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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

Wednesday 15 March 2017

3 pm

Prayers—read by the Lord Bishop of Chester.

Universities: European Union Students
Question

3.06 pm

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

To ask Her Majesty's Government when they plan to give guidance to students from other European Union member states wishing to commence study at United Kingdom universities in 2018-19 about the costs of their studies and their eligibility to access student loans.

Viscount Younger of Leckie (Con): My Lords, EU students make an important contribution to our universities and we want that to continue. Existing student finance rules on fees and student support for eligible EU students who either are currently studying or will be beginning courses in the academic year 2017-18 will remain in force until students finish their courses. Applications for 2018-19 do not open until this September and we are working to ensure that students applying have information well in advance of this date.

Baroness Royall of Blaisdon (Lab): My Lords, I am grateful for that Answer but I really do not think it is good enough. Universities—including Bath and Oxford, where I declare an interest—need to plan long term. There is clear evidence from UCAS, the BMA and others that student applications from the EU are going down this year. Prospective EU students for 2018 are already considering their options; without certainty about fees and student loans, they will look elsewhere. When will the Government say that they will extend current transitional arrangements? I urge them to make it soon.

Viscount Younger of Leckie: The noble Baroness makes the important point that there are uncertainties arising from Brexit, but the Government have moved rapidly to give assurances to this sector. Within five days of the referendum result being announced we gave assurances on the 2016-17 year, then we followed up in October 2016 with assurances for the 2017-18 year students. We have also provided similar assurances that EU nationals starting courses in 2016-17 and 2017-18 remain eligible for Research Council postgraduate support. As I have said, we will ensure that students starting in 2018-19 have the information well in advance.

Lord Polak (Con): My Lords, I agree with the noble Baroness, Lady Royall; I think that the Government could be doing a bit more here. It is not just overseas students who need reassurance—staff and lecturers and their families who may move here need some certainty. What we are doing for them?

Viscount Younger of Leckie: My noble friend is absolutely right and, on the statistics for 2015-16, there were 33,700 EU national academic staff at UK higher education institutions, accounting for around 17% of the total academic workforce—so it is an important point. The Prime Minister has been clear that we want to guarantee rights for EU nationals in Britain and British nationals in the EU as early as we can. Our European partners agree with this and, as my noble friend Lord Bridges said the other day,

"the Polish Prime Minister has said: 'Of course, these guarantees would need to be reciprocal. It is also important what guarantees the British citizens living and working in other member states of the European Union will have'".—[*Official Report*, 13/3/17; col. 1719.]

Baroness Garden of Frognal (LD): My Lords, among the many concerns of present and potential EU students are not just financial considerations but the fear that they may be refused entry back into the UK if they have spent time abroad—on a third-year abroad scheme, say, or other things that take them out of the country for several months. What assurances can the Government give both to current and prospective students that they will be able to travel freely in and out of the UK in the course of their studies?

Viscount Younger of Leckie: The noble Baroness makes a good point. These are reassurances that we are looking to give, and I reassure her further that we are maintaining our dialogue with the sector about the risks and the opportunities that Brexit presents. Jo Johnson, the Minister for Universities, has established a high-level stakeholder working group on the EU exit for universities, research and innovation.

Lord Clark of Windermere (Lab): My Lords, the noble Viscount will be aware that the regulations abolishing the bursary system for nurses in the UK, including places for students from the European Union, have been laid on the Table of this House. The first indication is that there is a 23% fall in applications, and, on the specialist courses, that the number of applications from European Union countries is down by 95%. If by the following year these figures prove to be as dismal as they seem, will the Government promise that they will look again at the whole bursary scheme for nurses?

Viscount Younger of Leckie: The noble Lord is correct on the figures. They are somewhat as expected. Data published by UCAS for nursing applications from English domiciled applicants show a dip of around 23%, so he is correct. However, at a national level, these figures will still allow the NHS in England to fill the 20,000 or so student nursing training places, assuming that students meet the entry requirements of their offer from their course provider.

Lord Cormack (Con): But, my Lords, there is concern throughout the academic community, as my noble friend made clear a moment or two ago. What plans

[Lord Cormack]
do my noble friend and his ministerial colleagues have to meet some of the 35 heads of Oxford colleges and the vice-chancellor, who wrote to express this concern on Monday of this week?

Viscount Younger of Leckie: I have read that letter in the *Times*. I will certainly need to write to my noble friend on what plans there are to meet them. However, I am sure that Jo Johnson is very much aware of this.

Lord Stevenson of Balmacara (Lab): My Lords, could the noble Viscount comment on the issue that has been raised, and was also raised within the question asked by my noble friend—namely, who actually runs the admissions system for universities in this country? Is it his department or is it the Home Office, given that the Home Office runs independent interviews of all persons selected in-country, imposes penalties if students who are recruited do not complete their courses and imposes quotas on the number of persons on a course? The Minister always says that there is no limit on the number of overseas students but it seems to me that the Home Office has one. Is that correct?

Viscount Younger of Leckie: The Department for Education takes the lead on this. However, as the noble Lord would expect, there are cross-departmental links with the Home Office, and that will continue.

Lord Campbell of Pittenweem (LD): My Lords, I declare an interest as the chancellor of the University of St Andrews, of which the noble Viscount is a distinguished graduate. May I invite him to pay an early visit to his alma mater so that he can hear for himself the anxieties and apprehensions of both staff and students at the failure of the Government to specify precisely what steps they are going to take to preserve the quality of university education after Brexit?

Viscount Younger of Leckie: I would be delighted to take up the noble Lord's offer and visit my alma mater again. I am aware of the concerns expressed not just in Scotland but south of the border. Again, my honourable friend in the other place is taking note of all the concerns expressed.

Lord Flight (Con): My Lords, the last figure I saw of the estimates of student loans likely to have to be written off was a pretty horrific £45 billion. What is the Government's present estimate?

Viscount Younger of Leckie: I will need to write to my noble friend to give that figure.

Disabled Access: Public Premises

Question

3.14 pm

Asked by ***Baroness Deech***

To ask Her Majesty's Government what plans they have to improve accessibility for disabled people to public premises.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, owners and occupiers of public premises have a duty under the Equality Act 2010 to make reasonable adjustments to ensure that disabled people are not put at a substantial disadvantage. This may include changes to improve accessibility to their building. New buildings must meet Building Regulations requirements on access. The Government are conducting research into the effectiveness of the statutory guidance which supports those Building Regulations requirements.

Baroness Deech (CB): Does the Minister agree that we have lots of legislation and lots of ventures, but reasonable adjustments are not being made on the ground and there is a lack of will to enforce the law? Commons committees have recently heard very sad evidence about failures at, for example, sports grounds, which have not been improved for 20 years. There have also been failures when it comes to people being able to get into pubs and restaurants, no matter how often the law is pointed out and promises are made. Does the Minister not agree that it is time to bring the Building Regulations up to date and that access should be built in from the start, not just in new buildings but whenever buildings are refurbished or repaired, and that local authorities should be allowed to get on with enforcing this through licensing?

Lord Bourne of Aberystwyth: My Lords, where I do agree with the noble Baroness is in relation to the importance of ensuring that new buildings are readily accessible and that appropriate changes are made to buildings, which of course is what the law provides for. I do not share her pessimism in relation to enforcement, on which there have been many recent cases. An example is Hosegood v Khalid, concerning a restaurant that did not have an appropriate ramp. Perhaps we need to give these cases a higher profile, but the law that exists is being enforced.

Baroness Campbell of Surbiton (CB): My Lords, neither the industrial strategy nor the national infrastructure plan contain any reference to disability access. Will the Minister tell us why the Department for Business, Energy and Industrial Strategy has not addressed this public sector equality duty, or is this just another example of cost-cutting, which I referred to in my article in today's *Guardian*?

Lord Bourne of Aberystwyth: My Lords, I regret that I have not read the article as yet but I will certainly do so. I have a copy of the *Guardian* on my desk but, because of today's Question, I have not yet had an opportunity to read it. In relation to the very important points that the noble Baroness makes—I commend her relentless campaigning role in these areas—there is a duty on the public sector to set an example; it is not expressed in those words, but it is certainly happening on a daily basis. As a country, we do very well compared with other countries. However, I appreciate that it is not sufficient and that we need to do more both on a private basis, by encouraging retailer outlets and business to step up to the plate,

and through government. I readily accept that. I will take the point that she makes to BEIS—I am not from BEIS—and ensure that she gets a response.

Lord Blencathra (Con): My Lords, will my noble friend accept that I did a quick internet search of the Government Equalities Office yesterday and found three press releases on disabled issues and 10 on transgender and sexual issues? Clearly, transgender people face discrimination, but I point out to my noble friend that 800,000 wheelchair users cannot get into thousands of public buildings—shops, pubs and clubs—including the main post office on Victoria Street. We cannot get into the building, let alone have the luxury of deciding which toilet to use if we could get in there. Will he therefore look at an urgent amendment to the Equality Act 2010? It has been disastrous for disabled people and has put us at the bottom of the heap—I declare a personal bias. Will he look at making a simple amendment so that we can get into buildings over a step which is less than six inches high? It is a simple thing and it should be done.

