Adult Social Services was already raising the alarm this summer, but the response from the Government was to refuse to accept that adult social care was underfunded. Even now, have we really seen anything that leads one to believe that the Government are serious about dealing with the crisis in adult social care? We have seen £4.6 billion axed from social care budgets since 2010; 1.2 million people not getting the care they need, according to Age UK; and the service at tipping point, according to the Care Quality Commission. In addition, as the noble Lord, Lord Porter, the Conservative chairman of the Local Government Association, has made clear:

"Services supporting our elderly and vulnerable are at breaking point now".

So what do we have? We have blame put on councils, a fair funding review and an increase in council tax. Can the noble Lord confirm how much new money is available to tackle this winter's social care crisis? Will he also confirm that the further increase in council tax next year will not plug the funding gap for next year either? Does he regret that before the 2010 general election senior figures in his party chose to kill off cross-party talks on how to fund social care going forward? Then there was the Dilnot commission, whose recommendations have been shelved until at least 2020.

Why should we have any confidence that the noble Lord and his party are serious this time about sorting out social care funding? Can he tell us more about the fair funding review? What is the timetable for it? This is, after all, an immediate crisis and we have elderly and vulnerable people who need action now—they cannot wait for the review.

Will the review also address the worsening postcode lottery for social care and other services? In the most deprived areas of the country, social care spending fell

[Lord Kennedy of Southwark]
by £65 per person as councils were hit particularly hard by government funding cuts, but it rose by £28 per person in the least deprived areas. And will not the social care precept only further entrench inequality? Blackpool, one of the most deprived unitary authorities in the country, faces a 31% reduction in spending between 2011 and 2019, while Wokingham, one of the least deprived areas, faces a fall of just 4% over the same period. When will the Government address that injustice?

I pay tribute to local authorities, councillors and local authority staff up and down the country who are doing their best to plug the funding gap to cope with huge rising demand for care and increasing costs. In 2014 alone, councils diverted £900 million from other services to maintain adult social care services.

Since the Prime Minister came to office, there has been much talk of help for those who are just about managing their finances, However, that seems to have gone out of the window today. The fact is that we need deeds as well as words. The Prime Minister has decided to put up council tax in every part of England again. She told us:

"If you're from an ordinary working class family, life is much harder than many people in Downing Street realise".

I think we can all agree with that statement. She also said:

"You have your own home, but you worry about … the cost of living",

the state of your area and the services you rely on, and you worry whether you can pay the tax bill at the end of each month. Today, the Prime Minister, the Secretary of State and the noble Lord have decided to make things just a bit harder for those hard-working families. On top of council tax rises this year, there will be a 3% rise in 2017-18 and another increase in 2018-19—a 17% rise in council tax compared with 2015, all decided in Downing Street.

The Conservative Party, which once claimed to be in favour of low taxes, is putting up taxes every year until the next election. If you are a band B council tax payer in Blackpool, this will take twice as much as a proportion of your income as it will if you are a band B council tax payer in Wokingham. For some, it will mean the support they had hoped would be there for an elderly relative will not be, while for others visible public services such as street cleaning will be cut ever closer to the bone. There will be even fewer youth centres and more libraries will close.

Can the noble Lord say more about the proposals to, as he says, encourage more effective local planning by making positive decisions on planning applications and housing growth? I have to say to him that it is not councils being slow in approving housing planning applications that is the problem—that is just political dogma from the Conservative Party. We need to deal with the problem of land-banking by developers that just sit on land with planning applications but do not build the houses. What we need is real, urgent action so that the homes that we need are built quickly to deal with the housing crisis. What we have seen here today is too little, too late, with needs unmet, hopes dashed and social care in crisis, and complete and abject failure on the part of the Government to get a grip on the situation. It is not good enough.

In conclusion, I apologise that I did not at the start make my usual declaration of interests as a local councillor in Lewisham and a vice-president of the LGA.

**Baroness Pinnock (LD):** My Lords, I declare my interests as a local councillor in the Metropolitan Borough of Kirklees and as a vice-president of the Local Government Association.

I am rather relieved today that I am not on the Government's Christmas present list. The Government's Christmas presents are ones you pay for with your money, not theirs. A clearer, more transparent picture of today's Statement is this: the Government, in the four-year deal to local authorities, are slashing the grant they give to local government by 56% over the planned period. This, of course, has a disproportionate impact on those councils that, because of need, rely more heavily on government grants to provide the services that the Government demand of them. The effect so far has been that council spending has, for the majority of councils, fallen like a stone. Some spend 44% less on all services, excluding schools, than they did six years ago. An average metropolitan council serving 400,000 people spent £377 million in 2010 and £257 million this year, according to an analysis of figures by the ONS. The consequence is that hard-pressed councils have even had to cut services to vulnerable adults and children. A crisis has ensued. Care homes are closing down and the impact on the NHS is there for all to see. The Government's response in this time of good will is to give local authorities their own money and label it a social care grant. The funding has been taken from the new homes bonus and redistributed. No doubt there will be winners and losers, and it will be no surprise to me if the winners are those who need it least.

The Government have given local authorities not one but two presents this year. The second present is to allow councils to collect and raise the Government's social care tax—so those who are just about managing will be even more hard pressed. Worse still, this largesse from the Government does not do any more than apply a sticking plaster to the gaping wound that is social care, while the patient is bleeding to death. Local figures tell the story better than the national ones. In Kirklees Council there is already a funding gap of £12 million in adult social care because of rising demand. The social care tax of 3% will provide £3.3 million of extra funding, but there will still be significant cuts to be made in social care services.

The new homes bonus reallocation provides no new funding; it is just reallocating and relabelling the same money. What is given is also taken away. Existing new homes bonus funding is being used to prop up libraries, parks and road repairs. These services will now be even worse off, so outlook is bleak for many councils, and there is not much seasonal good will there.

Does the Minister believe that the scale of the crisis in social care requires more than two years of a 3% tax rise to meet existing needs? If not, how does he anticipate plugging the remaining gap? Will he discuss with his colleagues the potential to bring forward increases to the better care fund which are planned for 2020, so

that the integration of health and social care can be accelerated? Can he explain how those families that are just about managing will manage the 6% rise in council tax imposed by the Government? Does he expect all local authorities to survive intact under the burden of these pressures?

**Lord Bourne of Aberystwyth:** My Lords, I thank the noble Lord, Lord Kennedy, and the noble Baroness, Lady Pinnock, for their contributions. I will try to answer the questions that they have asked. First, as I have indicated, councils and councillors perform an incredible job with great success—their approval ratings make other levels of government envious of the extraordinary work that they do. I must take issue with the basic thesis that the Government have not answered the call for additional needed money for adult social care. This is additional needed money for adult social care, as I was at pains to announce today, recognising the problem with £900 million additional funding over two years. It is more than the 3% precept: it is £240 million in the next year specifically earmarked for social care spending and that will be allocated according to the fair funding formula for those in the greatest need. That is something that we should welcome.

In addition, I was at pains to point out that the fair funding review that is going forward will help in this direction. I indicated that my right honourable friend the Secretary of State will be making a report back to the House next year, and that will no doubt be reflected in your Lordships' House too. Meanwhile, now that we have announced additional money, the health and social care integration that is going on and that will be completed by 2020 has in excess of £6 billion to help with health and social care integration, which is key to dealing with this problem. As I indicated, this is not just about money. Clearly, money is central, but it is not the only factor. I repeat that there are authorities across the political divide performing much better than others. We are available to provide information to authorities on the best-performing authorities, so that that information is more widely available.

We recognise the issue that needs to be addressed, and I think we are addressing it. We have consulted on the changes in the new homes bonus, which were referred to. This is not something that has happened out of the blue—it was consulted upon. It is sharpening the incentives; it is not stopping the new homes bonus but introducing a floor at 0.4%. It is scaling down the legacy changes, but authorities will continue to benefit from this. Meanwhile, the savings have been specifically channelled into helping to address the problem in the area correctly identified by the noble Lord, Lord Kennedy, and the noble Baroness, Lady Pinnock, as needing attention. I would have thought that that was to be welcomed. I think this provides cheer to the sector, in recognising that we are addressing the urgency of the situation with additional money in the way that I have expressed.

*3.07 pm*

**Lord Beecham (Lab):** My Lords, the Government are qualifying themselves for nomination for the Nobel prize for complacency in how they are addressing the problems facing local authorities. Since 2010, when Salome, in the perhaps unlikely form of Eric Pickles, offered up local government as a prize to central government, which led to the largest share of cuts in any area of government expenditure going to local government, councils have struggled manfully to maintain services. I refer to my interest as a member of Newcastle City Council and a vice-president of the LGA. In Newcastle, we are heading, by 2020, for a £291 million a year cut from what was being provided in 2010. That is a remarkably high figure. It amounts to about £1,000 per head of the population per year. How are councils supposed to maintain services?

The Government's complacency is reflected in the remarkable assertion that added certainty will provide "increased stability"—the stability of the graveyard for councils—and that,

> "By 2020, we will see local councillors deciding how to fund local services using local money".

But of course, there are inadequate amounts of public money. This will apparently be, "true localism in action". It is more likely to be inaction in local government, because councils will not have the capacity to deliver the services that their people need.

The Government go on in this Statement, unilluminating as it is, to talk about how the,

> "extra flexibility to raise funding … will add just £1 a month to the average council tax bill".

Councils have not been able to increase council taxes beyond a very limited amount over recent years, so if it is being permitted now to raise council tax by this modest amount, why has that not been available beyond the 2% limit imposed on local authorities in previous years?

The Statement is worse than that in a way because it goes on to say that councils will be able,

> "to support people who need care in their area",

and show,

> "how it improves adult social care services".

It is not a question of improving adult social care services; it is a question of trying to maintain adult social care services against rising costs and, increasingly, rising demands for which no provision is being made.

It is remarkable that the new homes bonus is relied on to transfer one part of local government money to another area. That rather eliminates the whole point, one would have thought, of the new homes bonus, which was supposed to encourage housebuilding, which the Government may have noticed is desperately in need of increasing.

Local councils and, more importantly, their residents are facing an unprecedented decline in services. It is certainly true that some people are not aware of the damage being done because they do not have intimate family knowledge of it. That is why some of the polling suggests that people regard the service as okay. Unless people happen to know members of the family denied services—not able to use a library that used to exist—or do not have children in a school that is under great pressure, they do not get the true picture. The Government are clearly colluding in an attempt to conceal the true picture of what is happening in communities up and down the country.

[Lord Beecham]

I have one final point to make in relation to business rates, because this will apparently be the great answer. We do not know how the business rates system will work. We do not know how it will reflect the different yields that will occur in different parts of the country and what method of redistribution will be applied. We do not know, for that matter, how the appeals system will work against the new valuations, which have been controversial in various parts of the country and which may complicate the picture significantly. This finance settlement is unsatisfactory. It is entirely the responsibility of the Government to see that there is a fair distribution directed at meeting needs, and this Statement does nothing to do that.

**Lord Bourne of Aberystwyth:** My Lords, I thank the noble Lord, Lord Beecham, for what was perhaps more a diatribe than a series of questions, but I will try to extract some points that were made in what seemed to me an excessively gloomy speech, although with the noble Lord's characteristic lightness of touch.

First, it is worth pointing out that 97% of councils, across the political divide, have signed up to the four-year deal. The settlement that we have reached recognises that there has to be a balance of interests—of council tax payers and looking at the problems of the age, specifically the very serious problem of adult social care. The noble Lord said, incorrectly—I think I am quoting him correctly because I wrote it down—that no provision was being made for adult social care. That is patently not the case.

**Lord Beecham:** No.

**Lord Bourne of Aberystwyth:** I think that is what the noble Lord said. I wrote it down. In fairness, he then went on to cite the use of the £240 million funds, so perhaps a careful reading of what was said will indicate that one of us is wrong. However, I think he did say that no provision was being made for adult social care. We have allocated £240 million in the next financial year, from savings from the new homes bonus, which is specifically to address what I acknowledge is a serious issue. That, together with the precept and the ability to reprofile the increase in the precept of 3% and 3% then 0%, recognises £900 million additional spending in the next two years. That is a significant amount for what is, admittedly, a serious issue.

I will home in on an area that the noble Lord quite fairly raised in relation to the business rate retention. As noble Lords are probably aware, there will be legislation on this in the new year. It will be introduced into the Commons first and will come subsequently to your Lordships' House, so there will be more detail about how that will operate well ahead of it coming to us.

**Lord Shipley (LD):** My Lords, I declare an interest in that I, too, am a vice-president of the Local Government Association. I found the settlement announcement today to be extremely worrying. I think it contains a major mistake in its use of council tax, which is a property tax—and an out-of-date property tax because it needs a number of higher bands. It is being used to make up for a failure by central government to fund adult social care adequately. Despite the extra tax that can be raised, it is still inadequate because there will still be a huge gap between income and expenditure in adult social care. Secondly, councils with a lower council tax base will get less money than councils with a higher council tax base. Thirdly, the settlement will end up leading to further cuts in other services, such as more library closures and reduced levels of service in universal services such as leisure centres that are enjoyed by many local people.

I accept that there was a consultation on the new homes bonus, but it is nevertheless a big worry to see so much money diverted from that to help to fund adult social care. Will the Minister agree to publish the modelling done by the department on the impact of that on individual authorities? I also point out to the Minister that there is no mention in the Statement of planning fees. There is an implicit criticism of local authorities for not building quickly enough, but the constraints on staffing being produced by cuts have meant that there are simply fewer planners in post. It would help enormously if the Government would permit there to be a variation in planning fees to allow local councils to appoint more planners to recoup that cost.

Finally, I associate myself with what was said about business rate devolution. I am in support of 100% business rate devolution, but I am deeply worried by the impact of that on those councils that cannot grow as fast as some others. That is why the fair funding review becomes so important, because we must not end up in a position in which there is full local control of budgets but actually the income for some councils is much lower than they need to run an average level of services that residents and businesses have a right to expect.

**Lord Bourne of Aberystwyth:** My Lords, I thank the noble Lord, Lord Shipley, for his contributions and will try to pick up on the points that he quite fairly made. First, in relation to the equity of the settlement, he will be aware—and perhaps I should clarify—that the £240 million fund available next year will be channelled to authorities in relation to need. I hope that that picks up the particular point he raised.

Planning fees are not mentioned in the Statement because its more laser-like focus is on other issues, but that is something that I hope will be covered in the housing White Paper that will be issued in the new year. Perhaps we can pick that up then.