Lord Bourne of Aberystwyth: My Lords, once again, I know that my noble friend has campaigned in this area, and particularly on that issue, with great force and eloquence. On the point about ramps and steps in post offices, there has been a recent case in relation to access to counters, which I think the post office has settled out of court. Therefore, there are cases where practice is changing. I accept that, as my noble friend said, there is certainly more to be done. The Government Equalities Office is looking at the operation of the law and will have heard what my noble friend says, but he said it with great force and it is a point well made.

The Lord Bishop of Chester: My Lords, the noble Lord who asked the previous question did not include churches—and with good reason because there have been herculean efforts across the estate involving quite difficult church buildings to make them accessible to people with limited ability to get up steps and so forth. Will the Minister join me in paying tribute to the local efforts, normally paid for locally, which have transformed the access to historic churches?

Lord Bourne of Aberystwyth: My Lords, I thank the right reverend Prelate for that contribution. Certainly, in my experience of visiting churches and cathedrals in England, that is very much the case. I am visiting cathedrals in Carlisle, Newcastle and Durham over the next two days, so I will be looking to see that they, too, are following the practice that has been pretty near universal in my experience over the past nine months of visiting them.

Baroness Thomas of Winchester (LD): My Lords, what we really need is for the Government to develop a proper strategy for making public places more accessible both for the sake of the rapidly ageing population and for younger disabled people such as MDUK's Trailblazers who regularly report on inaccessible leisure facilities. Perhaps the Government could consider more carrots and a few more sticks to get those authorities and others to take appropriate action.

Lord Bourne of Aberystwyth: My Lords, I thank the noble Baroness. Once again, she has campaigned on these issues. I know that the provision in the Equality Act does not simply apply to public sector buildings but to public buildings—buildings that are accessible to the public or a section of the public. It does not only apply to museums, art galleries and concert halls but to shops, retail outlets, pubs and so forth. Just last month, my honourable friend in the other place, Penny Mordaunt, set up a group, as the noble Baroness will know, of 11 sector champions to look at this and who will be challenging inequality. That will work alongside the provision that we have in the Equality Act. Of course, the Government will be looking at how that interface is working.

Lord Faulkner of Worcester (Lab): My Lords, is the Minister aware that a significant number of Premier League football clubs will fail to honour the commitment that they gave in 2015 to make all their stadia disabled accessible by August 2017? Will he remind them that Section 20 of the 2010 Act is not an option but is mandatory? Will the Government empower the Sports Grounds Safety Authority to enforce the law and make sure that accessible stadia guidelines are observed?

Lord Bourne of Aberystwyth: My Lords, the noble Lord is absolutely right and I know that he has raised this issue many times before. Some are of course stepping up to the plate and some are not. Some are partly there. I mention my own club, Leicester City, which I hope will do a bit more but is already part of the way there. I take the point seriously. I will write to him on his second point about enforcement because I am not sure where we are on that, but I agree that we need to keep their feet to the fire to make sure that they are performing.

Social Media: Online Abuse

Question

3.22 pm

Asked by ***Baroness Nye***

To ask Her Majesty's Government whether they plan to create statutory guidance to ensure that social media sites address online abuse.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport and Home Office (Baroness Shields): My Lords, the growth of the internet has brought us many opportunities but unfortunately, all too often, it has been exploited by those who seek to use it as a tool to spread hatred and to target individuals and communities because of who they are or what they believe. The Government are determined to do everything possible to stamp out hate crime. The UK already has some of the strongest legislation on hate crime anywhere in the world, and these laws apply online. We will continue working with a broad range of stakeholders both nationally and globally as we seek to eradicate the threats and harms that we face.

Baroness Nye (Lab): I thank the Minister for that Answer. Last week, when the BBC questioned over 100 images of children on Facebook, only 18 were removed as a result. The BBC was then asked to send screen grabs of the images to Facebook and instead of acting to take them down Facebook then reported the BBC journalists to the police. Yesterday, Google, Twitter and Facebook appeared before the Home Affairs Select Committee, where Twitter admitted that it was not doing a good enough job on hate crime. The Minister expects robust processes to be in place, but if she will not consider statutory guidance, what is the Government's plan to protect victims of online abuse?

Baroness Shields: I take note of the noble Baroness's account for the House of the issues raised in the BBC case last week. It is of course right that we should continue to keep our position under review, but a complete response to this problem requires more than just legislation; it needs the support of internet service providers and their communities along with the application of advanced technologies. For instance, in our work in countering violent extremism, counter-narrative initiatives are required, along with disruption mechanisms and robust complaints and take-down procedures. All of this serves to challenge the hatred that people are facing online.

Baroness Howe of Idlicote (CB): My Lords, does the Minister accept that it is far too easy to access abusive and explicit content on social media services, including Facebook, Twitter, Snapchat, Instagram, Yik Yak, Vine, Kik and doubtless many others, and that such companies need to do more to help parents in their parenting so that children can take advantage of technology in a safe and responsible way.

Baroness Shields: The noble Baroness is absolutely correct. It is indeed important that companies should take responsibility for their actions. The majority of internet platforms are based overseas and provide global services, and as the House is fully aware, there is significant complexity around introducing any regime that governs online activity, including keeping any such obligation current given the speed of the evolution of technology, the global nature of the internet and the extraterritorial nature of the jurisdiction that applies.

Lord Elton (Con): My Lords, are the laws enforced by the authorities both online and offline the same? If not, why not, and will that be rectified in the legislation presently going through this House?

Baroness Shields: Yes. I should say to my noble friend that we are clear that what is illegal offline is also illegal online. Legislation is in place to deal with internet trolls, cyberstalking, harassment, revenge porn and the perpetrators of grossly offensive, obscene or menacing behaviour.

Baroness Brinton (LD): My Lords, the government guidance, *Child Safety Online*, which is not statutory, is very clear about what social media sites should do in the event of hate crimes, and equally importantly, online abuse. In the BBC case which has already been referred to by the noble Baroness, Lady Nye, of 100 sexualised images some were also child pornography, which poses a real risk. Given Facebook's response, at what point will the Government make the guidance statutory as opposed to just general guidance, because it is clear that it is not being followed?

Baroness Shields: Statutory guidance is one of a range of options that could be chosen when placing an obligation on companies to take greater steps to tackle the misuse of their platforms. It is right that we should continue to press companies to take more effective action to tackle any misuse of their platforms and services, and to strengthen and act on any contraventions of their terms and conditions of use, which go further than the law itself.

Lord Cashman (Lab): My Lords, the reality of online harassment and bullying has resulted in some teenagers taking their own lives. I accept the Minister's point that statutory guidance is not the only answer, but it is a part of it. Given that, will she listen to the House and agree to bring forward statutory guidance on online abuse so that we can end the bullying, harassment and intimidation which is costing young lives?

Baroness Shields: I thank the noble Lord and acknowledge the importance of the tragedies that have affected a lot of young people online. I shall take forward his thoughts and come back to him. Realistically, we have in place a strong regime of recommended guidance for companies through the UK Council for Child Internet Safety, and companies comply with it. I would say that today we are further along in combating child sexual abuse and exploitation online, and as new developments emerge, we will need to continue to evolve the guidance to support people and victims and to address the perpetrators of these crimes.

Lord St John of Bletso (CB): My Lords, surely one of the major challenges is that of looking at what measures can be taken to address online anonymity.

Baroness Shields: Online anonymity is a particular problem. Online abuse is abhorrent and its consequences can be devastating, but oftentimes people are anonymous and it is difficult to track them. Unfortunately, while online abuse is always harmful it is not always illegal, so the goal of the Government is to equip people with the knowledge and the tools they need in order to be digitally resilient. That is why last week the Government announced a new duty on all schools to provide education on online relationships as part of the PSHE curriculum and have announced a cross-government internet safety strategy with a Green Paper that is due out before the summer.

Prosecutions: Defence Legal Costs

Question

3.29 pm

Asked by ***Lord Kirkhope of Harrogate***

To ask Her Majesty's Government, in the light of the recent acquittal in the Crown Court of a defendant who had discharged a weapon at an

intruder, whether they intend to review section 16A of the Prosecution of Offences Act 1985 which limits or prevents defendants claiming costs on acquittal.

Lord Kirkhope of Harrogate (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I refer to my register entry as a solicitor.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, in 2012 the Government limited reimbursement of the legal cost of defendants who had been convicted of a criminal offence. Where legal costs are still allowed—for example, where the defendant was not eligible for legal aid—the recoverable costs are limited to the equivalent of legal aid rates. A review will be conducted by April 2018.

Lord Kirkhope of Harrogate: My noble and learned friend the Minister will be aware I am sure of the recent case of an 83 year-old gentleman of good character who was acquitted of violence against an intruder on his property, but was not permitted under current rules to claim his reasonable defence costs. How can we reconcile the presumption of innocence and an acquittal with the fact that claiming legal costs incurred to maintain innocence is no longer normally possible? I know that a review of these rules is taking place; I am delighted to hear my noble and learned friend confirm that. I would be grateful if he ensured that these and similar circumstances are part of such a review, bearing in mind that the present situation is not only a deterrent to innocent parties defending themselves, but positive encouragement to sloppy preparation and decision-taking by the prosecuting authorities.

Lord Keen of Elie: My Lords, we are of course aware of the particular case to which my noble friend refers. I observe that the individual in question did apply for legal aid, was eligible for it and was offered it, but declined to accept it. Had he accepted that offer he would have been required to make a relatively modest contribution, which he would have been able to recover upon being acquitted. However, the individual in question decided not to accept the offer of legal aid and instead instructed lawyers privately. In those circumstances he was not eligible for recovery of costs. Of course, all these matters will be subject to the review that is to be completed by April 2018.

Lord Beecham (Lab): My Lords, I refer to my interests as, effectively, a non-practising solicitor. It would appear—I am advised by leading counsel—that a change was effected to the 1985 Act via Schedule 7 to the Legal Aid, Sentencing and Punishment of Offenders Act, which precluded an award of costs from central funds after an acquittal in the Crown Court, or after a successful appeal to the Court of Appeal. But where the acquittal occurs in magistrates' court or an appeal is allowed in the Supreme Court, costs apparently may be allowed. Should not the practice be the same in all relevant courts, with the judiciary able to exercise its discretion?

Lord Keen of Elie: I am obliged to the noble Lord. The practice with regard to legal aid in magistrates' court is different from that in the Crown Court. Of 126,000 cases that were committed to trial in the last year in the Crown Court, legal aid had been granted in more than 105,000. In those circumstances cost recovery can be made on acquittal. In the event that someone is not eligible for legal aid and is committed to the Crown Court, their costs are again recoverable, albeit they are limited to the legal aid rate.

Lord Marks of Henley-on-Thames (LD): My Lords, in all legal aid cases these regulations are straight out of *Alice in Wonderland*. If you are financially ineligible for legal aid, you must nevertheless apply for legal aid to get a determination that you are not eligible for it. Only then can you get your costs if you are acquitted, and then at only legal aid rates. If your solicitor does not have a legal aid contract you have to go to another solicitor who does, make the application, have it refused, and only then can you go back to your original solicitors. Will the noble and learned Lord assure us that there will be changes to this absurd regime under the review?

Lord Keen of Elie: I am obliged to the noble Lord. I can advise him that Alice would find it far more straightforward than he suggests. Clearly, it is not possible to determine your eligibility for legal aid unless you apply for it. In the event that you wish to apply for it you must go to a solicitor who is recognised for the purposes of the legal aid scheme. If, however, you decide thereafter that you are not eligible or are told you are not eligible and you decide to go to another lawyer, you may do so. It is a relatively straightforward scheme.

Noble Lords: Oh!

Lord Keen of Elie: My Lords, not only is it a well-ordered scheme, but I was advised of this at a recent tea party.

Lord Deben (Con): Does my noble and learned friend accept that those of us who are not declaring an interest because we are not lawyers find all this ridiculous? That is because it is very hard to explain to people who have been prosecuted and who turn out to be entirely innocent, and are 82, that they cannot claim their costs. If people are innocent until proven guilty, not being able to claim their costs against people who have inconvenienced them—to say the least—does not sound to ordinary people like justice.

Lord Keen of Elie: I say with respect to my noble friend that it is necessary in this context to have regard to the public interest as well as the private interest of individuals. A balance has to be struck in that context. On the case he referred to of an 82 year-old, as I indicated earlier, the individual in question was offered legal aid having been eligible for it. Had he accepted that offer, he would have recovered his costs.

Lord Faulks (Con): My Lords, the rule used to be far more straightforward. If you were acquitted of an offence, you were entitled to your costs, but the judge

[LORD FAULKS]
had a discretion not to award costs if you had somehow brought the prosecution upon you. Is that not the best way to approach matters?

Lord Keen of Elie: My Lords, there are clearly a variety of ways in which this matter can be addressed. Nevertheless, I fail to understand how someone who has been acquitted could be accused of having brought the prosecution on themselves.

Lord Foulkes of Cumnock (Lab): My Lords, is it simpler in Scotland?

Lord Keen of Elie: My Lords, many things are simpler in Scotland. However, in Scotland there is an entirely distinct legal aid scheme which differs in a number of principal regards. Therefore, it is not comparable to the system in England and Wales.

Water Supply Licence and Sewerage Licence (Modification of Standard Conditions) Order 2017

Water Act 2014 (Consequential Amendments etc.) Order 2017

Water Industry Designated Codes (Appeals to the Competition and Markets Authority) Regulations 2017

Motions to Approve

3.36 pm

Moved by ***Lord Gardiner of Kimble***

That the draft Orders and Regulations laid before the House on 3 February be approved.

Considered in Grand Committee on 9 March.

Motions agreed.

Personal Independence Payment Regulations

Statement

3.37 pm

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Henley) (Con): My Lords, with the leave of the House, I shall repeat as a Statement an Answer given to an Urgent Question in another place by my right honourable friend the Secretary of State for Work and Pensions on personal independence payments. The Statement is as follows:

"Recent legal judgments have interpreted the assessment criteria for PIP in ways that are different from what was originally intended. The department presented regulations, which clarify the original policy intent, to the Social Security Advisory Committee. I welcome SSAC's careful consideration and we are looking closely at its suggestions.

But let me be clear: SSAC decided that it did not require the regulations to be formally referred to it and would not therefore consult publicly on them. I believe that it was right to move quickly to clarify the criteria and it is clear that SSAC is not challenging that decision.

I want to make clear again that this is not a policy change, nor is it intended to make new savings. This is about restoring the original intention of the benefit, which has been expanded by the legal judgments, and providing clarity and certainty for claimants. I reiterate my commitment that there will be no further welfare savings beyond those already legislated for. It will not result in any claimants seeing a reduction in the amount of PIP previously awarded by the Department for Work and Pensions".

My Lords, that concludes the Statement.

3.39 pm

Lord McKenzie of Luton (Lab): My Lords, I thank the Minister for repeating that Answer. The Social Security Advisory Committee expressed the view that outside the DWP there is indeed some confusion regarding the original policy intent of the measures, and that the department had made errors about its intent in submission to an Upper Tribunal. The committee further expressed concern about unintended operational and legal consequences arising from the changes to the mobility descriptors in the regulations that have been made. It drew attention to circumstances where multiple factors make it impossible for someone to follow a journey without help, and where it would be difficult to strip out and exclude psychological distress from other factors.

How does the Minister respond to this issue and to the recommendation that these proposed changes and those relating to managing therapy should be tested with healthcare professionals and decision-makers? Will he commit to doing this before implementation of the regulations that have been laid? Further, can the Minister explain how regarding the consequences of psychological distress is consistent with fostering parity of esteem between those with physical and mental health conditions?

Lord Henley: My Lords, the original policy intentions were set out quite clearly during the passage of the legislation. The noble Lord will remember that far better than I do. That was then set out in the legislation—and in secondary legislation. However, as he is aware, the Upper Tribunal made it clear that there was, as I think it put it, a lack of clarity in the regulations as we set them out. That is what, I hope, we put right in the regulations we laid a week or so ago and which come into effect tomorrow.

The noble Lord asked whether there would be further consultations on that. Obviously, my honourable friend the Minister for Disabled People and others within the department will continue to keep an open dialogue with all those involved to make sure that our policy intentions are correctly applied and that these things are dealt with as clearly as possible.

The noble Lord also doubted whether there was the appropriate parity between mental and physical conditions. He alleged that there was a lack of parity, which we

want to achieve. I believe that there is parity because we are looking not at the conditions but at the overall needs of individuals. In other words, it is not some specific complaint that the individual suffers from but how it affects how they get on with their lives. That applies equally—hence the parity—to those with mental and physical conditions.

Baroness Thomas of Winchester (LD): My Lords, it is quite clear that more clarity is needed. Why do the Government not use the powers they already have to prevent the decisions of the Upper Tribunal from having immediate legal effect? I also know that the Government are appealing the decision from the Upper Tribunal. Why do they not wait for the result of that appeal? What about claimants whose claims are only half way through the process? What about those who have an existing award and whose condition has not changed in any way, who will be reassessed very soon? Are they to have that award taken away? In general, this committee is very supportive of the DWP and I urge the Government to use the powers they have to not bring these regulations into force until there has been proper consultation on them.

Lord Henley: My Lords, there would be considerable financial implications in allowing the decision of the Upper Tribunal to stand. It would not be right or proper for the department to do that. For that reason, we brought forward the new regulations and they come into effect tomorrow. We then referred those to SSAC and we have received its comments on them. My honourable friend the Minister for Disabled People responded to SSAC and no doubt SSAC will want to make that letter available in due course. We believe that we have achieved parity with the new regulations—but, as I said, we are more than happy to continue consultations in the usual manner.

Lord Skelmersdale (Con): My Lords, the objective of PIP has always been to subsidise people who are disabled, whether mentally or physically, for the extra costs of living. Surely the answer to the question asked by the noble Baroness, Lady Thomas, is that if those conditions have not changed, there is no earthly reason why the individual should not continue to get their PIP.

Lord Henley: My Lords, individuals will continue to get their personal independence payment and will continue to be able to apply for it in the usual way. It is just that we have new regulations that bring clarity, as I am sure my noble friend will be aware, to the lack of clarity that the Upper Tribunal complained of.

Baroness Hollis of Heigham (Lab): My Lords, following the pertinent questions of my noble friend Lord McKenzie, two days ago the Social Security Advisory Committee pointed out the error made by the DWP in a previous submission to the Upper Tribunal in 2015, which led in turn to the inconsistency of determinations by decision-makers on PIP. Yet the DWP has still failed to clarify the ambiguity of the psychological distress criteria for people who are concerned about travelling by themselves and cannot successfully do so. Does this not show that SSAC should have been properly consulted throughout this procedure before the revised, tougher—yet still ambiguous—regulations were issued, given the errors, inconsistency and ambiguity in the DWP's handling of PIP in the past? Frankly, should the department not stop digging?