I note the points made by the noble Lord on business rate devolution. They are quite fair, but I repeat that business rate devolution will be the subject of legislation next year which obviously will be considered in detail by both Houses.

On the fair funding review, I have indicated that the Government are very much committed to this. My right honourable friend the Secretary of State has said that he will report on the review in another place in the new year, and no doubt we will pick it up from there. It is an important part of getting this right, as is health and social care integration, which is key to the whole issue and is being driven forward by the Government.

I come back once again to what I think is a very important point. We want to ensure that the performance of the best-performing authorities across the political divide is picked up across the piece by all local authorities.

**Baroness Donaghy (Lab):** My Lords, perhaps I may make a couple of points and then ask a question in relation to the schools funding announcement made earlier this week. First, it is always the depths of December when we get the local government finance announcement, and no doubt we will have a debate on it in the depths of January. I do not know if this is absolutely inevitable, but in the six years that I have been in the House, it is during those two months when local government finance announcements are, shall I say, slipped out.

Secondly, the £240 million announced for the adult social care support grant would be just about enough for the London Borough of Southwark where I live, so I do not know how everyone else is going to manage. We are talking about a much larger scale and it is quite wrong of the Government to pretend that that relatively small amount of money is going to make any difference whatever. I think that my noble friend indicated that it was about improving social care; I do not think he said that it would not do anything for social care.

Finally, the council tax precept is probably one of the most cynical political moves I have ever seen. Councils that are able to raise money without actually losing an election are probably those which are the least in need, while those that are most in need would not dare to try for the precept. It is wrong to pretend that this is about local autonomy when it is about the Government hiding behind local authorities for their total abnegation of responsibility.

My question is around the schools funding announcement. If I remember rightly it stated that some schools would get more but others—those in larger urban areas, it turns out—will have the equivalent of a 3% cut in real terms. If inflation is included, it will be a real terms cut of 5%. Can the Minister tell the House how that funding announcement for schools relates in general terms to the local government finance announcement? Has any thought been given to how the two will interrelate, or will it be a double whammy for some local authorities?

**Lord Bourne of Aberystwyth:** My Lords, I thank the noble Baroness, Lady Donaghy, for her questions. In terms of where she is sitting, she is much closer to the noble Lord, Lord Beecham, than I am and I apologise if I misheard the point that he made. It appears that that may possibly be the case.

As to these announcements being made at this time of year, as the noble Baroness indicated, the fact that they happen every year at this point means that that is the cycle. It will always be the case that some government business is taken at this time of year and there is nothing particularly to be read into that. I understand what she is saying about the £240 million but it is additional money and is nowhere near all the money that is spent on adult social care. I should make the point that it is additional money and will make a difference, and of course there is always the option of moving forward on the precept with additional spending next year and the year after, which, over the two-year period, comes to some £900 million. That is a significant amount.

In relation to the school funding announcement, I hope the noble Baroness will understand that it is not something I am briefed on at the moment, but I will ensure that she gets a response to what I think was an announcement made by the Department for Education on the issue. I hope that that is appropriate.

**Lord Blunkett (Lab):** My Lords, I do not have a registered interest but I do have an elderly mother-in-law in her mid-80s who has been in hospital for five weeks, so I have a personal as well as a more general interest in this area. I shall be brief. I want to explore the short-termism of the announcement, leaving aside the post-truth nature of the Statement that the Minister has had to read out to us today. The two years of precept increases which are available if local government is able to implement them are, if I am right, to be followed by clawback. If the money is spent on social care, as we all wish, at the end of the period either further deep cuts will have to be made to existing services which are already being cut to the bone, or the services that will have been put in place using the precept will have to be withdrawn. Either way it is an unacceptable prospect. I wonder if the Minister will be able to talk to his colleagues about thinking again about something that is offering a very small short-term plaster followed by an extremely deep wound. That will reverberate around us in terms of the distrust that already exists in politics. From my time in local government I know that it is now fairly obvious that the most deprived areas have been deprived of money the most, and that the most deprived areas are those that are the least likely to be able to raise sums to deal with and meet the challenge of social care. If the Chancellor can win a battle or two in Downing Street, surely intermediate care and perhaps bringing forward the better care fund would be a way of bridging the gap between those who are in hospital and need substantial support and those in the community who need continuing support—and let us just get this right.

**Lord Bourne of Aberystwyth:** My Lords, I thank the noble Lord, Lord Blunkett, for his contribution. I should say first that I do not recognise the charge of "post-truth". We have responded to what is an immediate need with immediate action. On the particular charge of clawback, that is not the case. What will happen is that it will be 6% over the three years, but of course the base will increase in each of those years. I do not recognise the accusation of clawback as being in any way accurate.

On the broader point about fair funding, it is well made, and I have indicated a commitment to the fair funding formula and suggested, which I will again, that my right honourable friend the Secretary of State will be providing more information on it in the new year because this is key to getting things right over the longer period. I have also indicated that the better care fund, and now the improved better care fund, will have had £6 billion invested in it over the period. It will contribute to the integration of health and social care which, as I say, is key to getting this right. That is why the money is needed both now and in the interim, but we are expecting far better integration by the end of the Parliament in relation to health and social care, as well as addressing the issue of delayed discharges, which should ease the pressures that we are seeing at the moment.

**Lord Liddle (Lab):** My Lords, I declare an interest as a county councillor in Cumbria and someone who is not a vice-president of the Local Government Association. Perhaps I may express my sympathy for the Minister in having to come before us with such a pathetic Statement. Does he not recognise that the fundamental problem the Government are facing is that they cannot meet the expectations of the public for decent schools, decent health and decent social care on the financial perspective they have set out of reducing public spending to 36% of GDP by 2020? We have to fundamentally reconsider that objective.

Will the Minister give us some indication that there might be just a little bit of joined-up thinking in the Government and assure us that this extra social care fund which is being provided will be directed at those parts of the country where the NHS is suffering from severe bed-blocking problems, as is the case in my own county of Cumbria? These issues are really threatening the provision of decent healthcare in our area.

Thirdly, I want to make a point that no one else has made. The Statement contains a threat to the most local of local democracies; I am talking about parish and town councils. In my experience—there is a town council in Wigton in the area I represent in Cumbria—they do not have big budgets, but they are trying to use money to make up for community grants for helping swimming pools and local leisure facilities that have inevitably been cut back by county and district councils as a result of the scale of the cuts in grant that the Government have implemented. To try to restrict their freedom of action is, frankly, petty.

**Lord Bourne of Aberystwyth:** My Lords, I thank the noble Lord, Lord Liddle, for his contribution. The picture he presents is at odds with the picture of local government achieving, and being recognised as achieving, around the country. Yes, there are challenges we are meeting, not least dealing with delayed discharges. As I have indicated, that is essential to the Government's thesis; the Statement indicates that too. It is important that we deal with the issue of integrating health and social care, and £6 billion—not an inconsiderable sum—will be invested in that. We hope that by the end of this Parliament the position will be much better than it is now. This is not an entirely new problem—not that I am suggesting the noble Lord said it was—but one that has grown up over time. Therefore, it is a problem that will take time to solve.

On the particular point the noble Lord made about parish and town councils, once again I do not recognise this action we have taken against them. We have recognised the very important role they fulfil. As a Government we are keen to ensure that council tax increases are kept to a minimum. I hope the noble Lord will agree that that is fair. They have gone up excessively in the past under successive Governments, but, as I have indicated, at the end of this Parliament they will be lower in real terms than they were when we came to power in 2010. That is a significant achievement. Meanwhile, I assure the noble Lord that we will work with parish and town councils to ensure they continue to offer the quality of services they currently do, to help them in that regard and to ensure they have continuing value for money on that front.

# Road Traffic Accidents: Hand-held Mobile Devices

*Motion to Take Note*

*3.31 pm*

*Moved by* ***Baroness Pidding***

That this House takes note of the case for adequate measures to ensure the reduction of road traffic accidents caused by motorists using handheld mobile devices whilst driving.

**Baroness Pidding (Con):** My Lords, on 10 August, Tracy Houghton, her sons Ethan and Joshua, and her stepdaughter, Aimee Goldsmith, were tragically killed on the A34 by an HGV driver while they were returning from a camping holiday. This incident could have been so easily avoided had the driver not been distracted by his mobile. Judge Maura McGowan said that his attention had been so poor, he might as well have had his eyes closed. A loss of attention can have devastating consequences.

The fact is, this could happen to anyone, because unfortunately too many people are guilty of using hand-held mobile devices behind the wheel. It is because of this that I have called for this debate.

We have a problem on our roads. From 2011 to 2015 there were 2,106 accidents, resulting in 103 deaths, caused by drivers being distracted while on their mobile phones. And yet, the number of fixed penalty notices issued in England and Wales for using hand-held mobiles while driving fell significantly—from just over 123,000 in 2011 to just under 17,000 in 2015—despite the number of accidents caused by drivers being distracted by their mobiles remaining fairly constant throughout this period. They are the result of the use of mobile devices not just for making calls, but for playing music, looking at maps and directions and texting, among other things—looking down at devices rather than at the road ahead. The problem is obvious. The reaction times of drivers on their mobiles are much slower than of drivers not using hand-held mobile devices. Mobile-using drivers have impaired judgment of their visual environment, and impaired decision-making skills. Their braking times increase compared with drivers not using mobiles.

One study showed that talking on a hand-held mobile posed a risk four times greater than that posed by undistracted drivers. That is on a par with those driving intoxicated. Another study by the Virginia Tech Transportation Institute found that texting while driving conferred a risk of collision 23 times greater than driving undistracted. This is indeed a real problem.

We rightly take drink-driving very seriously and there are substantial public campaigns against it. While, admittedly, that contributes to more deaths on the roads, we need to consider the issue of hand-held mobile devices in cars much more seriously. Alcohol, speeding and fatigue are generally viewed as greater threats to road safety because they are the major causes of crashes internationally. Because of this, these issues dominate road safety campaigns and the time of police officers on our roads. I am calling for us to investigate and understand the dangers posed by driving

with hand-held mobile devices and for us to look at ways to make this socially unacceptable so we can prevent further unnecessary tragedies.

I would also like to highlight the ways we can develop technologies to allow drivers to use their phones behind the wheel. What needs to happen to decrease the dangers posed by driving with hand-held devices is for us to look at ways for drivers to communicate behind the wheel, possibly through smart systems at dashboard level and voice activation.

We all recognise the inherent dangers of driving with a mobile phone. On the basis of responses to the Department for Transport's consultation last month, there is clear support for the proposed change in the law to increase the fixed penalty notice from £100 to £200 and to double the points added to a licence from three to six. As a result, novice drivers would automatically have their licences revoked, which hopefully would act as a strong deterrent. I also welcome new laws that will result in drivers who kill other road users because of mobile phone distraction being given life sentences.

Penalties, bans and prison sentences are all well and good, but to my mind this is too late. We need to stop these incidents happening in the first place. Having a ban is not enough. Evidence from not only the UK but the USA and Australia shows that bans do not have an effect on drivers' long-term behaviour without sustained reinforcement, so it is not enough for us just to increase the fixed penalty notices. We need to continue to campaign so that we can avoid these tragic incidents.

However, these proposed changes do not go far enough. The law would treat car drivers and HGV drivers the same. I argue, and I am sure noble Lords would agree, that the dangers posed by HGVs to the cars around them is substantially higher, given that they are so much larger. HGV drivers already have to go through more stringent tests than the rest of us because their vehicles are more dangerous to other road users if they are driving carelessly. Why, then, should the penalties not be higher for engaging in unsafe behaviour that puts other drivers at risk? In this respect, I believe the proposal does not go far enough and I urge the Government to reconsider it.

We could reduce mobile use in cars by using cameras to catch drivers breaking the law. However, this was rejected back in 2006 by the then Transport Secretary on the grounds of invasion of privacy. Other suggestions, highlighted in a 2003 OECD report, have recommended backing systems that use electronic equipment to block all non-emergency calls from mobiles on our roads. However, the problems raised by this are obvious—non-drivers would be prevented from using their mobiles and the system might aggravate drivers. Furthermore, the system proposed by the report raises difficult questions about the role of government in our private lives. However, on balance, these are questions we need to address.

So if not this, then what? Drivers must be caught using their devices in order to be charged, so police have to be in the right place at the right time. Furthermore, heavy traffic can make it unsafe and impractical to intercept cars. It is harder to spot the offence at night, particularly if the roads are dark, and if drivers' phones are small or on their laps. For those reasons, I recommend that the Government look at campaigns and ways in which to make driving safer with mobiles. Public awareness and perception are vital, and I commend the media organisations which have campaigned on this issue, including the *Daily Mail*, which has demanded a six-point penalty. I especially congratulate the Johnston Press group and its new investigations unit, which last month ran a series of hard-hitting stories highlighting the gap between sentences for killer drivers and the level of sanctions expected by grieving families. The Drive for Justice campaign, run by titles including the *i*, the *Scotsman* and the *Star* in Sheffield, is a major contribution to the national debate and a significant boost to public awareness. I also welcome Thames Valley Police's new online video detailing the heart-rending fatal incident that I described earlier. Videos like this remind us of the hazards and potentially fatal consequences of driving unsafely. Most importantly, they remind us that we can all help the situation by not using our mobiles while at the wheel. I also welcome this month's Ministry of Justice consultation, although we need to prioritise the prevention of such incidents in the first place.

According to research, perceived self-efficacy is the most important determinant of behaviour change. In layman's terms, this means that we must make people feel like they can actually follow the recommendations and make a personal difference. This should constitute the thrust of any campaign. This year's mobile phone THINK! campaign was hard-hitting. However, I came across it only because I was actively looking for it. I urge the Government to do much more to get this film out into the public domain. I also ask them to look at what they can do to get this year's THINK! film on to more people's social media platforms.

Given that young people are more likely to text and drive, we should target them, making using a mobile while driving socially unacceptable, just as we did with drink-driving and not wearing seat belts. I am sure that noble Lords will recall the use many years ago of public information films in campaigns. I ask my noble friend the Minister: can we not do this? Can we not show short, hard-hitting ads on primetime TV?

My second recommendation is for the Government to look at ways they can make mobile phone use in cars safer. Often, fiddling with our phones while putting calls on speaker constitutes a risk and a distraction in itself. I therefore urge the Government to pressure, encourage or even incentivise car manufacturers to install more inbuilt systems for answering and rejecting calls from our mobiles to minimise the risk of distraction. Resisting the urge to answer a call constitutes a distraction in itself, so ways in which we could answer our phones using built-in systems at dashboard level would undoubtedly reduce risk on our roads.