Lord Henley: My Lords, I do not think the last comment was worthy of the noble Baroness. The point we are making is that the Upper Tribunal saw a lack of clarity in these regulations. It was appropriate that the department acted quickly. In a previous Statement we made it clear that we were going to act quickly and that we were going to consult SSAC on this matter. The matter was put to SSAC. SSAC considered it. SSAC then wrote to the department earlier this week and today my honourable friend the Minister for Disabled People wrote back to SSAC. The noble Baroness can see that letter in due course—she seems to indicate that she already has a copy of the letter. I have a copy, but there is no need for us to read it out to the House. The noble Baroness has a copy of the letter that deals with those matters. I believe that we have done this in exactly in the right way and that we are bringing clarity to a matter that needed some clarity, following the remarks of the Upper Tribunal.

EU Court of Justice Ruling: Religious Signs

Statement

3.47 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I will repeat in the form of a Statement a response made by my honourable friend Caroline Dinenage, Parliamentary Under-Secretary of State for Women, Equalities and Early Years, to an Urgent Question in another place on yesterday's ruling by the Court of Justice of the European Union. The Statement is as follows:

"Mr Speaker, I thank my right honourable friend for raising this very important issue today and for giving the Government an opportunity to inform and, I hope, reassure the House about the two Court of Justice of the European Union judgments made yesterday. This Government are completely opposed to discrimination, including on the grounds of gender or religion, or both. It is the right of all women to choose how they dress and we do not believe these judgments change that. Exactly the same legal protections apply today as did before the rulings.

In both the Achbita and Bougnaoui cases, the judgments were that there was no direct discrimination, but that there was some discrimination. A rule is directly discriminatory if it treats someone less favourably because of their sex, their race, their religion or whatever. A rule is indirectly discriminatory if, on the face of it, it treats everyone the same but some people, because of their race, religion, sex and so on, find it harder to comply than others do. Indirect discrimination may be justifiable if an employer is acting in a proportionate manner to achieve a legitimate aim.

[Baroness Williams of Trafford]

The judgments confirm the existing long-standing position under EU and domestic law that an employer's dress code, which applies to and is applied in the same way to all employees, may be justifiable if the employer can show some legitimate and proportionate grounds for it. Various cases show that such an employer needs to be prepared to justify those grounds in front of a court or tribunal, if need be. That will remain the case and it is the case in these judgments, which will now revert to their own domestic courts.

I am aware of some concern that these judgments potentially conflict with those of the European Court of Human Rights, particularly in the case of Nadia Eweida, the British Airways stewardess who was banned from wearing a small crucifix but whose case the ECHR upheld. We do not believe that the different judgments are in conflict. What both the CJEU and the ECHR were trying to do was assess the balance in each case between the religious needs of the employee and the needs of the employer. In Eweida the assessment favoured the employee: in another ECHR case, and in the Achbita case yesterday, it favoured the employer. We will still take action to ensure that the current legal position is set out. We will work with the Equality and Human Rights Commission to update guidance for employers for dealing with religion or belief in the workplace. It will be revised so that it takes account of the CJEU judgments as well. We will be making absolutely clear to all concerned that the Equality Act, and the rights of women and religious employees, remain unchanged.

Like any judgments of the CJEU—for the time being—Achbita and Bougnaoui need to be taken into account by domestic courts and tribunals as they consider future cases. The law is clear and remains unchanged. However, because of our absolute commitment to ensuring that discrimination and prejudice are never encouraged and never sanctioned, we will of course keep this issue under very close review going forward".

3.51 pm

Baroness Gale (Lab): My Lords, I thank the Minister for her Statement. The court ruling, however, raises some real concerns about religious freedom in the workplace, including those of Muslim women who choose to wear the hijab. Although I think the Minister has been quite clear in her Statement, will she say positively that people can express their faith at the workplace, and in a professional manner, as they choose? Can she confirm that the Government believe that preventing women wearing the hijab, as exampled in this case, is simply and unconditionally wrong?

What advice and guidance will the Government give to employers on the court ruling, and will it reinforce the rights of employees in the UK to express their religious freedoms? Finally, will the Minister say what direct communication the Government have had with G4S, the employer in this case? G4S holds a number of government contracts. I hope that she can reinforce with G4S its employees' rights to wear clothing necessary for their religious practices.

Baroness Williams of Trafford: As I said in my Statement, and will restate now, we will work with the ECHR to update guidance for employers for dealing with religion or belief in the workplace. As I also said before, and am happy to repeat, indirect discrimination can be lawful or unlawful. It is unlawful where it is neither legitimate nor proportionate. When an employer seeks to justify why it has banned religious symbols or certain items of clothing, it has to point out the legitimacy and proportionality of why it has done so. If that makes it far more difficult for one group of people to be employed, the discriminatory effect of their actions can be called into question.

Baroness Burt of Solihull (LD): I, too, thank the Minister for this extensive explanation. We on these Benches and, I am sure, Members of the whole House believe strongly that freedom of religious dress is important in an open and democratic society. I am not the world's best at interpreting legal judgments, I am afraid, but as I understand it, national Governments through their courts have the ability to interpret the judgment in line with existing cultural beliefs and practices. Is that the Minister's understanding? Can she therefore confirm that all existing freedoms of religious dress in this country will be protected?

Baroness Williams of Trafford: I shall deal with the latter point precisely: yes, we will protect and uphold the freedoms that have been allowed in this country, as we always have done. It will not affect our domestic law. The noble Baroness is also right that when a judgment such as this is made, it is then referred to the national courts—in this case, the courts of France and Belgium—and it is up to them to interpret within their laws what the judgment means. As far as this country is concerned, nothing changes.

Lord Singh of Wimbledon (CB): My Lords, I thank the Government for the clarity and forcefulness of the Statement protecting religious minorities. The law in Europe seems to be in a mess because of the two conflicting judgments. They are conflicting because if the Human Rights Council says that people have the right to manifest their religion, that should be absolute. Otherwise, it becomes very difficult. Who decides? In France and Belgium, the Governments overrule that judgment. Sikh schoolchildren cannot go to a public school with a turban and people who want a passport photo have to take their turban off. This is just absurd. I do not know whether there is anything the Government can do to explain that absurdity to those in Europe.

Baroness Williams of Trafford: We do not consider that the two are inconsistent in terms of the European Court of Human Rights judgment. Sorry—I have got the wrong end of the stick. The noble Lord is correct in one sense that the CJEU judgment could conflict with the laws of the states—that is, France and Belgium. It not seeking to make the law for those countries. It is sending the case back to them for domestic consideration. In that sense, I do not see inconsistency, but I know exactly what the noble Lord is driving at.

The Lord Bishop of Chester: My Lords, given that there have been some very obvious differences between the UK and some continental countries in this area,

does the Minister agree that the general approach in the UK of welcoming religious and cultural diversity must mean that welcoming its reasonable manifestation within the overall rhythms of British culture has stood us well in the past and will do so in the future, notwithstanding this court judgment?

Baroness Williams of Trafford: I could not agree more with the right reverend Prelate. This is a great country to live in no matter your religion or belief. Long may we go about freely expressing our religion and living our lives in the way that we see fit. The right reverend Prelate spoke about different laws in different countries. Obviously last year there was a ruling in France over the burkini, which was subsequently rejected.

Baroness Uddin (Non-Afl): My Lords—

Baroness Warsi (Con): My Lords—

The Earl of Courtown (Con): My Lords, it is time for the Conservative Benches.

Baroness Warsi: My Lords, I welcome the Minister's very strong Statement and the very strong statements in support of freedom of religion and belief by the Prime Minister. The Minister may be aware of a YouGov poll that was done immediately after this ruling which showed that 42% of Brits would support such a ban in the workplace, or at least employers having the ability to impose such a ban in the workplace. Will my noble friend take back to her colleagues the possibility of further work under the integration strategy to ensure that these kinds of opinion held in the country are pushed back by views within government?

Baroness Williams of Trafford: My noble friend makes an encouraging point—that 58% of people would not want such a ban imposed. In my previous job, integration was a strong part of what we did, particularly for communities new to this country or to localities within it. We cannot let that integration work go. I commend all those involved in such work and, since the Church of England is so well represented here today, the work that it has done in particular. Yesterday I talked to the right reverend Prelate the Bishop of Durham about the community sponsorship scheme—although we were supposed to be talking about something entirely different—as well as the Church's work in its Near Neighbours programme.

Baroness Uddin: My Lords, having reflected on this discussion, I welcome the Government's stance and the points made by the noble Baroness, Lady Warsi. I was thinking whether under such a ban I would get away with saying that what I am wearing today was my blonde version, notwithstanding that red is my favourite colour. How does the Minister plan to communicate with employers to make them aware of the provision under the Equality Act 2010 that specifically protects religious freedom and to ensure that this is not infringed?

Baroness Williams of Trafford: The noble Baroness is right. As I pointed out in my Statement and in responding to the noble Baroness, Lady Burt, we shall be working with the ECHR on updating our guidance for employers on dealing with religion or belief in the workplace. I see no reason why our country's stance should change in the light of this judgment.

Lord Faulks (Con): My Lords, these are complicated matters, but does the Minister agree that they are not made any easier by judgments from the European courts? Surely our Parliament and our courts are perfectly capable of deciding these things. As it is, we have the European Court of Justice or CJEU, of which we shall no longer be part in two years' time, and we have the ECHR, which, frankly, ought to be granting us a margin of appreciation so that we can have clarity for employers and clarity for employees.

Baroness Williams of Trafford: My noble friend makes a good point, because from the discussions in this House this afternoon we can see the confusion in which such judgments result and some of the fears that they create. In a short time—a matter of a couple of years—we shall have control of our own courts.

Class 4 National Insurance Contributions

Statement

4.02 pm

Lord Young of Cookham (Con): My Lords, with the leave of the House, I shall now repeat a Statement made in the other place by the Chancellor of the Exchequer, the right honourable Philip Hammond. The Statement is as follows:

"With permission Mr Speaker, I wish to make a statement on national insurance contributions paid by the self-employed. As I set out in the Budget last Wednesday, the gap between benefits available to the self-employed and those in employment has closed significantly over the last few years. Most notably, the introduction of the new state pension in April 2016 is worth an additional £1,800 to a self-employed person for each year of retirement. It remains our judgment, as I said last week, that the current differences in benefit entitlement no longer justify the scale of difference in the level of total national insurance contributions paid in respect of employees and the self-employed.

Honourable and right honourable Members will also be aware that there has been a sharp increase in self-employment over the last few years. Our analysis suggests that a significant part of that increase is driven by differences in tax treatment. HMRC estimates that the cost to the public finances of this trend is around £5 billion this year alone and the OBR estimates that the parallel increase in incorporation will cost more than £9 billion a year by the end of the Parliament. This represents a significant risk to the tax base and thus to the funding of our vital public services.

The measures that I announced in the Budget sought to reflect more fairly the differences in entitlement in the contributions made by the self-employed. The Government continue to believe that addressing this unfairness is the right approach. However, since the Budget, parliamentary colleagues and others have questioned whether the proposed increase in class 4 contributions is compatible with the tax lock commitments

[Lord Young of Cookham]
made in our 2015 manifesto. Ahead of the Autumn Statement last year, the Prime Minister and I decided that however difficult the fiscal challenges we face, the tax lock and ring-fenced spending commitments we have made for this Parliament should be honoured in full.

I made that clear in my Autumn Statement to this House. As far as national insurance contributions are concerned, the locks were legislated for in the National Insurance Contributions (Rates Ceilings) Act 2015. When the Bill was introduced, it was made clear by Ministers that the lock would apply only to class 1 contributions. The measures I set out in the Budget fall within the constraints set out by the tax lock legislation and the spending ring-fences. However, it is clear from discussions with colleagues over the last few days that this legislative test of the manifesto commitment does not meet a wider understanding of the spirit of that commitment.

It is very important both to me and to my right honourable friend the Prime Minister that we comply not just with the letter but also with the spirit of the commitments that were made. Therefore, as I said in my letter this morning to the chairman of the Select Committee, my right honourable friend the Member for Chichester, I have decided not to proceed with the class 4 NICs measures set out in the Budget. There will be no increases in national insurance contribution rates in this Parliament.

For the avoidance of doubt, as I set out in the Budget, we will go ahead with the abolition of class 2 national insurance contributions from April 2018. Class 2 is an outdated and regressive tax and it remains right that it should go. I will set out in the Autumn Budget further measures to fund in full today's decision.

I undertook in the Budget speech to consult over the summer on options to address the principal outstanding area of difference in benefit entitlement between employed and self-employed, which is in parental benefits. We will go ahead with that review. We now intend to widen this exercise to look at the other areas of difference in treatment alongside the Government's consideration of the forthcoming report by Matthew Taylor, chief executive of the Royal Society of Arts, on the implications of different ways of working in a rapidly changing economy for employment rights. Once we have completed these pieces of work, the Government will set out how they intend to take forward and fund reforms in this area.

Reducing the unfairness of the difference in the tax treatment of those who are employed and those who are self-employed remains the right thing to do. But this Government set great store in the faith and trust of the British people, especially as we embark on the process of negotiating our exit from the European Union. By making this change today, we are listening to our colleagues and demonstrating our determination to fulfil both the letter and the spirit of our manifesto tax commitment. I commend this Statement to the House".

4.08 pm

Lord Davies of Oldham (Lab): My Lords, I am fairly sure that the House will not be taking the Statement in quite the positive way in which the Minister clearly hopes. Conservative Party Budgets and U-turns seem to come hand in hand these days, but this is one of the outstanding ones. Scrapping the centrepiece of the Budget in less than a week is going some, even by Conservative Chancellors' standards. When Chancellors make really egregious mistakes they are always compared with Hugh Dalton, who was fired almost immediately on the spot for the leak to the lobby correspondents as he walked in to deliver his Budget. When I think about other errors that Chancellors have made, this one comes pretty close to that. As the Chancellor has obviously been in close contact with the Prime Minister, I imagine that his hair has stood on end these last few days—brushed well though it normally is.

The changes announced today amount to a £325 million revenue loss in 2018-19 and a further loss of £645 million in 2019-20. They raise a number of questions, not only about the obvious gaping hole left in our country's finances but also about the critical relationship between the Prime Minister and the Treasury. After all, we all know there is a connecting route between Nos. 10 and 11; they are adjacent properties. It therefore seems that the Prime Minister is bound to have been consulted on the Budget.

What we need to know is this. In his letter to Conservative Back-Benchers, Philip Hammond said:

"The cost of the changes I am announcing today will be funded by measures to be announced in the Autumn Budget".

That is not good enough. At a time of already considerable uncertainty over our future relationship with the EU and the terms that we will obtain, and the impacts that that will have on trade and the whole issue of business confidence in this period, this is just about the last thing we need—a mess-up on a Budget.

If past Budgets or Autumn Statements are anything to go by, waiting for months only to hear that welfare spending or local council funding has been cut even further is not acceptable, yet we know both of those have been in the Government's firing line in recent months. Furthermore, can the Minister assure this House and the public that the £2 billion announced for social care will be safeguarded? Informed opinion thought the emergency needs of social care were £2 billion a year, so we were already critical enough about the Chancellor's decision to award it £2 billion over three years—that is, about one-third of what is necessary. The House will want an assurance today that that money at least is to be safeguarded.

The Prime Minister has said it was the Government's decision to U-turn on national insurance contributions, but whose decision was it to put it in the Budget in the first place? In the consultation, were people not aware of the manifesto commitment? Surely the Government are not seriously saying that the Chancellor spoke to no one except officials before the Budget was produced. What about these other significant figures, his Treasury Ministers, who line up with their boxes in photographs and take pride in the Budget? No one among them appears to have recognised the manifesto commitment, leaving the public suspecting that it was the Prime Minister who put the Chancellor right. There will probably be consultations over a number of issues in the future and if they are at the informed and perceptive level of the construction of this Budget then we are all in for a rather bumpy ride.

This after all was one of the Chancellor's major announcements in his first Budget. Surely he must have consulted people. We and indeed the country are at a loss as to why no one recognised what is now regarded as an important block—namely, that at the last general election the Conservative Party made a series of promises, not all of which have been fulfilled, though the ones that have been fulfilled are the ones that we on this side of the House find most onerous. It turns out that as far as this Budget was concerned this promise was the critical one, yet the Chancellor went blissfully on to deliver the Budget.

As the IFS has made clear with regard to self-employed people on low incomes, the NICs uprating was only ever small in comparison with the more significant changes that the Government are making to universal credit, yet this is the one that has shaken the Chancellor. I hope the Minister recognises that the self-employed will remain worried about what they will be taking home at the end of the month following this fracas. On the abolition of NICs 2, which the Chancellor has today confirmed will go ahead, how will the rights previously obtained by class 2 contributions be ensured?

There is now a gaping hole in the Budget and the Chancellor needs to reassure the nation that he will cope with the financial problem represented by this blunder. Finally, if no action on NICs 4 is to be taken in this Parliament, what on earth is the purpose of Matthew Taylor's work? If there is such a block on action on this one crucial area—the Government have after all emphasised how crucial it is in terms of changing patterns of work—until after the next general election, we are all left to wonder just what will be the purpose of that work.

Baroness Kramer (LD): My Lords, what a climbdown. And what a spat between No. 10 and No. 11. The Chancellor has always had a tin ear, but did the Prime Minister not recognise that the NICs change was, in effect, a tax increase on the plumber, white van man, the entrepreneur and women working from home because of children—people who are typically "just about managing" and whose income fluctuates, is low and is often unreliable?

Yesterday, in the Budget debate, the noble Lord, Lord Willetts, spoke of the now discarded NICs change as a way to combat companies that, to benefit from tax arbitrage, push people out of employment into less certain self-employment. I suggest, as I did then, that if the NICs changes had been focused on those companies seeking that tax arbitrage, rather than on the self-employed—manifesto pledge or no manifesto pledge—the response would have been very different. Were the Tory Government following their usual pattern of protecting big companies and big business and hitting the little people?