Other answers may lie in mobiles themselves. In 2005, Motorola was developing the polite phone. It examined driving conditions and routed calls accordingly. If a driver was parked, all calls would go through; in easy traffic conditions, only calls from your most important numbers would ring, with others sent through to voicemail. In the worst driving conditions, everything would be sent through to voicemail. Finally, in the event of an accident, your phone would dial emergency services. With tools such as Google Maps able to

[Baroness Pidding]
calculate traffic conditions on your in-phone sat-nav, I suggest that such technology would be well within our reach.

I emphasise that I do not have all the answers—fundamentally, I am not a road safety expert and do not pretend to be—but I can see the dangers posed. In calling for this debate, I am keen to ensure that we look more closely at this area so that we may save lives and prevent other tragic incidents. We need to create a wider debate and discussion around this issue. Such a debate will ensure that the issue remains relevant and that we can work together in this House and in the other place to find answers. I beg to move.

*3.46 pm*

**Lord Campbell-Savours (Lab):** My Lords, the House is indebted to the noble Baroness, Lady Pidding, for raising this hugely important issue. I have a particular interest in this debate because I was involved in an accident where the other party was using a mobile phone. After that incident, the other party immediately accepted liability, offered to pay for repairs to the vehicle I was driving and the matter was closed. The police were not involved, nor were insurance companies, but I was left wondering what would have happened in the event that the accident had injured passengers in the vehicle. That set me down the route of considering what options we have open to us.

I think this debate is an interesting indicator of how Parliament gets its priorities distorted. We spend endless hours talking about drink-driving, smoking, parking problems, drug use and whiplash but very little time talking about this issue, which is the subject of much public discussion. We know that almost the entire population under the age of 60 has a mobile phone. I suspect that there are probably more mobile phone users today than there are drinkers, smokers or even drug users.

This debate is about abuse. If you stand on a street corner almost anywhere in the United Kingdom and observe drivers passing by to find out whether they are using their mobile phone, you will be astonished at the numbers who are. Recently, I was standing on a corner waiting for some lights to change near Maidenhead. In the phasing of the lights, discounting one or two of the first vehicles that went through, out of 37 drivers that passed me, 11 were using mobile phones. I believe that what I saw is an indicator of a national problem where the estimates are gross underestimates.

Furthermore, we just do not know how many accidents are caused by mobile phones. The noble Baroness produced some statistics, but I suspect that they are an underestimate. I am not altogether convinced that the police do sufficient investigative work when accidents take place to establish whether the cause of an accident was a mobile phone. Do they stop a driver immediately and say, "Have you been using a mobile phone? Can we have your mobile phone? Can we check whether your mobile phone has been in use?". I suspect that if rapid checks took place we would find that mobile phones were involved in far more accidents.

Last week, I referred to Google as a source of information on these matters. The benefit of Google is that it provides us with some insight into developments internationally into the issue of mobile phone abuse. Much of that debate is going on in the United States of America. The noble Baroness referred to research in America. The *International Journal of Enterprise Network Management* recently published a paper on illegal mobile phone usage detection. The trigger for the paper was a series of studies reporting that 20% of all fatal accidents involving trucks or heavy vehicles in the United States involved the use of hand-held mobile phones at the wheel. Additionally, the National Safety Council, another American organisation, published statistics claiming that 21% of all crashes involved people talking on hand-held mobile phones and a further 3% involved texting. I suspect that the statistics here in the United Kingdom would be very similar, if the truth were known. The truth is that we have no reliable data at the moment on the incidence of hand-held mobile phone usage in road accidents in the United Kingdom. This raises a simple question for me: how often do police officers investigate the use of phones in accidents?

When this issue was raised last week in the House, the Minister said:

> "Others in the car may well be using a mobile phone quite legitimately … if the driver is not using a mobile phone but others are, that can be a lifeline … during a trip".—[*Official Report*, 5/12/2016; col. 493.]

This issue of passengers, to which the noble Baroness referred, led me to do some further research. I trawled some American sites and found that engineers from Anna University in Chennai, India, have invented a device that uses radio frequency identification technology to determine whether a car is moving and the driver using a phone. If a driver is using a phone, the device uses a mobile jammer to shut down the driver's phone—that is just the driver's phone. The technology allows passengers complete access to their phones, leaving them free to make calls. Will the Minister follow up on that piece of research?

We come to texting. There is a whole variety of jammer products available for in-vehicle use to deal with texting. A company in America called Access 2 Communications Incorporated has designed a piece of equipment called TextBuster. It is a small piece of hardware which is located under the dashboard—as the noble Baroness referred to—and it thwarts texting. Furthermore, it can shut down phone data connection entirely, shutting off email and other internet connectivity. I can even report that, in America, there are DIY jammer kits on the market, available for as little as £25. That equipment has the benefit of a limited effective range of as little as two or three feet, thereby ensuring that it does not interfere with equipment in neighbouring vehicles. Britain's retailers might consider the distribution of such equipment, although I understand that at the moment it would be in breach of the 2006 legislation, which I am sure the Minister will refer to in winding up.

The existence of these sorts of technology begs a simple question. Can we imagine circumstances in which automobile manufacturers could offer to integrate these technologies, just like seatbelts or airbags, within vehicles' Bluetooth systems? Why not make the fitting of such equipment mandatory? That will save lives just as airbags, seat belts and even speed limits do.

Finally, I want to move to another matter, unrelated to mobile phone use but where similar technology issues arise. Jammers can have wider applications and I understand that equipment is now available for interrupting the most frequently used drone frequencies. Drones have become a public nuisance and threaten airline safety, but drone-jamming equipment is now available for operating distances of up to 2,000 feet. The equipment totally disables a drone and will bring it down to earth. Surely we should consider such equipment. I suspect that drone enthusiasts, who pay anything between £30 and £500 in the UK for a drone, would think twice about deploying them in areas where jammers are located if they thought they were vulnerable to destruction—I have airports in mind. Again, Ministers might turn their attention to the possibility of introducing such equipment.

Returning to mobile phones, in my view we need a statutory framework capable of shutting down hand-held mobile phone usage by vehicle drivers when vehicles are mobile. Drivers should be able to use hand-held equipment only when vehicles are stationary, at which time connectivity would be automatically restored. The equipment should be wired into the electrics in a way which prevents tampering by the vehicle's owner. Commercial vehicles, in particular lorries and vans, should be first in line for the mandatory installation of such equipment. Finally, we should amend the Wireless Telegraphy Act 2006, in particular where its provisions deal with signal interception.

I understand that the Government have acknowledged that enforcement alone would not fully address behaviour. They have said that they are,

"willing to work with industry on technology that would encourage better and safer behaviour".

The Government say that they want,

"to take full advantage rapidly developing in-car technology and where it can support safe driving behaviour. However … even with technology such as drive-safe modes it is ultimately the driver that has to take responsibility for their actions".

My case is that, while hand-held equipment is available which can be used in cars, drivers will very often not take responsibility for their actions. You can have all the campaigns in the world, but I suspect that drivers will ignore them. Campaigning in this area is insufficient; we need mandatory provisions and intervention. That is the only way that we are going to save lives.

*3.58 pm*

**Lord Woolf (CB):** My Lords, I am pleased to say a few words on this issue. I congratulate the noble Baroness, Lady Pidding, on raising the matter and on the research that she has obviously done. So far as research goes, I also congratulate the noble Lord, Lord Campbell-Savours, on his efforts in that regard. I hope that what they have contributed will be noted by the Minister and, in due course, taken forward in so far as that is practical.

I wish to raise only one specific interest in this matter. One can have immense sympathy for victims of crime, particularly when motoring offences occur as they are engaged in an outing or merely crossing the road, and there is a situation where loved ones are killed. I can see that they would expect the punishment that is, in their eyes, appropriate to what has occurred to them. However, I suggest that that is not the way to deal with what is evidently a problem. There are limits to our ability to use heavier and heavier sentences—sentences which are continually rising—to deal with everyday life problems. Such problems are much better dealt with by campaigns to bring home to the public what is really at stake in what they may see as innocent actions.

I go back far enough in the law to remember when—I was a young man and had the task of defending people charged with driving under the influence—it was necessary for a driver to go into the police station and walk along a painted white line. If the driver managed to walk along the white line, it was thought that they had not committed the offence of driving under the influence. It was great sport for young advocates, such as myself at that stage, to take advantage in court of the inevitable stupidity of what was happening and of knowing that the juries before whom the cases came would often think, "There but for the grace of God go I", and therefore had considerable reluctance to convict. We certainly do not want to repeat the mistakes of that time in dealing with this contemporary problem.

We need an education campaign that makes it absolutely clear that driving with a mobile in your hand and speaking into it is extremely ill advised if you want to avoid driving dangerously. We do not want to create specific offences of a different sort. The existing offences are totally adequate to deal with those who drive dangerously and the penalties in those offences are sufficient to act as a deterrent.

In my experience, the sad thing about motoring offences is that, even though they have the most tragic consequences, the people who commit them are usually perfectly decent people who are horrified by what they have done and continue to carry the scars of what they have done for the rest of their lives. That they do so does not act as a comfort to victims of the offences, but it is not a situation where they need to do other than learn the dangers involved in what they are doing.

I urge the Government to do two things. The first is to bring home to the public in an appropriate way the dangers involved, and the second is to increase detection. That was mentioned by the noble Baroness, and I am sure there would not be the number of occasions detected by the survey that the noble Lord, Lord Campbell-Savours, carried out if it was given greater importance in the agenda of tasks to be performed by the police. It may well be that there are all sorts of ways in which their task can be made easier, just as in the case of drink-driving it was possible to devise methods of testing how much alcohol there was in a driver's blood. It could be the same with mobile phones. If they can be jammed as easily as the noble Lord, Lord Campbell-Savours thinks, perhaps that could be looked into as well. But please do not create more offences and please do not rely on imprisonment to improve the situation.

We have a problem in our prisons today, which is very much related to the number of persons serving sentences at this time. It is almost now at a crisis stage. At the same time, by unwise legislation, we have increased sentencing penalties continuously. It is sometimes

[LORD WOOLF]
said, "Oh, of course it's the courts who impose the sentences", and when it is proposed to increase a particular sentence, it is said, "We can leave it to the courts to sentence at the right level". But if you increase the statutory penalty to life imprisonment, as is proposed in the case of killers driving dangerously, for example in the Government's press release, "Killer drivers to face life sentences", you are interfering with the whole pattern of sentencing, which we have devised so that there is a relationship between sentences.

When you look at the pattern of sentencing, you can look at the top and the bottom. At the bottom, no question of imprisonment arises, because the offence will not be punishable in that way; at the top, life sentences are the appropriate sentence for murder. It is the heaviest sentence now available to us. If you do not want the sentences in between to be raised higher across the board, you must be very careful to limit those situations where a life sentence can be imposed. Otherwise, Parliament is giving a message to the judiciary, which it is bound to observe, that the level of sentences expected for this type of offence is life imprisonment. Even in cases of death by dangerous driving, which is of course the equivalent of what we are looking at but with mobile phones involved, at present the maximum sentence, very appropriately, is 14 years. I would have said that is on the high side for the great majority of offences, and you certainly must not extend the embrace of the heaviest sentences to situations other those for which they are strictly appropriate. Otherwise, you are creating something disproportionate.

*4.08 pm*

**Baroness Newlove (Con):** My Lords, I thank my noble friend Lady Pidding for drawing the attention of your Lordships' House to the very important issue that we are addressing here today. We should be under no illusions about the untold damage and distress such actions cause to hundreds of families across the country. Many victims are impacted, and this is what I should like to highlight today.

The RAC published a report last week which found that of the almost 2,000 motorists surveyed, 31% admitted to using a mobile phone while behind the wheel. This compares to only 8% when the same survey was conducted in 2014. It may seem harmless to have a quick look at your phone, but the truth is these actions can cause so much misery. A recent study conducted by the University of the West of England, in Bristol, which spoke to crash scene investigators, found that police investigators were seizing mobile phones only in fatal and serious road traffic collisions. Further, in some fatal cases mobile phones were not seized at all for analysis. This means that not only are victims of crime suffering from the impact of a distracted driver on their phone, they are potentially victimised further by gaps in police investigations. I was disappointed to read that, and I hope changes will be made to this approach.

As Victims' Commissioner for England and Wales, I have been humbled by the victims I have met who have suffered from such actions. I have met seriously injured victims, and families who have lost loved ones. Through the actions of others, their lives have been shattered. The impact of road accidents cannot be overestimated. Despite the severity of the injuries or the fact that an individual has been killed, a driver's experience is far removed from the realities of what a victim will experience. The impact on victims needs to be much better understood.

I know there will be some drivers who have caused accidents and harm to their own loved ones, and that they will feel anguish and pain at their actions. That is what I want all drivers to understand. Why put yourself and those you love in a position where you can hurt others and cause so much devastation, just for a few minutes on your phone?

I welcome the Government's intention to put this issue—of reducing mobile phone use when driving—high on their priority list. I welcome penalties for drivers being toughened up. The doubling of fines and points on driving licences will be a good deterrent for some drivers, but we need to look at how this can affect more than just some. There will be drivers who will still get behind the wheel and pay no regard to these changes in the law. We need to make them aware of the huge impacts that they will cause to victims if they continue to ignore these proposals.

Victims need to know that they can be supported. Charities and voluntary organisations are already carrying out much-needed work. I know that police and crime commissioners, responsible for providing some victim services, are also prioritising this issue. I have seen some PCCs set up specialist units with the police to help victims of these tragic incidents, and I sincerely commend them for doing so. I hope to see more of these specialist services in place to help victims and their families, who are so hugely affected.

I strongly believe that reducing mobile phone use will reduce the numbers of victims affected by bad driving habits, but we all need to play our part—every member of society. As the Transport Secretary and noble Lords have said, it is time to make using a mobile phone while driving just as unacceptable as not wearing a seatbelt or drink-driving. We need better education and hard-hitting messages to ensure that the next generation who love social media are aware of what could happen. While it is exciting to pass your test and own a car, it is also quite dangerous. A car is a weapon on our roads that needs to be respected.

This will be a difficult and challenging task, but I ask that this House supports any attempt to help it be a reality—if for anyone, for the victims who become the unintended consequences of bad drivers' behaviour. Their lives are truly over. We have to ensure that we make safety on our roads viable for everyone.