It is crucial, as I think everyone in this House would agree, that the increase of £2 billion for social care remains, inadequate though it is, being spread over three years. How will the Government fill the gap in the public finances when the Chancellor is so constrained by expected blows from hard Brexit? Can the Minister give us today a guarantee that it will not be filled by more severe spending cuts parts of the public sector already under extraordinary pressure? Do the Government agree that the whole Victorian structure of business and employment taxes needs re-examining? The former BIS Secretary, Sir Vince Cable, is chairing such a review for the Liberal Democrats. Will this Government, among their many reviews, take on frankly a review of similar scope, because it is vital?

When spreadsheet Phil decides to shoot from the hip, we surely have a Government puffed up in hubris. I am afraid that this exactly reflects the arrogance that led the Government to hard Brexit. If they have a tin ear over their own self-employed, how bad is the tin ear that they will take into EU negotiations?

Lord Young of Cookham: My Lords, I say to the noble Lord, Lord Davies, that we are reluctant to take advice from the Labour Party on promoting harmony between No. 10 and next door. He will recall that Budget measures introduced by the Labour Government subsequently had to be revised. For the Liberal Democrats, the noble Baroness was cautious enough not to mention manifesto commitments—there are certain issues from her party that would be brought to mind.

We have made it absolutely clear that we will make good the fiscal impact of this decision in the Autumn Statement. We are not minded to borrow more, which has sometimes been suggested. However, in response to the serious issue raised by both the noble Lord and the noble Baroness, I can give a firm assurance that all the spending commitments made in the Budget will be honoured—on skills, on adult social care and on accident and emergency. We stand by those commitments.

The noble Lord asked about universal credit. There will be no change to the entitlement to universal credit by the self-employed. On the broader issues about the Taylor review, there is an issue here—and the Labour Party has recognised it as an issue; it has a commission looking at the issue. I do not think that it would be right to do what the noble Lord suggested, which is to ditch the Taylor review. It is important that we go ahead with it, but we have ruled out certain responses in how we take it forward. But there is an issue here—a threat to the tax base that we need to address.

The Autumn Budget will make good the deficit, in the normal way, so the hole will be filled, and the Chancellor remains committed to sound finance, reducing the deficit and investing in infrastructure and key public services. Those commitments remain as before.

Lord Higgins (Con): My Lords, my noble friend will know that the Chancellor's original proposal was widely welcomed by, for example, a leader in the *Financial Times* and the Institute for Fiscal Studies. Would he agree that the way in which the doctrine of the manifesto has developed over almost the last century needs further review now? We find ourselves in a situation where a manifesto appears at short notice, is subject to absolutely no consultation with anyone and is not subject to amendment. In those circumstances, it is not surprising that it sometimes contains rather unfortunate proposals. None the less, one must obviously abide by it in general terms—but one must surely take into account changes in circumstances. The result of the referendum means that the Chancellor will be

[Lord Higgins]
faced with immense problems in this Parliament. Is it not a mistake to continue to tie his hands, and should we at least give him the possibility of not sticking to the manifesto commitment as it was conceived at the time of the election because of these changed circumstances? He ought not to be bound by the triple lock, which is after all a major aspect of fiscal policy, when we are trying to deal with all the problems that a hard or even a soft Brexit may produce.

Lord Young of Cookham: My noble friend gives some wise advice on the number of commitments in the manifesto. I think that we had 600 in our last manifesto, and I am sure that there are lessons to be learned. But I cannot agree with him that we should ditch our manifesto commitments. Confidence in the political system is not that high and if any party, once elected, were to break its manifesto commitments along the lines that my noble friend has suggested, it would not enhance confidence in the political system at all. So we have to stick within the commitments that we made and find other ways in which to reduce the deficit.

Lord Bilimoria (CB): Although I welcome the fact that the Government have backed down on this, the reason given very clearly is on the spirit of a manifesto commitment not being broken. Well, the biggest manifesto commitment that has been broken is remaining in the single market. Are the Government now going to back-track on that? We shall wait and see.

The main reason why people—and when I say people I mean Members across the parties in another place and here—objected to this increase in national insurance contributions for self-employed people affecting more than 2.5 million people is because the perception that it sends out is that the Government are going after and hitting the very people who take the risk to be self-employed and going against encouraging entrepreneurship. Would the Minister agree that the main role of government in this area is to encourage entrepreneurship, which means encouraging job creation, tax takes and growth, which will help to get rid of the deficit—not by hurting the very people who will create that growth?

Lord Young of Cookham: The noble Lord will know that we have taken a number of measures to promote enterprise. We have reduced corporation tax and we are investing in infrastructure and broadband. I do not want to reopen a discussion that we have had for the last two or three weeks about the single market and Brexit, but what has happened is that there was an announcement last week and there were then discussions with parliamentary colleagues and others. Against the background of those discussions, the Government have decided not to proceed. This is not an unparalleled development in the political system. It is a measured and proportionate response to some very real reactions that we got from colleagues down the other end.

Lord Rooker (Lab): Can I give the Minister two messages for the Chancellor? First, the greatest unfairness in national insurance—as I look around the House, this will not go down very well—is the cut-off point at age 65. Whether people are on salaries or pensions, national insurance is general taxation and it should cover everybody who has a relevant income. I cannot see how that could be covered by this lock. My second message is more widespread. It comes from the mid-1990s, when some of us on the Front Bench were sent to Templeton College, Oxford, on the basis that one day we might be Ministers. The abiding lesson that I took away from that seminar was a simple one: it is never too late to avoid making a bad decision.

Lord Young of Cookham: I am working out the exact impact of that—if you have made a bad decision, how do you get out of it?

Lord Rooker: Reverse it.

Lord Young of Cookham: If the noble Lord is saying that if you make a bad decision it is never too late to undo it, I understand that. On his other point, there is an argument for harmonising tax and national insurance; this debate has been going on for some time. It is not without its consequences. National insurance is a contributory benefit—you contribute to your state retirement pension. If you have retired and drawn your pension, what is the argument for continuing to make national insurance contributions if your pension is not going to go up as well? Harmonising is a complex issue, which we will of course continue to look at. But I have to say, it is not something that the Labour Government did while they were in office.

Lord Scriven (LD): My Lords, I draw the House's attention to my interests as listed in the register, particularly as a member of Sheffield City Council. As the national insurance contribution changes were widely briefed by the Government to pay for extra social care funding and business rates support, will the Minister now give an absolute guarantee that local government budgets will not be raided to pay for the gap that has now been made by this U-turn?

Lord Young of Cookham: I think I have already given that commitment: the support that we announced for local government in the Budget will go ahead and will not be affected by the announcement today.

Lord Northbrook (Con): My Lords, I congratulate the Chancellor on his change of heart. I am sure that he is encouraged by yesterday's debate here on the Budget and the contributions of my noble friends Lord Flight and Lady Altmann and the noble Lord, Lord Bilimoria, and others. I welcome this measure for self-employed business, but can the Minister make representations to the Chancellor on the subject of dividend tax changes, which will hit small incorporated businesses particularly hard, and also on the new proposed probate tax, which has not come in yet but which will affect current and potential Conservative voters in London in particular?

Lord Young of Cookham: I am grateful to my noble friend for drawing attention to the very good debate that we had yesterday on the Budget Statement. I will

ensure that the Chancellor is aware of the views that were expressed by him and others, not just on the national insurance issue but also on probate and the changes to the dividend tax allowance. Whether it was my noble friend's speech last night that caused the Chancellor to change his mind this morning, I am not quite so sure, but I am grateful for his support this evening.

Lord Elystan-Morgan (CB): My Lords, does the Minister accept that the Statement is a brilliant piece of euphemistic improvisation? It may well be that the man in the street will remind himself of a line of Victorian poetry, "Someone had blundered". However, does he accept that it is entirely appropriate for the Government to proceed with extreme caution on this fateful day, the Ides of March?

Lord Young of Cookham: I am grateful to the noble Lord. He said "improvisation", but I think he does an injustice to the minds of the civil servants, politicians and spads who had to put together the Statement that the Chancellor made a few moments ago.

Lord Howarth of Newport (Lab): My Lords, further to the excellent exchange between the noble Lord, Lord Higgins, and the Minister, is not the moral of this episode—indeed, one that should be taken by all parties—that manifestos that read like mail order catalogues are a bad idea and that manifestos would be better confined to one side of A4?

Lord Young of Cookham: I have some sympathy with that as a person who has had to defend manifestos over 10 general elections. It is important that the public have some idea of the direction in which a political party will take the country if it is successful in a general election, and that manifestos give some idea about the big issues such as public ownership, tax, defence, the police and law and order. However, 600 commitments, which I think is what we made, may be on the high side. By the time we hit 2020, I am sure everybody will learn that there is something to be said for brevity.

The Lord Bishop of Chester: My Lords, I think I can paraphrase the remarks of the noble Lord, Lord Rooker, by saying:

"To improve is to change; to be perfect is to change often",

as Churchill said. It is a strength that the Government can change their mind so openly and directly, and I wish that politicians would more often simply and openly accept that they have changed their mind in the light of the evidence. So, in that sense, I welcome this announcement. My concern is about the further measures. One of the problems with the triple lock and the guarantee on tax rates and so on is that tax increases tend to be stealth taxes of one form or another. In a healthy democracy, the more open, direct and progressive taxation is, the better. I wonder whether the Minister is willing to make some comment, from his heart, on that suggestion.

Lord Young of Cookham: The right reverend Prelate invites the sinner to repent; I think that was the gist of his remarks. I am sure the Chancellor, as he reflects on how to make good the deficit that we now have in the Budget, will take on board the suggestion that the right reverend Prelate made about openness and avoiding stealth taxes. However, I hope he is not implying that the Government should not make good the deficit and continue with their policy of getting it down.

Lord Dobbs (Con): My Lords, I congratulate the Chancellor on his brave and sensitive decision to change his mind. I see our Labour colleagues smiling, but the Chancellor changed his mind after seven days. They have not changed their minds after 18 months of having the wrong leader. At least our Chancellor got the message—

A noble Lord: Oh yes we have.

Lord Dobbs: I bow to the noble Lord's greater intimacy with those decisions.

I pick up on the many points made about the value of manifesto commitments. It seems to me inevitable that other manifesto commitments will have to be considered: the triple lock is just one clear example. Can we learn from this lesson and make sure that the debate is had before those decisions are made, rather than waiting until the SAS comes through the window?

Lord Young of Cookham: I am grateful to my noble friend. I think there is something for all the political parties to learn in terms of setting up policy reviews well in advance of the 2020 general election and involving party members and other people, as appropriate, as they develop their policies, rather than leaving things to the last moment. I therefore take heart from what he says. I am sure that we will all learn from what has happened today.

Lord Harris of Haringey (Lab): My Lords, many of those who are self-employed are also registered for value added tax. I declare an interest as such a person. However, the Government, with effect from 1 April, will introduce a flat rate for limited-cost businesses under the VAT flat rate scheme. This will have an immediate effect for many people in that position of increasing the money they pay to HMRC by a margin of 2% or 3%—in some cases more—of their turnover. Is that consistent with the spirit of the Conservative manifesto?

Lord Young of Cookham: I assume those measures have already been approved by both Houses of Parliament, if they are going to come into effect next month.

Baroness Altmann (Con): My Lords, I too add my congratulations to the Chancellor on his very sensible and timely decision. The idea that self-employed and employed people have opportunities for arbitrage, and that that needs to be corrected, is absolutely right. However, the Chancellor should be applauded for concluding that we should wait until the Matthew Taylor

[Baroness Altmann]
review and a more thorough analysis can be carried out, and then come back in the autumn with perhaps different proposals that will achieve the desired impact without breaking manifesto commitments and recognise the huge importance to our economy of encouraging self-employment, risk-taking and the establishment of new businesses.

Lord Young of Cookham: I am grateful to my noble friend for what she has just said and for her contribution to yesterday's debate on the Budget. I am sure she is right in what she says about the Taylor review and about finding the right way through the dilemma of continuing to encourage enterprise and self-employment where it is legitimate while, on the other hand, removing the opportunity for arbitrage and abuse, which in some cases is taking place at the moment. I am grateful for her support.

Lord Cunningham of Felling (Lab): My Lords, a very famous operator in the field of social security and taxation once said, "When the evidence and the facts change, I change my mind". That is very wise advice for the Government. What concerns me in all this is that the Government have locked themselves for the whole of the Parliament into what I would regard as a rash, ill-judged manifesto commitment. A black hole—not the first one—now appears in our public finances and will have to be remedied over time, as the Minister has already acknowledged. The question for us now is: as people on benefits, housing benefit and low incomes have been hurt, who will be hurt by whatever measures emerge to fill this black hole?

Lord Young of Cookham: I understand the noble Lord's concern but, as I said when I repeated the Statement, in his Autumn Budget the Chancellor will outline the measures that he will take to make good the revenue lost by this decision. Therefore, the noble Lord will have to wait until the Autumn Statement for the answer to his question, but I know that the Chancellor will take on board his concern for the lower paid and the less well off as he addresses those issues.

Lord Marlesford (Con): My Lords, I congratulate the Chancellor on his rapid reverse but might it be worth reminding the Labour Party what a long time it took for it to drop the absurd selective employment tax, invented by Professor Kaldor? It hung round Labour's neck for a very long while. As for filling the gap, did my noble friend notice the suggestion that I made yesterday that one of the easiest things to do is to reverse the freeze on road fuel duty, which would do less than make up for inflation? An increase of 10p a litre would produce £4.6 billion of revenue this year, next year and every year.

Lord Young of Cookham: I am grateful to my noble friend for reminding us about the selective employment tax, which I had totally forgotten about until he reminded me a few moments ago. I am also grateful to him for making a suggestion as to how the gap might be filled —something that we have not had from many other contributors. I know that as the Chancellor approaches his Autumn Budget he will take on board my noble friend's suggestion, but I give no guarantee at all that he will implement it.

Lord Snape (Lab): Without wishing to sound a sour note, does the Minister accept that, in the view of many of us, no congratulations to the Chancellor are necessary on what is in fact a humiliating U-turn? As former Whips in the other place, the Minister and I both know that the reason the Chancellor has backed down is that he does not have a majority for this measure on his own Back Benches. That is the simple explanation. As far as the welcome advice that the Chancellor is now going to take from Mr Matthew Taylor, I recollect—and I hope that the Minister does too—that Mr Taylor was a distinguished adviser to Mr Tony Blair during his time as Prime Minister. If his involvement indicates that we are about to return to that golden era, it will be long past time.

Lord Young of Cookham: I am sure that Matthew Taylor will be able to build a consensus between the various parties that he has served over a period of time. As the noble Lord knows, Whips do not speculate about how they go about their trade. The reasons for the decision were as I set out in the Statement some 20 minutes ago.

Baroness Pinnock (LD): I thank the Minister for his very clear statement about the continuing commitment to social care additional funding, but will he give us an equally clear and unequivocal statement to satisfy lots of worried people in local government that he will not be raiding existing funding for local government in order to offset the social care funding that has been provided?

Lord Young of Cookham: The settlement for the current year has been made and the additional funding that was announced in the Budget will stand, so all the commitments that have been made in the Budget will remain.

Lord McKenzie of Luton (Lab): My Lords, there is an air of inevitability about this decision today. We have seen it built on the folly of those manifesto commitments referred to by the noble Lord, Lord Higgins. There is another issue that has run through lots of Budgets, which is the internal process of government and the checks and balances that are applied to Budgets, which are much weaker than one would see in most legislation. Anyone producing a Bill in government has to go round every department getting input into it, and there is challenge. That process irons out some of the problems that we have seen emerge not only in this Budget but, to be fair, in previous Budgets and announcements as well. On the specific commitment today about no changes to class 4 contributions, does that apply to the basis of calculation of thresholds as well as the rates?

Lord Young of Cookham: That is a good question. The manifesto commitment was actually about the rates. So far as the thresholds are concerned, our policy has been to uprate them each year in line with CPI, I think. We have no plans to change that.

Neighbourhood Planning Bill

Third Reading

4.41 pm

Amendment 1

Moved by ***Lord Bourne of Aberystwyth***

1: After Clause 6, insert the following new Clause—

"Engagement by examiners with qualifying bodies etc

In Schedule 4B to the Town and Country Planning Act 1990 (process for making neighbourhood development orders), in paragraph 11 (regulations about independent examinations) after sub-paragraph (2) insert—

"(3) The regulations may in particular impose duties on an examiner which are to be complied with by the examiner in considering the draft order under paragraph 8 and which require the examiner—

(a) to provide prescribed information to each person within sub-paragraph (4);

(b) to publish a draft report containing the recommendations which the examiner is minded to make in the examiner's report under paragraph 10;

(c) to invite each person within sub-paragraph (4) or representatives of such a person to one or more meetings at a prescribed stage or prescribed stages of the examination process;

(d) to hold a meeting following the issuing of such invitations if such a person requests the examiner to do so.

(4) Those persons are—

(a) the qualifying body,

(b) the local planning authority, and

(c) such other persons as may be prescribed.

(5) Where the regulations make provision by virtue of sub- paragraph (3)(c) or (d), they may make further provision about—

(a) the procedure for a meeting;

(b) the matters to be discussed at a meeting.""

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, before I speak to these important government amendments, I wanted to take the opportunity to express my thanks once again to noble Lords for their careful and thorough scrutiny of the Neighbourhood Planning Bill. The Government have listened carefully to the issues that have been raised throughout these debates and have brought forward amendments to address key issues.

The Bill that we now have before us is, I believe, a better Bill as a result of the scrutiny of this House and the wealth of experience that noble Lords have been kind enough to share. I thank noble Lords for their diligent and constructive approach at each stage. I am aware that a vast number of noble Lords has contributed to the debate during the Bill's passage, but I particularly thank noble Lords on the Benches opposite, and certainly the noble Lords, Lord Kennedy of Southwark, Lord Beecham and Lord Shipley.

I thank my ministerial team in the department, my right honourable friend Sajid Javid, and particularly my honourable friend Gavin Barwell for their help and support. Furthermore, I thank my noble friend, co-pilot and Whip, Lord Young of Cookham, who adeptly led on the compulsory purchase elements of the Bill. Finally, I thank my officials, led by Simon Gallagher, Susan Lovelock, Darren McCreery and Robyn Skerratt, and the wider team, including my private office, and special thanks too to Grace Smith and Alanna Reid.