*4.13 pm*

**Lord Hunt of Chesterton (Lab):** My Lords, I thank the noble Baroness, Lady Pidding, for tabling this important Motion. I support most, though perhaps not all, of the proposals that she brought forward. Some of us remember that when drink-driving and seat-belt laws were introduced in the 1960s there were many objections from drivers, but of course we soon saw that many lives were saved.

We cannot be complacent when new proposals for safety are made. I have had several colleagues and friends killed in car accidents. I myself was nearly killed when hitchhiking in a once and once-only trip in

a 100 miles-an-hour Jaguar, which nearly hit a tractor. Today we are reading about another cause of deaths: people using mobile phones at the time of the accident. How can we make drivers aware of the dangers and reform their behaviour?

Last year, I was driving through a small town in Somerset at about 35 miles an hour—which, I fear, was above the limit—and there was a speed camera. The police then sent me a letter inviting me to attend a morning's training course to learn about the danger of speeding. I was impressed, as we saw excellent videos of accidents and how to improve one's driving. It was instructive—for example, we learned that driving on country roads is particularly dangerous—but we were not informed about the dangers of driving while using a mobile phone or being distracted by infotainment systems.

I urge the Minister to ensure that these courses should include video and instruction about the accidents associated with drivers. Yesterday, I asked the Library whether there was any instruction in the *Highway Code* about the use of mobile phones. To my surprise, it was only in the most recent edition of 2016, where there is a reference in paragraphs 149 and 150, which are labelled,

"Mobile phones and in-vehicle technology".

The warning is not strongly expressed, and no information is provided about penalties for driving when using mobile phones. Will the Minister consider strengthening those clauses and providing diagrams to show how drivers lose concentration when using mobile phones? Will the Minister also ensure that questions about mobile phones are asked by examiners during the driving test?

The House of Lords Committee on Science and Technology, of which I am a member, is currently considering, among other things, people's behaviour in road vehicles and noticing how it will change as vehicles become partially or wholly self-driving or, as it is said, autonomous. It seems likely that there will be an even greater tendency for drivers to relax their attention not only when the vehicle has a semi-autonomous aspect but if they are using mobile phones or infotainment. This is a complex interaction which our committee has not considered, but perhaps we should.

In fact, it is not too fanciful to consider how people's reactions, both physical and psychological, to the movement of the car may be affected by the input from the phone or media system. How will these complex interactions be incorporated in the new semi-autonomous vehicles emerging from the German car industry, which seems to be well down the track with new systems in which your car will autonomously react to the cars in front of it, and so on? If that will also take into account the use of the mobile phone by people in front of you and the people in front of them, it becomes even more complex. The Government need to work very closely with the auto industry to analyse and control these extraordinary new developments.

I have two final points. First, why not insist that mobile phones should not sit, as the noble Baroness, Lady Pidding, suggested, nicely and conveniently on the dashboard? I suggest that, if you insist on using a mobile phone, you have a very big, nasty yellow thing sitting on your dashboard, so that everyone in the street knows you are using it. That is the trouble at the moment—you can hide using your mobile phone and no one knows you are doing it. We want to make what people are doing visible to their neighbours. I suggest that mobile phone should be uncomfortable, large, luminous, and seen to be anti-social. That is a new idea, and perhaps not so acceptable on the Benches opposite.

Secondly, the Highway Code in both paragraphs recommends rather strongly that if you want to use your mobile phone or laptop, you should go to a lay-by. That proposal seems sensible, but it will be used only if the Highways Agency greatly improves lay-bys, many of which are not safe and are often quite disgusting.

*4.19 pm*

**Baroness Watkins of Tavistock (CB):** My Lords, I congratulate the noble Baroness, Lady Pidding, on securing this debate on such important issues.

The Department for Transport consultation document from November 2016 outlines the government manifesto commitment to,

"reduce the number of cyclists and other road users killed and injured on our roads every year".

I am particularly delighted to contribute to this discussion because, although I am not going to say the date or time, in my early 20s one of my greatest friends was killed while cycling, so I am very moved to be involved in this debate.

It is clear that we need to reduce death and accidents on the roads, and it has been suggested that one method is to reduce the number of drivers of all vehicles who use hand-held mobile phones or devices when driving. We need to remember that it is not just phones; a lot of people use hand-held navigation. Currently, fines for drivers found guilty of using hand-held phones are £100 and three penalty points. For first offenders, at the moment a remedial course is sometimes offered. It is argued that these are not sufficient deterrents to nudge drivers to stop using phones in this manner, and it is proposed that all drivers found using hand-held devices while driving, regardless of whether it is their first offence, should face a fine of £200 and six penalty points. Some, including the noble Baroness, Lady Jones of Moulsecoomb, in a recent letter to the *Times*, have suggested that lifetime bans would send out a message that driving is a privilege that you can lose due to dangerous driving that results in death or injury to another. Such an approach would certainly be less costly than prolonged jail sentences.

Responses to the consultation on changes to the fixed penalty notice and penalty points are overwhelmingly in support of increasing the level of fines and penalty points. Some would argue that those who chose to respond to such a consultation are by very definition a group who would most often want punitive change, and that many of the public would perceive such an approach as unnecessarily harsh. I am not one of these. Having worked as both a clinical nurse and a non-executive director in the health service, I am only too aware of the number of accidents which occur when drivers are distracted.

[Baroness Watkins of Tavistock]

Distractions are of course not solely attributable to the use of mobile phones. The noble Lord, Lord Ahmad, has reminded us what having many children in the car can do in terms of distraction, something that I also recognise from when I was younger. Distracted drivers can be perceived as at one end of a Likert scale, with the other end of the scale being dangerous drivers. It is very difficult to measure at exactly which point a distracted driver becomes dangerous, although the laws on driving while under the influence of alcohol and drugs have become increasingly strict over the last 50 years. In the 1960s—I actually wrote the 1970s, but perhaps the law came in earlier—it was by and large acceptable for people to drive while under the influence of more alcohol than today's legal limit. The changes to the law on drinking and driving have resulted in significantly fewer people driving while under the influence of alcohol, particularly young people brought up with those new laws. This illustrates that a harsher approach to fines and penalties can be successful. It should be noted, however, that the changes to the drink-driving laws were accompanied by significant educational interventions, as the noble Baroness, Lady Pidding, pointed out, using a variety of media such as television, poster adverts and education in cinemas and schools. Therefore, I argue that any introduction of higher penalties for the use of hand-held devices should be undertaken in conjunction with a significant educational programme, using modern technology support to do so such as Twitter and texting, in addition to television advertising and education in schools, colleges and universities—and why not when you are being orientated to a new job? It was certainly made very clear to me as a district nurse that I could not undertake my duties under the influence of alcohol or drugs. We should probably tell anybody who drives for work that it will be a work-related offence as well to use a hand-held mobile device without stopping the car.

We are told in the Library Note that the proportion of drivers detected using hand-held mobile devices while driving has remained relatively constant since 2002. This is a difficult statistic to validate as we also know that there has been a significant increase in the use of mobile phones in this period. I also note the reference to the RAC and 31% that has just been discussed. Another factor may be that the use of mobile phones while driving is now seen by many people as a minor infringement and fewer cases therefore come to court, rather than that the use of hand-held mobile phones while driving is becoming more socially unacceptable. In any event, the findings of guilt in court have halved, down from a peak of 32,000 convictions in 2010 to 16,000 in 2014—so something is happening. Either we are not taking people to court or people are using them less. Statistically the use of hands-free mobile phones is a minor contributory factor in all accidents reported by the police. The latest figures suggest that it might account for only 1% of fatal accidents. Yet I think that we would all argue that each human life is of value and if improving this issue could save 10 serious accidents a year, this would surely be beneficial.

I have never thought of myself as a victim but when the noble Baroness was speaking I thought perhaps I was in my youth. In the case I referred to earlier, I was able to forgive and get over my grief because it had been a real accident and nobody was at fault. I believe that I would not have been able to forgive and move on nearly as easily if I thought that somebody had been deliberately using a mobile phone or texting and that it had contributed to the accident. It would be of enormous help to victims if we could tackle this issue. For those people who have a real accident, as in the case to which I referred, it is much easier if they can be distinguished from those who are, as it were, flouting the law.

It is clear that driving while using a hands-free kit is legal and that this is safer than using a hand-held device. But we should not fall into a false sense of security—you can be equally distracted with a hands-free device, particularly if you are trying to do something too complicated on the phone while you are driving. I have read about the complicated scientific tools that might be able to provide blocking, but would the Government consider it worth while, when cars have an MOT, for a small suction device to be put in at dashboard level as a kind of cradle for hand-held phones in all cars that do not have proper fittings? These devices are relatively cheap. I have investigated—they can be bought for £5. The big yellow ones are more expensive.

Although I accept that there is no guarantee that a driver would place the phone in such a cradle while driving, if this were combined with an increase in fines and penalty points it may well decrease the number of drivers holding a phone while speaking, because some mobile devices can be used from a distance. It would also reduce the likelihood of drivers looking down at their phones while driving—a point made by the noble Baroness, Lady Pidding. We certainly need to reduce texting by drivers.

I believe that most drivers today who use hand-held mobile phones do so because they believe it is acceptable. By this I mean that "normalised deviance" is occurring. Normalisation of deviance is a term meaning that people become so accustomed to deviant behaviour that they no longer consider it deviant, despite the fact that they exceed the rules for elementary safety. I suggest that this has happened with the use of mobile phones in cars and other vehicles. I therefore broadly support an increase in penalties for the use of mobile devices when driving. I have considered the issue of lifetime bans and do not think that this would be appropriate for first offenders but should be an option for repeat offenders. I would not like to see life prison sentences. Will the Government consider the relatively cheap and simple solution of requiring older vehicles to have phone-holding devices fitted when they have an MOT in the same way that, in an earlier era, people were expected to have seat belts fitted in their cars if they did not already have them? I thank the noble Baroness, Lady Pidding, for initiating this incredibly important debate.

*4.30 pm*

**Viscount Simon (Lab):** My Lords, I declare my interests as in the register.

Due to the cost of purchasing and maintaining vehicles, police forces have had to cut the number of traffic officers to help achieve the financial cuts imposed

on them. The noble Baroness, Lady Watkins, said that the number of these offences in connection with using mobiles had stayed the same over a 10-year period. This could well be due to the cut in the number of traffic officers. I wonder how often noble Lords present today have seen traffic officers' vehicles on a motorway—not many, I suspect. It is easy to see a driver who is using a hand-held mobile, and this applies to vehicles of all sizes. However, the driver is not only distracted by using the hand-held device; the person at the other end has no idea of the traffic conditions, which adds to this distraction. Therefore, this issue needs to be attended to.

While slightly wide of this debate, would it not be a good idea if drivers were forbidden to have both ears covered by a device, so that they can hear emergency vehicles? Perhaps such a measure should be applied also to cyclists.

*4.31 pm*

**Lord Tunnicliffe (Lab):** My Lords, this is at its heart a debate about dangerous driving, and it is a sobering subject. We have heard throughout the debate of cases in which people have lost their lives, or lost a loved one, because a driver was distracted through using their phone while behind the wheel. It is striking, when you hear about these families, that such devastation has been caused by a few seconds of distraction, something as trivial as a driver wanting to change the song they listen to next. It is a dreadful thing to put somebody else's life in such great danger. Awareness needs to be raised of how dangerous it is. With that in mind, I congratulate the noble Baroness on securing this debate.

It has been more than 10 years since the Labour Government introduced the offence of using your mobile phone while driving. However, use of a mobile phone was a contributory factor in 22 fatal collisions in 2015. The police regard mobile phone use as one of the "fatal four" causes of road accidents, alongside speeding, drink-driving and not wearing a seat belt. Research by the RAC points to things getting worse rather than better. A survey taken in September found that 31% of drivers used a hand-held phone behind the wheel, up from 8% who admitted to doing so in 2014. Drivers admitted to taking photos and videos while driving, or posting on social media. A sizeable culture shift needs to happen.

Drink-driving used to be accepted as something that happened regularly. It is no longer socially acceptable. People know that it is illegal to get behind the wheel drunk or under the influence. They know why it is illegal. They consider it reckless and know that it puts other people's lives in danger. Public awareness, education and enforcement have all worked together to reduce the number of incidents and the number of people who would ever consider drinking and driving. This is a cause to be hopeful. We know that it is possible to tackle a problem and make our roads safer because it has been done before and so can be done again.

We welcome the Government's decision to increase the penalties for using a mobile phone while driving. Labour has been pushing the Government to act on this issue, which has been worsening in recent years on their watch. The increase from three points to six means that a driver who is caught on their phone twice will face the possibility of disqualification by the courts. Novice drivers who are caught for the first time may have to take their test again. Tougher penalties are part of the package that is needed to demonstrate the severity of the offence and the heartbreaking consequences it can have. Have the Government had discussions about applying an outright ban to those caught using their phone while driving? This is available for those driving or attempting to drive while over the alcohol limit. Is there a reason the Government settled on a six-point penalty? What is being done to educate drivers so that they are aware of the new penalties and that using a phone while driving is a serious offence?

There is a problem of the Government's own making, which they have not yet faced up to. We have the law, education and awareness-raising, and the last part of the puzzle is enforcement. It does not matter how severe the penalty is if we rarely manage to use it. Penalties are hardly a disincentive if they are not applied when they are deserved. It remains far more of a challenge to convince people that behaviour is reckless and constitutes a serious offence if they are never pulled over for it.

In 2010, over 35,000 drivers had court proceedings instigated against them for using a mobile phone while driving. In five years of Conservative-led Government, that enforcement record fell year by year. By 2015, half the number of the drivers were being dealt with in court for this growing, life-threatening offence. The number of fixed penalty notices dropped from over 123,000 in 2011 to under 17,000 last year. Drivers are getting away with it. Mobile phone use is not picked up automatically, as speeding is currently. It takes enforcement, but this Government have cut police resources and depleted the ability of our police forces to enforce the law. Home Office figures show that local areas have lost, on average, 27% of their dedicated road police. We therefore have to ask the Government, if they are taking this offence as seriously as they claim to and as seriously as they should, what are they doing to improve these abysmal enforcement figures?

I will say a word or two about some of the previous contributions. The noble Baroness, Lady Pidding, and a number of other noble Lords talked about smart systems. Those of us who have relatively modern cars have at least semi-smart systems, and there is much to commend them. However, I look to the Government to say what they are doing to advance research into smart systems to make them even more effective. The noble Baroness also raised the issue of public information films. Of course, when the Government came to power in 2010, they cut back quite radically on the use of such media. Some of the campaigns that were run in the 1960s, 1970s and 1980s—not just on drink-driving but on AIDS, for example—were value for money. The Government should reconsider the use of high-quality campaigns.

My noble friend Lord Campbell-Savours shared with us his data-gathering skills and brought home that this is a widespread offence, and considerable effort is needed to tackle it. His idea of immediate automatic checks by the police after anyone has been involved in an accident has some value, and I hope the Minister will react to that. We automatically check

[Lord Tunnicliffe]
drivers for alcohol after an accident, and this would have a similar chilling effect. My noble friend also commended the use of technology.

It was important for us to listen to the noble and learned Lord, Lord Woolf, whose cautionary words on sentence escalation are important. Somehow, in our whole system, we have got it wrong. We have too much incarceration and not enough other thoughtful ways to tackle offences. He told the white line story. I am not an expert on the judicial or criminal world, but my understanding is that where sentences have been overly severe, prosecution rates have fallen because juries have been reluctant to come forward with a guilty finding. There were periods in which the death penalty, for instance, was widely available but not much used because of a sense of revulsion about excessive sentencing. We have to move from relying on very excessive sentences to looking at the whole question of how to change attitudes.

The idea of a campaign was a theme that ran through many of the contributions. The noble and learned Lord touched on that when he talked about people who kill someone in an accident being scarred and having to live with it for the rest of their life. That got to me. The one thing that came out of the drink-driving campaign that influences my driving behaviour is the thought of killing somebody and wondering how I would live with that for the rest of my life. We somehow have to embed that idea in the souls of our drivers.

I come back to a point that was made by the noble and learned Lord, Lord Woolf. We know that the most powerful deterrent to crime is detection rates. High crime detection rates have a much bigger impact than sentencing. The noble Baroness, Lady Newlove, covered many of the same points. My noble friend Lord Hunt took us back once again to the 1960s. It is very clever, and I do not know how we did it, but culturally people have moved on from that period. The Government should take up his idea of a mobile use element to speeding courses. Such courses are occasions when you have a cultural handle on a driver. The driver has already made the decision to take an educational, as opposed to a punitive, route, and he is possibly in the right frame of mind to absorb that sort of information. It would be interesting to know whether the Government are doing any behavioural research as a means of tackling this problem.

Finally, we were left with a distinction between distractions and dangers. I have spent most of my life in safety-critical industries. The reality is that you always worry about proportionality, and it is something we have to build into this culture. If you are listening to a complex radio programme—"In Our Time" on a Thursday morning is a good example—and trying to manoeuvre in difficult traffic conditions, there is no question but that the act of listening affects your powers of concentration. We have to get people to think in a much more holistic way about their behaviour when they drive. This is an issue on which Members on all sides wish to see progress.

I end my remarks with a rather more hopeful question about how the Government plan to measure success in this area. What sort of monitoring will be done to gauge the effectiveness of the new penalties and the awareness campaign, and to judge what is working and what more may need to be done? Behavioural change, as we know, takes time. It is my hope that we may speed it up a bit by ensuring that drivers know that a couple of irresponsible seconds behind the wheel can cost someone's life.

*4.43 pm*

**The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con):** My Lords, first, I thank all noble Lords who have taken part in this very timely and important debate. In particular, I thank my noble friend Lady Pidding for this opportunity to set out what the Government are doing to reduce road traffic accidents caused by motorists using hand-held mobile devices while driving. We are taking decisive action in a variety of ways, which I will set out in a moment.

My noble friend started her speech in a very poignant way. All of us, across the House and beyond, were deeply moved by the tragic events that we saw not so long ago—in August—on the A34. My noble friend made particular and poignant mention of Tracy Houghton, her sons Ethan and Josh, and her step-daughter Amy, who tragically died in an accident in which the person who was subsequently taken to court and convicted of causing the tragedy was using his mobile phone. In mentioning those tragic events, I also pay tribute to the police in Thames Valley who were involved in dealing with that accident. I am pleased that we have with us today Chief Inspector Henry Parsons, who was involved with those investigations. When such tragic events take place, it is, as many noble Lords mentioned, the bereaved families who often suffer the consequences of what are, at times, the careless actions of others.

Let me reflect on the constructive contributions that have been made in this debate. The Government have introduced legislation to increase the penalties imposed when a driver is caught using a hand-held mobile phone or other similar hand-held device while driving and receives a fixed penalty notice. The number of penalty points added to the driver's licence will double from three to six, and the penalty fine will also double from £100 to £200. The legislation for the increase in penalty points has already been approved in the House of Commons, and we will debate it for approval here next week, on 20 December. The statutory instrument for the increase in the penalty fine will be laid before Parliament using the negative procedure in the new year. Subject to the approval of Parliament, we aim for the new penalties to be effective from 1 March 2017.

I thank the noble Lord, Lord Tunnicliffe, and Her Majesty's Opposition for their broad support for the measures. He and other noble Lords, including my noble friend Lady Pidding, and the noble and learned Lord, Lord Woolf, talked about the importance of education. As noble Lords are aware, there will be a specific THINK! educational campaign from around the time that the new penalties come into force to inform drivers and raise awareness. THINK! is also undertaking a review over two and a half years into how to target child and teen audiences more broadly, which is another point that several noble Lords reflected on.

As well as these forthcoming changes, the Government launched a consultation through the Ministry of Justice on 5 December seeking views on driving offences and penalties relating to causing death or serious injury. The consultation contains proposals on increasing the maximum sentence for causing death by dangerous driving from 14 years to life; increasing the maximum sentence for causing death by careless driving while under the influence of drink or drugs from 14 years to life; creating a new offence of causing serious injury by careless driving, with a maximum sentence of three years; and a longer minimum disqualification period for drivers who kill. I pay tribute to the contribution from the noble and learned Lord, Lord Woolf, who stressed the importance of the issue of education and the caution of life-sentencing in this respect. I encourage all noble Lords to bear in mind that the deadline for the consultation is 1 February. The Government will reflect on the responses that they receive.

The measures I have outlined in response to questions raised by the noble Lord, Lord Tunnicliffe, show that the Government are serious about addressing public concerns regarding drivers who needlessly kill or seriously injure other road users. They also show that the Government are serious about ensuring that those who kill or seriously injure others due to using a hand-held mobile phone or other similar hand-held device when driving face serious punishment through the courts. The noble Lord mentioned the issue of six points. One of the intended consequences of increasing the fixed penalty to six points is that drivers need only commit two mobile phone offences, accruing 12 points, before facing automatic disqualification by the courts. Drivers who habitually use their hand-held mobile phone or other hand-held device when driving face being banned sooner than under the existing system.

In addition, novice drivers who passed their test in the last two years will face automatic revocation of their licence if they commit a single mobile phone offence. Under the Road Traffic (New Drivers) Act, novice drivers can accrue only six points rather than the usual 12 before they face disqualification. To regain their licence they must reapply for a provisional licence and pass a further theory and practical driving test.

The majority of novice drivers are young people below the age of 25, and evidence suggests that young drivers are the group most likely to use a hand-held mobile phone while driving compared with other drivers. As a group, young drivers also are already disproportionality represented in the numbers of fatalities and seriously injured. Given the risk that they pose, there is a need for a strong deterrent to their offending behaviour. It is proportionate that the consequence of a single mobile phone offence may mean disqualification. We must aim to effect behavioural change among this group—the drivers most likely to offend and use their hand-held mobile phones when driving—to make progress in improving road safety, which was a point well made by the noble Baroness, Lady Watkins of Tavistock.

My noble friend Lady Pidding asked specifically about heavy goods vehicle drivers. Drivers of heavy goods vehicles and passenger service vehicles who commit this offence will continue to face the possibility of the traffic commissioners, who regulate HGV and PSV operators, using their powers to review and possibly suspend the driver's vocational licence entitlement to drive these vehicles. Given the greater impact that such large vehicles have in accidents, I believe that that is proportionate but I will also reflect on the suggestions made by my noble friend. All these various elements come together with the aim of making the use of a hand-held mobile phone or other hand-held device while driving as socially unacceptable as drink-driving—a point reflected on by several noble Lords.

Hand-held mobile phone use while driving is very dangerous and was a contributory factor in 22 fatal accidents in 2015. Behind these statistics there are individual tragedies, some of which we have heard about today, caused by drivers who have acted selfishly, insensitively or carelessly. Each one of those is a needless tragedy, and we must bring these numbers down. The families are understandably very upset and angry that a close relative of theirs was killed because of something that could so easily have been prevented. The Government also recognise that using a hand-held phone when driving has become widespread. The RAC *Report on Motoring*, published in September 2016, mentioned by my noble friend Lady Newlove, suggests that increasing numbers of drivers are using a hand-held mobile phone at the wheel. It reports that 31% of motorists said they used a hand-held phone behind the wheel compared with 8% in 2014. The number of drivers who said they sent a message or posted on social media rose from 7% to 19%.

In 2014, the Department for Transport commissioned roadside observational studies which showed that around 1.6% of drivers are using a hand-held mobile phone at any given moment. We will conduct a similar exercise in this respect once the new penalties are in place. We all accept that driving ability is clearly impaired by using a hand-held mobile phone and studies have found that it potentially impairs driving more than driving above the drink-drive limit. The Royal Society for the Prevention of Accidents has calculated that a driver is four times more likely to crash when using a mobile phone while driving.

The police also regard driving while using a hand-held mobile phone as one of the fatal four causes of accidents, along with speeding, drink or drug-driving and not wearing a seatbelt. Several noble Lords talked of this. It is clear that change is needed, which is why the Government are taking action and responding to the public to take tougher action. I also accept that it is also about a change of culture and behaviour. Increasing the fixed-penalty notice to six points makes it among the highest penalty points when a fixed penalty is issued.

Noble Lords have also talked about offering offenders an opportunity to take the driving test. The Government have been following this. Currently police forces can offer an alternative to penalty points in the form of courses, but it is our view that drivers should not be offered a remedial course instead of a fixed penalty notice. There is a place for education, but the Government are clear that using a hand-held mobile phone when driving should be penalised to deter reoffending, which is similar to the approach we have taken to drink-driving offenders. This again was a point well made by the noble Baroness, Lady Watkins. We are considering the options for a model under which drivers committing

[Lord Ahmad of Wimbledon]
this offence will receive a penalty in combination with education on the risks of using a hand-held mobile phone or other devices while driving. The noble Lord, Lord Hunt, and the noble and learned Lord, Lord Woolf, both pointed out the importance of education and we will work with police and road safety groups to develop a practical model, taking legislative action if required in due course.

The noble Lord, Lord Hunt, asked about specific reviews. The department is planning to conduct a roadside observational survey that will monitor mobile phone use as a follow-up to the one carried out in 2014. He also made a number of practical suggestions about the driving test and making amendments to the Highway Code, which I shall of course take back to reflect on. He suggested as a way forward the use of a large yellow mobile phone so that all can see it. That is something for the phone manufacturers to reflect on, but as he talked about it I noticed that every Member of your Lordships' House quickly checked the size of their own mobile phone. As we can see, the approach of the manufacturers is somewhat different. Phones are becoming more discreet and are designed to be light, but who knows what the future holds? Certainly his other practical points are well made.

Several noble Lords referred to semi-autonomous vehicles. The Government are investing a great deal in smart car technology and we are talking to manufacturers. The noble Lord, Lord Hunt, made further practical suggestions in that respect which I think are important to reflect upon.

The penalties we have been discussing are in respect of those using mobile phones while driving. However, as the noble Viscount, Lord Simon, pointed out, we need to look at all road users. Only yesterday, as I was being driven back to the department and was looking at my next briefing, suddenly the car had to brake sharply because a pedestrian using his mobile phone decided to walk into the middle of the road. The importance of education for all users, whether car drivers, cyclists or pedestrians, was a point well made by the noble Viscount.

The question of banning mobile phone use for all those in a vehicle was raised, and the noble Lord, Lord Campbell-Savours, has raised this with me in Parliamentary Questions. Of course it is difficult for the police to witness from the roadside a hand-held mobile phone in operation but I hope that, through our educational process, drivers will become more responsible. If someone is driving poorly because they are distracted by a phone conversation or because they are checking social media, even if they are using hands-free technology, the police can check mobile phone records and prosecute for other offences such as dangerous driving, which may incur higher penalties. I will come to the point made by the noble Lord about technology in a moment.

Let me assure noble Lords that, make no mistake, drivers who behave recklessly or inconsiderately must understand the consequences of their actions. Noble Lords may be concerned about how we will enforce the new penalties. The increase in penalties will have a deterrent effect on people committing hand-held mobile phone offences while driving and, as I have said, the THINK! campaign will greatly assist in this respect. Any action will be in addition to current enforcement practice, including the current pilot being undertaken on the strategic road network of loaning police forces an HGV cab to spot offenders, something noble Lords may have followed in the press recently. The level of effective roads policing is not necessarily dependent solely on one factor such as the number of officers specifically engaged in roads policing at any one time. It is of course for police and crime commissioners to identify their local needs and, in consultation with the chief constable, to draw up appropriate plans. But as my noble friend Lady Newlove pointed out, in her important role as the Victims Commissioner, she is already seeing demonstrably good practice across the country in this respect. The chief constable will, of course, retain operational independence and then deploy appropriate resources to the priorities agreed in the policing plan as they see fit. I am delighted that I am joined by my noble friend the Minister at the Home Office, because we will work together at the Department for Transport and the Home Office to establish what practical options are available.

There are often calls for technology to help drivers be more compliant. These need to be looked at very carefully and we invited views as part of the public consultation at the beginning of the year. The noble Lord, Lord Campbell-Savours, raised phone-jamming equipment in cars to stop drivers using their mobile phones. While it may be a simple idea, it has drawbacks, as we have previously discussed. It will prevent others in the car using mobile phones. However, he talked about different research. It is important to reflect on the research and I will certainly welcome any feedback from him on the work that has been developed in this regard. We will certainly look at whether there are ways that a driver could be isolated from using their mobile phone, but not to the detriment of others. That is worth looking at further.

Mobile phones can be fitted with a motion detector that cuts out the signal when it detects motion. Again, the noble Lord, Lord Campbell-Savours, talked about technology and drones. A consultation on drones will be issued shortly; I draw the noble Lord's attention to that. He was right that I, as the Aviation Minister at the DfT, know full well the merits of geo-fencing—for example, to prevent the use of drones in areas they should not be progressing into—in particular on issues of safety. We are also aware that a number of companies have developed "drive safe" modes. The industry is working together with government to ensure further development can be made in these areas.

On whether car manufacturers should do more, there is already a set of guiding principles that, when applied during the development of a product, should lead to a design that can be safely used in a vehicle. I am sure this debate will further inform research in that area.

The Government are fully aware of the case for reducing road traffic accidents due to the nature and use of hand-held mobile phones or other similar hand-held devices when driving. That is why we are introducing legislation to increase the penalties for this offence, alongside the planned launch of a new THINK! Campaign, and directly asking police forces not to

offer diversionary courses to those who commit this offence, but, where a course would otherwise have been offered, to impose a fixed penalty notice instead. However, the courses are an important part of education. Several practical suggestions were made regarding how further education can be followed up. That is an important suggestion that we will reflect on.

I thank all noble Lords for their contributions to this important and timely debate. We had a Parliamentary Question on this not so long ago and we will debate the important legislation next week. It is important to reflect on the fact that these actions are necessary and important to take because of the tragic events we have seen recently on our roads. Use of technology is a good thing. The evolution of mobile phones reflects how technology has developed. As it develops, we need to ensure that anyone who is a road user also reflects on the importance of safety.

In thanking all noble Lords once again, in particular my noble friend Lady Pidding, I underline that the Government regard this as a priority. There can be no better poignant words than those of my right honourable friend the Prime Minister when she reflected on the tragedy that has impacted on many people. On hearing of that, she said:

"Sadly we have seen too many times the devastating and heartbreaking consequences of using a mobile phone while driving".

As she concluded her remarks on that tragedy:

"A moment's distraction can wreck the lives of others for ever".

*5.03 pm*

**Baroness Pidding:** My Lords, on my entering your Lordships' House just over a year ago, it said in the Letters Patent that I should be given a voice. It is with the immense privilege of being given that voice that I have brought about this debate. I am still on a very steep learning curve and this is the first debate that I have tabled. I am grateful for the time that has been afforded to me and most grateful for the speeches made by all noble Lords. I am encouraged that there has been a great deal of agreement today, with many common threads. I know that many other noble Lords who were not able to be with us today also feel very strongly on this issue, as we saw in Oral Questions last week.

I also thank my noble friend the Minister for his full and detailed reply. I welcome the steps the Government are taking and, picking up on that common thread, I hope that great investment will be put into the public awareness campaign and, working alongside the media, in getting it out into the widest possible domain. I was encouraged by what the Minister said about considering action in relation to HGVs and about the education and awareness campaign.

Before closing the debate, I want to acknowledge the fantastic work done by emergency services throughout the country in dealing with horrific road traffic accidents, and the amazing support, often unrecognised, that our police give to bereaved families. I join the Minister in citing in particular the work of Thames Valley Police and the support they have given to the Houghton and Goldsmith families.

By having this debate, we have raised the profile of a very important issue and given an opportunity for a wider discussion. As such, the debate can only have been very worth while. I know this is not an easy issue to solve, but I hope we can move a step closer to seeing a reduction in the number of incidents caused by the use of hand-held mobile devices in cars and, as a consequence, the prevention of future fatal tragedies.

*Motion agreed.*

## Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No. 3) Order 2016

*Motion to Approve*

*5.06 pm*

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

That the draft Order laid before the House on 12 December be approved.

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, the threat level in the UK, which is set by the independent Joint Terrorism Analysis Centre, remains at "severe". This means that a terrorist attack in our country is highly likely and could occur without warning.

We can never entirely eliminate the threat from terrorism, but we are determined to do all we can to minimise it. Proscription is an important part of the Government's strategy to disrupt the full range of terrorist activities. The group that we now propose to add to the list of terrorist organisations, amending Schedule 2 to the Terrorism Act 2000, is National Action. This is the 21st order under Section 3(3)(a) of that Act. This is the first time we have laid an order for a right-wing group. Proscribing this neo-Nazi group sends a strong message that we will not tolerate terrorist activity here, regardless of what motivates it.

As noble Lords will appreciate, I am unable to comment on specific intelligence. However, I can provide a brief summary of the group's activities. National Action is a racist, neo-Nazi group that was established in 2013. It has a number of branches across the UK, which conduct threatening street demonstrations and activities aimed at intimidating local communities. Its activities and propaganda materials are aimed particularly at recruiting young people.

National Action's ideology promotes the idea that Britain will inevitably see a violent "race war", which the group claims it will be an active part of. The group rejects democracy, is hostile to the British state and seeks to divide society by implicitly endorsing violence against ethnic minorities and perceived "race traitors". National Action has links to other extreme right-wing groups abroad, including in Europe. In May 2016, National Action members attended Buchenwald concentration camp, where they carried out Nazi salutes and posted images of this online.

The Government's counter-extremism strategy challenges extremism in all its forms. Alongside this and our Prevent work, we will continue to monitor whether extremist groups have crossed into terrorism.

This is a relatively small group which has only been in operation in the UK for a few years, but the impact of its activities has been felt in a number of UK

[Baroness Williams of Trafford]
communities. Since early 2016, the group has become more active and its activities and propaganda material have crossed the threshold from extremism into terrorism. National Action's online propaganda material, disseminated via social media, frequently features extremely violent imagery and language. It condones and glorifies those who have used extreme violence for political or ideological ends. This includes two tweets posted by the group in 2016 in connection with the murder of Jo Cox, which the prosecutor described as a terrorist act. One states, "Only 649 MPs to go". Another contains a photo of Thomas Mair with the caption, "Don't let this man's sacrifice go in vain. Jo Cox would have filled Yorkshire with more subhumans!". The group has also disseminated an image which was doctored to condone and celebrate the terrorist attack on the Pulse nightclub in Orlando in which 49 people lost their lives, and another depicting a police officer's throat being slit.

There are people who may have become aware of these messages who could reasonably be expected to infer that these acts should be emulated; therefore, such propaganda amounts to the unlawful glorification of terrorism. Section 3 of the Terrorism Act 2000 provides a power for the Home Secretary to proscribe an organisation if she believes it is currently concerned in terrorism. If the statutory test is met, the Home Secretary may exercise her discretion to proscribe the organisation. In considering whether to exercise this discretion, the Home Secretary takes a number of factors into account, including the nature and scale of an organisation's activities and the need to support other members of the international community in tackling terrorism.

Proscription in effect outlaws a listed organisation and makes it unable to operate in the UK. Proscription can also support other disruptive activity, including prosecutions for other offences, and acts to support strong messaging to deter fundraising and recruitment. Additionally, assets of a proscribed group are liable to seizure as terrorist assets. The Home Secretary exercises her power to proscribe only after a thorough review of the available relevant information and evidence on an organisation. This includes open-source material, intelligence material and advice that reflects consultation across government, including with the intelligence and law enforcement agencies. The cross-government proscription review group supports the Home Secretary in this decision-making process. A decision to proscribe is taken only after great care and consideration of the particular case, and it is appropriate that it must be approved by both Houses.

Proscription of this group will prevent its membership growing and help to prevent individuals who might be vulnerable to radicalisation, and possibly at risk of emulating the terrorist attacks that National Action glorifies, being drawn into the group's extreme ideology. I beg to move.

**Lord Davies of Stamford (Lab):** My Lords, I think the Government are doing the right thing with this organisation and the House will be grateful to the noble Baroness for having set out in some detail why action is necessary. I have just one question. The noble Baroness rightly said that if an organisation of this kind is proscribed it is possible to seize its funds, but I take it that any organisation that knows it is going to be proscribed would takes its funds out of the jurisdiction, or otherwise distribute them so as to put them beyond reach. Has it been possible in this case, and would it normally be the Government's practice, to freeze these funds in some way before the announcement of the proscription?

**Lord Rosser (Lab):** I thank the noble Baroness for her explanation of the purpose of the order. The order was, as I understand it, agreed by the Commons yesterday and we hope that it will be agreed in your Lordships' House this afternoon. We welcome and support the order. As the noble Baroness said, it amends Schedule 2 to the Terrorism Act 2000 by adding the neo-Nazi National Action to the list of proscribed organisations concerned in terrorism. The Minister also set out the provisions of the relevant parts of the 2000 Act, as well as the relevant part of the 2006 Act, which amended Section 3 of the 2000 Act. I do not intend to repeat those provisions.

*5.15 pm*

As has already been said, National Action is a racist, neo-Nazi group. It was established some three years ago and is virulently racist, anti-Semitic and homophobic. Its online propaganda material, which it puts out through social media, frequently features extreme violent imagery and language. It condones and glorifies those who have used extreme violence for political or ideological ends. As the Minister said, this has included tweets posted by the group in 2016 in connection with the murder of Jo Cox MP, which the prosecutor described as a terrorist act.

I would like to ask just two questions, although I want to make it clear that we welcome and support the order. First, how easy or otherwise will it be for this organisation to get round the order? Can it do that simply by renaming itself or setting up another organisation, which may not be all that difficult? Is it more complicated for an organisation in this position to get around the order which we hope will be made this evening? Secondly, are there any other right-wing organisations—I stress, without naming them—of similar views, means of operation and objectives to National Action in the sights of the Government for adding at some future stage to the list of proscribed organisations?

**Baroness Hamwee (LD):** My Lords, I too thank the Minister for her careful explanation. I will not oppose the order, but this is a moment for reminding ourselves of the distinction between distasteful and, in a non-technical sense, offensive speech and the promotion of terrorism and other actions which are the criteria for proscription. In that connection, I would like to remind myself and the House of the importance of freedom of speech.

The Minister described some of the activities of National Action. I have read of its advocacy that, when it assumes power, those who promote liberal values, tolerance and multiculturalism will be "in the chambers". She referred to photographs taken in what had been gas chambers. It has used the phrase "Hitler was right"; it is quite clear what it means by "the chambers". When one of its members was jailed for a

series of anti-Semitic tweets against the Member for Liverpool Wavertree, National Action led a campaign to have him freed. It clearly supports violence to achieve its political goals and has gone well beyond the bounds of free speech, into advocating violence and engaging in acts to "compel, coerce or undermine" the Government, which is engaging in terrorism.

However, that is a stronger definition of terrorism than in the current legislation. This definition was first advocated by my noble friend Lord Carlile of Berriew in 2008, when he was the Independent Reviewer of Terrorism Legislation. It was supported by David Anderson, the current reviewer, in 2014. National Action clearly falls within both the legal and recommended definitions of a terrorist organisation, but I wonder whether the Minister has anything in her brief about these recommendations. David Anderson also recommended that proscription should be for a limited period and subject to renewal. I would be grateful if the Minister could say whether this order is time-limited or in some way subject to review.

As the Minister said, this is the first order against a right-wing organisation that advocates terrorism. I understand—I think these figures are from the National Police Chiefs' Council—that the number of far-right referrals to the Prevent programme increased from 323 in 2014-15 to 561 the following year, which must be the most recent year for which we have figures. Does the Minister have any comments on that?

These Benches support freedom of speech and this proscription, and it has occurred to me, listening to this debate, that an organisation such as this infringes the right of free speech for the rest of us.

**Baroness Williams of Trafford:** I thank noble Lords for their constructive comments. The noble Lord, Lord Davies, asked about the freezing of funds. As I outlined in my speech, it is entirely possible and we freeze assets, but we do not comment on whether individuals are being considered for an asset freeze. If that were the case, it would be an operational issue for the police and the Treasury.

On how easy it is to get round the order if an organisation is renamed or a new organisation is set up, if organisations change their name, they remain proscribed. We can, of course, also lay a name change order to clarify that they remain proscribed. We most certainly keep extreme right-wing groups under review, as we would with any other type of proscribed organisation, but we do not routinely comment on whether an organisation is under consideration. I hope that answers noble Lords' questions. I thank noble Lords for their comments.

*Motion agreed.*

## Misuse of Drugs Act 1971 (Temporary Class Drug) (No. 2) Order 2016

*Motion to Approve*

*5.22 pm*

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

That the Order laid before the House on 23 November be approved.

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, I extend my thanks to the Advisory Council on the Misuse of Drugs for its advice, which has informed the order. I also congratulate Dr Owen Bowden-Jones on his appointment as the new chair of the council, as announced in yesterday's Written Ministerial Statement.

This order relates to methiopropamine, commonly known as MPA, as well as to its simple derivatives. This compound has been controlled under a previous temporary class drug order—a TCDO—which expired on 26 November 2016. If this order is made, MPA, as well as its simple derivatives, will be subject to temporary control under Section 2A of the Misuse of Drugs Act 1971 for a further 12 months. This will allow the ACMD to gather and consider more evidence in order to make a substantiated recommendation for permanent control under the Misuse of Drugs Act 1971.

MPA is a stimulant psychoactive substance which is similar in its chemistry to methamphetamine and has similar effects to that substance, such as stimulation, alertness and an increase of energy and focus. Side-effects reported include abnormally fast heart rates, anxiety, panic attacks, perspiration, headaches, nausea, difficulty breathing, vomiting, difficulty urinating and sexual dysfunction.

The ACMD has reported that MPA initially emerged as a replacement drug for the methylphenidate-based compounds which had been temporarily controlled under a previous TCDO. Of particular concern was the potential high risk of bacterial infection and local tissue damage due to MPA being injected.

The ACMD notes that the initial TCDO has been effective in halting the problematic proliferation of MPA since it was first introduced in November 2015. The effectiveness of the TCDO has been particularly evident in areas of Scotland where instances had been reported previously. Although anecdotal, the evidence indicates that the prevalence and the use seen prior to the TCDO seem to have abated, particularly in relation to intravenous injection. Notably, Police Scotland, which initially alerted the ACMD to the possible displacement of MPA from ethylphenidate has reported reduced instances of injecting MPA; the number of phone call and database inquiries to TOXBASE—part of the National Poisons Information Service, which provides NHS healthcare professionals with a 24-hour, year-round clinical toxicology information service—regarding MPA have reportedly decreased; and there has been a reported decrease in the availability of MPA in online markets.

Parliament's approval of this order will enable UK law enforcement to continue action against traffickers and suppliers of temporary class drugs while the ACMD gathers evidence. The order also sends out a clear message to the public, especially to young people, that these drugs carry serious health risks. We know that the law cannot, on its own, deter all those inclined to use or experiment with these drugs. However, we expect the TCDO to continue to have a notable impact on the availability of and in turn the demand for these drugs.

As well as our legislative response, we continue to take action to reduce the demand for drugs and ensure that those who become dependent have access to the support that they need to recover. We will continue to update our public health messages to inform the public

[Baroness Williams of Trafford]
of the harms of new psychoactive substances using the latest evidence gathered from early warning systems. With that, and apologies for the use of so many acronyms, I beg to move.

**Baroness Hamwee (LD):** My Lords, I have one concern, which I did not expect to have until I read the Explanatory Memorandum. This is of course the second temporary order in respect of MPA, and the memorandum tells us:

"The Secretary of State has received a recommendation from the ACMD that an order should be made on the basis that this substance is a drug that is being misused"—

we have heard about that—

"and that the misuse is having harmful effects".

However the Explanatory Memorandum goes on to report the ACMD's,

"difficulty in finding any significant data relating to harms, seizures and prevalence",

of MPA since the first order. Can the Minister comment on that? I do not of course advocate the use of any drug, but if the ACMD has not been able to show evidence of harm, is there a danger that by banning this drug we might be pushing people towards harm from another drug that is used instead of it, rather than protecting them from it? It seemed an interesting pairing of comments, if you like, in the Explanatory Memorandum. Since we are talking about temporary orders, and the first temporary order has not apparently provided the opportunity to do what we would have expected it to do, it would be helpful to have a comment on that on record.

**Lord Rosser (Lab):** My Lords, I thank the Minister for her explanation of the purpose of the order, which we support. As has been said, it replaces the Misuse of Drugs Act 1971 (Temporary Class Drug) (No. 3) Order 2015. That order provided for temporary controls on the drug methiopropamine, known as MPA, which made it an offence to produce, import, export, supply or offer to supply it. The 2015 order expired after 12 months. This order replaces that 2015 order and continues the controls for another 12 months.

As has been said, the Secretary of State has the power to make a temporary class drug order as long as two conditions are met: first, that the drug is not yet classified as a class A, B or C drug, and, secondly, that the Secretary of State has consulted with or received recommendations from the Advisory Council on the Misuse of Drugs and has determined that the drug in question is being or is likely be misused, has harmful effects and should be subject to controls.

MPA is a psychoactive substance similar to methamphetamine. Controls were placed on MPA at the recommendation of the ACMD. The ACMD's assessment was that MPA was dangerous and had side-effects including anxiety, panic attacks and difficulty breathing, and had apparently been implicated in 22 deaths between 2012 and 2015. The ACMD also reported that MPA had become an injecting drug of choice. Following 12 months of temporary controls, however, the ACMD has reported anecdotal evidence that usage has declined. Police Scotland has reported reduced instances of injection, and the ACMD has pointed out a number of other reasons for believing that its use may be in decline, to which the Minister has already referred and which I do not intend to repeat.

The ACMD has also reported that currently there is insufficient evidence on harms, seizures and prevalence of MPA for it to make a permanent recommendation. That is why it has recommended that the drug, in all its variations, be subject to another 12 months of temporary control to allow it to gather and consider more evidence before it makes a substantive recommendation.

I hardly imagine that the point I wish to make is one that the Minister will be able to answer, but I will raise it nevertheless. We support the order, as I say, but we do not appear to have been provided by the ACMD with any reason why it believes, since sufficient evidence has not come to light in the first 12 months of an order, that sufficient evidence is likely to come to light in the next 12, which this order would cover. I merely put that point to the Minister but I imagine that, quite justifiably, she will say that that is something for the ACMD to comment on. Still, it seems a slight weakness in the letter from the ACMD to the Parliamentary Under-Secretary of State, which contains its recommendation, that it remains rather silent on why it believes that that evidence may become available in the next 12 months, bearing in mind that it has not been available in the 12 months to date.

**Baroness Williams of Trafford:** I thank both noble Lords for their comments, wisely asking why the ACMD thinks it can gather evidence in the next 12 months when it could not in the previous 12. In fact it has had only six months to gather evidence. I have gone through some of the harms, side-effects and problems as well as the results of the temporary order in Scotland. The evidence of the harms, to bolster the ACMD advice, will be available shortly, but the reality is that it has had only six months to gather the evidence, which is why it is asking for a further 12.

On the noble Baroness's point about displacement activity, the Psychoactive Substances Act 2016 should deter displacement to other drugs. With those explanations, I beg to move.

*Motion agreed.*

## Immigration (European Economic Area) Regulations 2016

*Motion to Regret*

*5.34 pm*

*Moved by* ***Lord Rosser***

That this House regrets that the Government have laid the Immigration (European Economic Area) Regulations 2016 with insufficient explanatory material to allow the House to gain a clear understanding of the instrument's policy objective or intended implementation; that they have not provided the House with key guidelines needed to direct how provisions are to be interpreted; and that there has been no prior consultation for a significant change in practice for courts and tribunals considering the restriction of freedom of movement. (SI 2016/1052) 14th Report from the Secondary Legislation Scrutiny Committee

**Lord Rosser (Lab):** My Lords, I want to go through in some detail what has led me to table the Motion and why I think an explanation from the Government is required. It relates to the findings in two reports: the 14th and 17th reports of the Secondary Legislation Scrutiny Committee. I am not sure that the Motion can be regarded as a surprise. To put it in context, the Home Office is something of a regular offender when it comes to getting on the wrong side of the committee. In its final report of the previous Session, it included a section on the annual work of the committee. Paragraph 36 stated that as a result of the number of deficient Explanatory Memoranda, a new ground for reporting an instrument had been introduced at the beginning of the 2014-15 Session:

"the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation".

The paragraph concluded:

"There are, however, still far too many EMs that use obscure jargon or tell us what the instrument does without giving us sufficient context to judge whether the change is significant or appropriate. The Home Office, Defra, DWP and the Ministry of Justice have been particular offenders in this session".

The Home Office provided two of the 13 instruments reported for inadequate information last Session: the statement of changes in immigration rules and the Asylum Support (Amendment No. 3) Regulations 2015. The regulations which are the subject of my regret Motion are apparently one of only two instruments reported on the ground of insufficient information so far this year. I am advised by the Committee Office that the Secondary Legislation Scrutiny Committee does not report in this way to the House when there are just minor glitches. It is done only, as with these regulations, when the missing material is vital to a proper understanding of the policy.

So what are the issues raised by the committee? First, Schedule 1 sets out for the first time a non-exhaustive list of the "fundamental interests of society" which a court or tribunal must have regard to when considering restricting the right of EU citizens and their families to move and reside freely within the territory of the member states. The committee states:

"We are surprised that so significant a change should be implemented by a negative instrument, and also that it was undertaken without any prior consultation".

Paragraph 8 of the Government's Explanatory Memorandum, on consultation, asserts:

"The 2016 Regulations in large part consolidate and clarify the provisions under the 2006 Regulations, modernising the language used and simplifying terms where possible in line with current drafting practice. Therefore, no external consultation has been undertaken".

That would be a convincing explanation of the need for no external consultation, but for the reality that what it says about the regulations is questionable, and clearly did not convince the Secondary Legislation Committee.

I move on to the other issues raised by the committee. In a letter to the Minister of State for Immigration at the Home Office, the chairman of the committee, on the committee's behalf, stated that it had,

"significant concern about the open-ended character of some provisions in the Regulations and whether they could be interpreted consistently and objectively".

In that context, the chairman referred specifically to,

"the decision as to whether the residence of a British citizen and another family member in an EEA state is 'genuine' (regulation 9); and 'preventing social harm' or 'protecting public services' under Schedule 1".

Paragraph 9 of the Explanatory Memorandum states that the Home Office will be issuing guidance. In his letter to the Minister, the chairman of the committee asked the Minister to,

"tell us how the guidance will support understanding of these and other similarly broad expressions contained in the Regulations".

The chairman went on to say:

"We would also be grateful if you could send us a copy of the guidance with your response and confirm that it will be available to Parliament without delay so that it can be taken into account should these Regulations be debated".

There was also a reference in the letter to the fact that, under subparagraph 7(h) of Schedule 1 to the regulations,

"numerous lesser offences can be aggregated".

The committee chairman added that,

"we would welcome clarification about what sort of offences are intended and how many will qualify a person for removal".

In his reply, the Minister, Robert Goodwill MP, referring to the use of the word "genuine", said:

"Guidance will set out how caseworkers should approach the 'genuine residence' question and the other conditions of regulation 9. The guidance will be published on Gov.uk on 25 November when the changes to regulation 9 come into force. We will notify the Committee when it is available".

On the references to the wording in Schedule 1, such as "preventing social harm" and "protecting public services", the Minister said in his response:

"The Regulations need to be able to relate to a broad and varied array of circumstances in which an individual may pose a threat and so it is inevitable that some of the provisions are somewhat general in nature".

Under the offences referred to under subparagraph 7(h) of Schedule 1, the Minister said:

"There is … no prescribed list of the offences that will fall under subparagraph 7(h) of Schedule 1, nor is there a threshold to the number of offences that must be committed in order to qualify a person for a decision to be made on the grounds of public policy or public security".

The Minister went on to say:

"These Regulations will be accompanied by guidance to assist with the interpretation of the provisions. This will provide more detail on the sorts of circumstances which could be considered when making a decision on the grounds of public policy and public security. The guidance will be published on Gov.uk on 1 February when the provisions come into force. We will notify the Committee when it is available".

Not surprisingly, the committee was unimpressed with the Minister's response. It said in its 14th report, published on 17 November, that the Home Office guidance to accompany the regulations had not been available to it for its,

"initial scrutiny and nor was a draft".

It referred to the fact that it had written to the Minister about this and that his reply,

"simply refers us to the guidance which, we note with disappointment, will not be published until the very day the legislation comes into effect".

The committee went on to say in its report:

"We reiterate our strongly held view that if guidance is intended to direct users on how specific terms should be interpreted or how decisions should be made, it should be laid with the instrument

[LORD ROSSER]

and be available to Parliament throughout the scrutiny process. It would be even better if such definitions were clearly set out on the face of the instrument".

The committee wrote again to the Minister, Mr Goodwill MP, on 16 November. In its 17th report, published on 8 December—that is, just a few days ago—it said:

"The Minister's reply of 24 November was again unsatisfactory. He was invited to provide a fuller response which he did in a letter dated 5 December".

That was the Minister's third attempt at a letter. The committee continued:

"Although this second response goes some way towards addressing the points we originally raised, it fails to deal with the Committee's core concern that such open definitions may be inconsistently applied in different parts of the country and result in injustice for individuals".

The committee's report goes on to say:

"This instrument exemplifies our more general concern that guidance is being used to supplement secondary legislation with material that should have been included in the legislation itself. In this case, the Home Office has told us that the relevant guidance will not be published until February 2017 when the legislation comes into effect. Our concern about the late availability of the guidance, which we expressed in our 14th Report, has since been aggravated by the publication by the Home Office of guidance in relation to determining the 'genuineness' of a marriage (which forms another part of the same instrument) which includes a number of redacted sections which are 'for Home Office use only'. We question how the courts and individuals can assess their position correctly if a number of the determining factors are kept from them".

I have a page from the guidance to which the committee is referring. It is page 35 of 44, published for Home Office staff on 25 November 2016. At the top of the page it says:

"Official—sensitive: start of section. The information on this page has been removed as it is for internal Home Office use only".

Then, right at the foot of that page, the same text appears again. It is no wonder that the committee chose to draw attention to that state of affairs. The report goes on:

"The Minister's letter of 5 December provides some information about the meaning of 'protecting public services' in that he says the expression 'could be interpreted as benefit fraud or tax evasion, though these examples are not exhaustive'. He fails entirely, however, to address our concern that the term could also be interpreted in a number of less obvious ways, creating a problem for the courts and potential inequality among individual cases. It would, in our view, be more appropriate for such definitions to be fully set out in the Regulations; and, if not, then, as we said in our 14th Report, the relevant guidance should be laid with the Regulations and be available to Parliament throughout the scrutiny process. This is not a new concern, in relation to the Draft Social Security (Personal Independence Payment) Regulations 2013, for example, we said, when 'guidance is so material to the House's understanding of how the system will operate for individuals, rather than on a theoretical level … proper scrutiny is not possible if the guidance is not published'".

*5.45 pm*

I appreciate that we are talking about a report from a House of Lords committee, so it may be that a Commons Home Office Minister does not attach as much importance to its views as he should. I hope that the noble Baroness would adopt a rather different approach. The House of Lords Secondary Legislation Scrutiny Committee has far more experience and expertise in commenting with authority on what does and does not constitute good practice in secondary legislation than any House of Commons Minister whose experience is limited to their own department's culture in this regard and not to the much wider picture.

The committee is also a cross-party committee, chaired, I believe, by one of the Minister's noble friends. It is hardly likely to express itself so firmly and clearly for the purpose of making mischief. The committee acts on behalf of this House and its work is valued and appreciated. It took three letters from the Minister and a meeting with the Secondary Legislation Scrutiny Committee chairman, I understand, before a reply was received that even went some way to,

"addressing the points we originally raised",

but still failed, in the committee's words,

"to deal with the Committee's core concern".

To ignore the reports of the committee is to ignore this House. It is also clear that this is by no means the first time that the Home Office has incurred the metaphorical wrath of the committee. Indeed, I think in one of his letters to the Minister of State for Immigration at the Home Office, the chairman of the committee also referred to two other recent Home Office instruments that had caused the committee concern for similar reasons. Therefore, why could not the definitions in question have been fully set out in the regulations? If there is a credible reason for that—I wait to see whether there is—why could not the relevant guidance have been laid with the regulations and been available to Parliament throughout the scrutiny process? Why could not a Government who say that they want to be open and transparent have done that? Why have such significant changes been implemented by a negative instrument in respect of which there was no consultation and no guidelines even made available with the regulations or made available throughout the scrutiny process?

Will the further guidance the Government intend to delay until February, when the relevant provisions come into force, now be published well before then in the light of the Secondary Legislation Scrutiny Committee's comments, and if not, why not? Surely, on reflection, the Minister would agree that this statutory instrument should have been dealt with through the affirmative process and not in the way that it was.

Finally, what is the procedure adopted by the Home Office when faced with these two critical reports from the committee—namely, the 14th and 17th reports? At what level have the committee's findings been considered, or will be considered, in the Home Office, and who has responsibility in the Home Office for ensuring that this is the last such report which the Secondary Legislation Scrutiny Committee feels it has no choice but to issue in relation to a Home Office statutory instrument? This issue of making the appropriate information available, and of issuing guidance so that that guidance can be scrutinised by Parliament if there is an unwillingness to put the information into the regulations, affects the ability of Parliament to call the Government to account. That, in a sense, is what is at stake, and what the Home Office has sought to avoid through what it has done in relation to these regulations. I hope the Minister will be able to give satisfactory responses to the questions I have raised. After I have heard her reply, I hope I will not be left with the feeling that the

Home Office's position is that the committee can say whatever it likes, but the way the Home Office carries on will continue unchanged.

**Baroness Hamwee (LD):** My Lords, I join the noble Lord, Lord Rosser, in his expression of regret. I was for some time a member of the Secondary Legislation Scrutiny Committee and can confirm his characterisation of the restraint it uses in its reports. It does not use extreme language and reports to the House only when it is very necessary to do so. My regret goes wider than the process but the committee is to be thanked for that process. It is dogged in its pursuit of detail and in reminding departments of the requirement to maintain the necessary standards as regards the mountain—it is a mountain—of instruments which are put before Parliament.

I shall say a few words about these regulations but I want to make a broader point. The likelihood must be that, in connection with exiting the European Union, Parliament will be asked to approve, or not to oppose, very large quantities of secondary legislation. I think of the great repeal Bill as a great reinstatement Bill because it will repeal one thing but it is likely to provide a mechanism for reinstating a very great deal of our current legislation, as an awful lot of legislation will have to be reinstated in domestic law. It is critical—I do not use that term lightly—that those instruments have the highest standards and do not require the sort of pursuit of detail, or indeed of meaning, that characterises this instrument.

I have more of an objection to these regulations than the committee has, and I guess that it would have been outside its remit. The undesirability of regulations which require guidance for them to make sense is an issue. The committee says that guidance should be available in draft when the regulations are being considered so that Parliament can in effect treat them as part of the scrutiny process. It should not be necessary to rely on guidance to understand the kernel—the fundamental issues raised by regulations. That is not only because, like regulations, guidance is unamendable by Parliament but because it can so easily be changed without reference to Parliament.

The committee in this instance quite rightly advises the House that the interpretation of specific terms and how decisions are made should be set out clearly in this instrument. I note that it says:

"A fundamental tenet for new legislation is that it should not make work for the courts by using loosely worded provisions".

That is particularly notable since the Government so much object to what they perceive as judge-made law.

These regulations deal with particularly sensitive subjects, so the issue of redaction, raised by the noble Lord, Lord Rosser, is of concern. Paragraph 2 of Schedule 1 is about integration—a topical and concerning issue. Paragraph 7 of Schedule 1, to which the noble Lord referred, attempts to define, although not exhaustively, the "fundamental interests of society". The best that can be said about them is that may be a better term than "British values". The committee says:

"We are surprised that so significant a change should be implemented by a negative instrument, and also"—

as the noble Lord, Lord Rosser, said—

"that it was undertaken without any prior consultation".

I could imagine this House spending at least two days debating the fundamental interests of society, and probably not coming to a conclusion. Academia could spend months and years over it. To see them listed, or purported to be listed, in the schedule to unamendable regulations, is therefore bold. I will not attempt to analyse and critique the list, but I cannot resist mentioning the conjunction of a sub-paragraph about "protecting public services", which is right up against,

"preventing the evasion of taxes".

Although it would not be relevant to this, you cannot think about that without the context of how services and taxes relate to one another. Perhaps more importantly, the people who will be affected by this and who see that conjunction of issues may well wonder what fundamental interests—or interest—society has in their position, and the way they will perceive these regulations will not be a happy experience. We support the Motion.

*6 pm*

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, I thank both noble Lords who have made comments during this debate.

Following the public's vote to leave the European Union and until exit negotiations are concluded, all the rights and obligations of EU membership remain in force and the Government will continue to apply and implement EU legislation. It is important to continue to make this point at the outset. At present, the rights of EEA nationals and Swiss citizens to live and work in the UK have not been affected by the referendum.

It is the free movement directive that mainly sets out those rights, and it is implemented in the UK through the Immigration (European Economic Area) Regulations 2006, as amended. These regulations were amended in 2009, 2011, twice in 2012, twice in 2013, three times in 2014, and in 2015 to reflect developments in immigration policy and to give effect to relevant case law. As noble Lords will therefore appreciate, this has resulted in a legislative framework that has become quite fragmented and complex.

The new 2016 regulations, which are the subject of today's debate, do not significantly change the Government's policy and legal position as set out in the 2006 regulations. Their main effect is to revoke and replace the 2006 regulations, consolidating the previous legislation, modernising the language used and simplifying terms, where possible, in line with current drafting practice.

The Government have also taken this opportunity to address issues concerning the practical application of the 2006 regulations and to clarify our approach in key areas such as criminality and the abuse of free movement. These changes are not about restricting the free movement rights of law-abiding EEA nationals and their family members who make a valuable contribution to society but about making sure that we are in the strongest possible position to deal with those who come here and do not abide by the rules.

I totally agree with noble Lords that it is undesirable to have regulations that are broad and open-ended in nature. That is precisely why we have made some of these changes. For example, the 2006 regulations stuck closely to the wording of the free movement directive,

[Baroness Williams of Trafford]
simply providing for a person to be expelled from the UK on public policy and public security grounds where their conduct represents a,

"genuine, present and sufficiently serious threat affecting one of the fundamental interests of society".

That wording clearly covers a wide range of scenarios and could be criticised as being too broad and overarching, possibly giving rise to a lack of certainty, either for individuals or for the courts, as to what behaviour might meet that threshold.

European Court of Justice case law in this area is clear: member states have a margin of discretion to determine the fundamental interests of their society. Therefore, the 2016 regulations are now significantly clearer by providing further descriptions and examples of matters of public policy and public security, and they provide more detail about what the Home Secretary considers to be in the fundamental interests of the United Kingdom in respect of taking such decisions under these regulations.

The changes clarify that we can take deportation action in a broad range of cases, including against those who abuse their free movement right by facilitating illegal immigration or engaging in immigration abuse—for example, through sham marriage—or those who undermine our public services through tax evasion or benefit fraud. The regulations also make it clear that it is not only high-harm criminality that threatens the fundamental interests of the UK but persistent low-level offending as well.

As noble Lords can see, the new regulations do not significantly change the legal position; rather, they spell out the detailed factors that decision-makers and the courts should take into account when considering whether the deportation of an EEA national is in the fundamental interests of society. The new drafting approach in the 2016 regulations merely sets out a fuller range of circumstances and interests that fall within the term "public policy". However, this range always fell within the meaning of that term, even under the 2006 regulations, so there has been no extension of the term.

Clearly, there is a very broad and varied array of circumstances in which an individual may pose a threat to public policy concerns, so it is quite impossible to draft in a way that specifically deals with each possibility but still provides comprehensive coverage in a single document that is not excessive in length. To ensure comprehensive cover in a manageable document means it is inevitable that some of the provisions are somewhat broad in nature. Although I am all for improving clarity and providing extra detail, having to describe in legislation every possible circumstance would be neither practically possible nor indeed helpful, given the number of provisions this would need and the changing threats that UK society faces.

The noble Lord, Lord Rosser, queried the sorts of persistent low-level offending that will be aggregated to qualify a person for removal. As is very much the case now, and as is required under both the 2006 and the 2016 regulations, all decisions taken on the grounds of public policy and public security will be made in accordance with the principle of proportionality, will take into consideration the personal circumstances and will be based exclusively on the conduct of the individual concerned. For this reason, there is no prescribed list of offences, nor a threshold for the number of offences which must be committed in order for a decision to be made on the grounds of public policy or public security to combat persistent offending—a matter which is of significant concern to the public.

I note the noble Lord's concern about the level of scrutiny that Parliament has been able to afford these new regulations. I hope that the reassurances I have given as to the modest evolutionary rather than revolutionary nature of the 2016 regulations will serve to explain why, as was the case with the 2006 regulations and their very many amendments, the Government considered that the negative resolution procedure was the appropriate mechanism. The noble Lord also raised the issue of consultation. We of course consulted other government departments where substantive policy changes were made; for example, implementation of the Upper Tribunal case of Sala, removing a right of appeal from applicants seeking recognition as an extended family member.

I understand the reasonable point made by noble Lords that it would have been helpful if the guidance had been published when we laid the regulations, to assist their scrutiny. We did publish detailed guidance on GOV.UK regarding Regulation 9 when it came into force on 25 November, as the noble Lord, Lord Rosser, said. Detailed guidance on the remainder of the regulations will be published when they come into force on 1 February. However, I am afraid that we are not in a position at this point to provide additional information on the remaining regulations. The noble Lord also mentioned that the guidance on Regulation 9 relating to the genuineness of residence included several redacted sections marked "For Home Office Use Only". As is usual with redacted sections of guidance, disclosure to the court will be considered on a case-by-case basis in accordance with the relevant procedural requirements or court order.

The noble Lord, Lord Rosser, said that the new, more specific drafting gives rise to concern that a different approach would be adopted across the country due to the terms being somewhat general and non-exhaustive. As I think I have mentioned, the new drafting substantially improves on the drafting of the 2006 regulations, and in the 10 years they have been in effect there has been no complaint about differing geographical application even though, based on the above argument, surely the risk was so much greater given that all this was covered in one sentence in the 2006 regulations but is now covered by many times that number of words.

Schedule 1 seeks to replicate the existing position in the 2006 regulations but in a clearer way by providing extensive language to describe the scope of things such as the fundamental interests of society in relation to public policy.

The noble Lord also asked what the procedure was for acting on these reports and at what level. A parliamentary team will bring the various reports to the attention of relevant units within the Home Office, and the directors of those units are responsible for

ensuring that the Secondary Legislation Scrutiny Committee is considered and taken account of at the relevant time and in relation to future practice.

I hope that I have covered all points that noble Lords raised. I am sure that they will intervene if I have not.

**Baroness Hamwee:** My Lords, I shall accept that invitation. This is not a point that I have raised before and I do not expect the Minister to have an instant answer, but I make a plea. I would not have found the guidance had I not seen a reference to the date when it was published. Even then, it took me some time to navigate the GOV.UK website to find it, by which time I did not have very much time to look at it. There seemed to be no cross-reference to the number or title of the regulations, and I think the guidance may well cover more than just these regulations. I really think that that website could do with the uninitiated doing some mystery shopping on it.

**Baroness Williams of Trafford:** I will certainly take that point back because, if the noble Baroness cannot find it, lesser mortals would really struggle.

In conclusion, the Government believe that the changes made in the 2016 regulations do not fundamentally change the legal position set out in the 2006 regulations and that the measures are proportionate. I hope with those words and with my explanation on the noble Lord's questions, that he will feel free to withdraw his Motion.

**Lord Rosser:** I want to raise one or two points about what the Minister said. The response we have had from the Government is basically a repetition of what has been said in three letters from the same Minister, one of which I understand followed a meeting with the chairman of the Secondary Legislation Scrutiny Committee. I find it rather puzzling that the Government or the Home Office do not think it rather odd that, if their case is so persuasive and that in effect there has been no real change at all, they have been unable to persuade the Secondary Legislation Scrutiny Committee of that fact. Why does the Minister think that is the case? Could it not be that the Home Office has got it wrong and that it has been making changes?

I noticed in her reply at one stage the Minister said, "We have made some changes". Did the Home Office ever think that maybe it is wrong and that the Secondary Legislation Scrutiny Committee is right? If we are at a stage where, after a report like this from the Secondary Legislation Scrutiny Committee, the Minister in the department concerned is still prepared to stand at the Dispatch Box when challenged and say, in effect, the scrutiny committee has it wrong and we have it right, it makes you wonder what kind of esteem the Secondary Legislation Scrutiny Committee is held in by the Home Office.

I wonder whether the Home Office is seeking to make any arrangements to offer to meet the committee to talk through this issue of whether there have been significant changes or not, and whether the committee is justified in the really quite serious criticism that it has made. I have not heard anything from the Minister to suggest that the department is willing to offer to discuss this with the committee as a whole.

*6.15 pm*

The other point I would like to make is that the noble Baroness has said that it would have been better if the guidance had been available at the same time, but that does not answer the question of why it was not available. If the Government had found out that they could not produce the guidance, why not delay the introduction of the order? I have not had an answer to the question of why the guidance was issued only on the date the regulations came in. There has been no answer to that question at all. I simply ask it again: why was the guidance left so that it came out only on the day that the regulations were brought into force?

On the argument, what I quoted in my contribution were for the most part the views of the committee. It was the committee which said that ideally these definitions should be set out in the regulations. The Government's answer, as I understand it, is that it would have made the regulations enormously long. Is the Minister able to give some indication of how mammoth the regulations would actually be if the definitions were spelled out rather than being left to guidance—guidance that does not even appear until the day the regulations come into force?

I would be grateful for a response to these points. I would be very grateful if I could have that response now, but I am not going to press the regret Motion—let me make that quite clear. If the Minister would rather do this in subsequent correspondence, I accept that. However, some answers are needed. This is about the relationship between the Home Office and the Secondary Legislation Scrutiny Committee. To my mind, the committee has made a pretty powerful case for saying that the Home Office has not acted in an appropriate manner in relation to these regulations.

**Baroness Williams of Trafford:** My Lords, as a Member of your Lordships' House, I believe that the scrutiny committees of both Houses should be taken equally seriously. I will take back the point made by the noble Lord about the Home Office engaging with the committee.

On the date of the guidance, I do not think that I can provide any further information at this point. On the length of the document, as I have said, the list would be quite exhaustive. However, I can provide the noble Lord with further detail in writing on all of these points in due course, if that is acceptable to him.

**Lord Rosser:** I thank the Minister for her reply and for being willing to respond to the points that I have raised by writing subsequently. I thank her too for her comments about the relationship between the Home Office and the Secondary Legislation Scrutiny Committee. Perhaps I may make it clear that I was not put up here by the committee to say that perhaps there might be a meeting or at least some method of talking things through, so I hope that I have not put my foot in it on behalf of the committee and that its members would welcome such a meeting, just as the Minister would.

Again, I thank the noble Baroness. I have attempted to put across the concerns of the committee, which I

[Lord Rosser]
have to say that I agree with, and I am grateful to her for her response. I beg leave to withdraw the Motion.

*Motion withdrawn.*

*House adjourned at 6.18 pm.*

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