I now turn to the government amendments in this group. We had important discussions in Grand Committee and on Report about neighbourhood planning, and in particular the process for the examination of neighbourhood plans. My noble friend Lady Cumberlege led this discussion, and I am personally grateful for the way she did it. I should note that she was not the only participant making those arguments, and I thank my noble friends Lord Caithness and Lord Mawson and the noble Lords, Lord Kennedy, Lord Shipley and Lord Stunell, for their contributions. But I particularly thank my noble friend Lady Cumberlege for her continued generosity with her time, and for her commitment to working with my department constructively to ensure that the practice of neighbourhood planning continues to be in line with our collective aspiration to empower communities to develop neighbourhood plans. I am very conscious of the great pressure she has been under and the grace and generosity that has characterised her contribution to these important issues.

I want to set the amendment in the context of a number of important steps that the Government are taking to meet the concerns raised. I do so because the issues are too broad to be addressed through legislation alone. Noble Lords will recall that much of what needs to be done to address this important issue does not require legislative intervention.

First, we will amend planning guidance once we have taken into account the responses to the Housing White Paper consultation, to which I will return, to clarify our expectations of local planning authority engagement with neighbourhood planning groups before and during the examination process. Secondly, amendments to the Bill tabled in Grand Committee enable the Secretary of State, for example, to require authorities to set out in their statements of community involvement how they will provide advice or assistance to neighbourhood planning groups prior to examination. Thirdly, my noble friend Lady Cumberlege has raised the important role that local planning authorities play in supporting neighbourhood planning in their communities, so it is important that they have the necessary resources. This month, we have written to local planning authorities outlining the arrangements for our continued funding to them to support neighbourhood planning next year under the new burdens doctrine.

4.45 pm

Fourthly, we have resolved in the housing White Paper —I draw noble Lords' attention to paragraph 1.43 where this is set out—that we will make further funding available to support neighbourhood planning groups from 2018 to 2020. This sits alongside the work we are doing to develop the tools and support available to neighbourhood groups through our current support package. I can also confirm that we intend to add to the existing advice on areas such as housing need and site assessment a specific toolkit to support communities wanting to use their plan to allocate sites for housing.

[Lord Bourne of Aberystwyth]
This will, for example, provide advice on how neighbourhood planning groups can approach drafting policies that plan positively and provide clarity on where development will be encouraged or where it may be less appropriate, and on the type of evidence that may support a phased approach to housing delivery.

Fifthly, we are making it easier for those who are using their neighbourhood plan to allocate housing to get technical consultancy support. This includes access to a "health check" of their neighbourhood plan by an experienced examiner prior to submitting the plan to the local planning authority. Priority groups under the Government's support contract can apply for a health check at no cost. All other groups can choose to use grants awarded through the support contract to pay for a health check.

In addition to these important steps, we are also encouraging others to take action. I referred on Report to the commitment made by the Royal Institution of Chartered Surveyors to having procedural practice guidance in place by the autumn for the neighbourhood plan examiners it works with.

Before I turn to the Government's specific amendment, I would like to return briefly to the issue of phasing raised by my noble friend Lady Cumberlege. Neighbourhood planning groups are already able to phase development so that it matches their view of how the community should evolve in response to the market. Where they do so, it must be backed up by clear evidence as to why there should be a restriction on when a specific site or sites should come forward for development. It should be evidence based, because we want to ensure that the proposals are deliverable.

We have listened carefully to the concerns raised by my noble friend, and government Amendment 1 will enable the Secretary of State, through regulations, to set out the procedure an examiner of a neighbourhood plan or neighbourhood development order must follow. It adds to the existing non-exhaustive list of matters that regulations may address, which is set out in paragraph 11 of Schedule 4B to the Town and Country Planning Act 1990. In exercising the power, the Secretary of State will be able to make regulations that place a duty on examiners to provide information to, and to hold meetings with, neighbourhood planning groups—the qualifying bodies—local planning authorities and others, and on the examiners to publish their draft report with their recommendations. The amendment, set alongside existing matters that regulations may already address, would give my ministerial colleagues the power to achieve what my noble friend and other noble Lords have pressed for.

We are consulting in the housing White Paper on what changes may be needed to ensure that consultation and examination procedures for all types of plan-making are appropriate and proportionate, and I draw noble Lords' attention to paragraph A.20 where this is set out. The consultation closes on 2 May.

This amendment strikes the right balance between enabling reforms that can improve the dialogue between neighbourhood planning groups and examiners, while allowing for any future improvements to procedures to be informed through the White Paper consultation by those who will understand best how the current arrangements are working in practice. More than 350 communities have had direct experience of the examination process. Local planning authorities will have worked with these communities and will have been responsible for arranging the examinations of the neighbourhood plans and any contracts with the examiners. There will no doubt be others with relevant experience, not least the examiners of neighbourhood plans. It is important that the examination process remains fair and open to those with an interest but does not become adversarial. Again, the housing White Paper consultation provides an opportunity for people to express views on how we might best achieve that balance.

My noble friend Lady Cumberlege has previously spoken warmly of the work my department has done to explore what a possible model for the examination process could look like. I have considered what additional material could be made available as a contribution to the debate on the changes that may be needed to the examination of neighbourhood plans. Today I have published a discussion document on the Government's website, GOV.UK, that contains a possible model for how examinations could be improved. This is expressed in the form of a process flow chart—I know that my noble friend believes that this flow chart system is helpful; I do too. The document is in the form of an edition of *Notes on Neighbourhood Planning*, a regular series of bulletins from my department published on the Government's website and sent to more than 1,500 organisations and individuals that have signed up to receive it. I would welcome representations from noble Lords on this possible model, alongside other contributions to the housing White Paper consultation.

Amendment 5 seeks to replicate the changes proposed in Amendment 1. Amendment 5 applies in circumstances where a neighbourhood planning group seeks to update an existing neighbourhood plan in the streamlined way proposed under Clause 3 and Schedule 1 to the Bill. This will ensure consistency for those examining a new or updated neighbourhood plan.

I want to leave your Lordships in no doubt that we are taking this matter very seriously, and to reassure noble Lords on the timing. It is right that we then take time fully to consider responses to the White Paper consultation, including the impact that reforms may have on voluntary and community bodies and on businesses. These amendments give the Government the powers to act on the issues raised in our debates. Clearly, that would be our intention. Noble Lords must allow us to continue to consult more widely to hear more views, so that we can be sure we have the right process. If there is consensus as a result of our consultation, we can move swiftly to prepare regulations from the commencement of this legislation. That would be our intention. I beg to move.

Baroness Cumberlege (Con): My Lords, I again declare an interest. I have a planning application pending at the moment. I have taken advice from the Clerk of the Parliaments and have been assured by him that the sub judice rule does not apply in my case. My other interests are in the register. I thank my noble friend for his generous words towards me, but he is absolutely right that many other noble Lords contributed to the role of examiner. Their wise words also influenced the tabling of this amendment.

Before I address the amendment, I will say a few words. At Second Reading, which seems a very long time ago, I acknowledged to noble Lords that my centre of interest was really more health and family planning than town and country planning. Your Lordships may consider that family planning is more about denial, but my experience with this delightful Bill has been the reverse. Through the work of noble Lords right across the House, we have had a very creative exercise. It has been serious; it has been informed; it has been challenging, and in many respects it has been collegiate.

The tenor has been set by the Minister and, as he has referred to him, his co-pilot, my noble friend Lord Young of Cookham. We could not have had a more courteous, more conscientious and more willing pair of Ministers on the Front Bench. My noble friend Lord Bourne has gone to great lengths to listen, to test our arguments and to assess their validity. Where possible, he has put down his amendments to improve the Bill. I have no doubt that it has taken considerable negotiation within the ministerial team, with the involvement of the department's lawyers and others, to achieve these results. I thank him very much for it.

One of my noble friend's amendments is before us now. It is an amendment that I wholeheartedly support. Throughout the passage of this Bill, I have banged on about the role of the examiner. Intelligent, well-informed men and women have taken on this difficult task while being trapped in a system which is rigid, excludes proper dialogue, is not inclusive and does no one any favours.

Understanding my misgivings about the current system, my noble friend has with great generosity given me considerable time to meet not only him but the department's officials. Again, I thank him for that. His officials have been exemplary. They have been patient, have sought to understand my concerns, have been forensic and have put their considerable knowledge to finding a way through the examination of a neighbourhood plan so that we are all winners—the communities we seek to serve, the neighbourhood plan makers, the local planning authorities, the developers, the department and, not least, the examiners.

My noble friend's talented officials have produced a flow chart which clearly sets out the procedures to be followed. It is a masterpiece. It is clear and concise, with no weasel words and no ambivalence. This is the path to follow when going about an examination of a neighbourhood plan.

The two amendments before us seek to put the flow chart into the required legislative language. Of course, that is necessary, but not all plan makers—especially neighbourhood plan makers, who are volunteers, after all—have expertise in this field, nor do they attempt to say so. The only expertise they really have is to know their communities inside out. They perhaps do not wish to pore over an Act of Parliament, trying to decipher quite what was meant. So this flow chart is an answer. I was going to ask my noble friend how he would make the chart available. Today, he has told me that he will put it on the web and make it accessible to all who need to see it. I thank him for that.

As so often with amendments, the weakness with this one is it depends on the making of regulations. When is that likely to be? When will we see those regulations? Am I right, as I believe I am, in thinking that all regulations throughout the Bill are in the negative form? Can the Minister think of some way in which he could give notice to those of us who have been involved in the Bill of when the regulations will be laid before the House? I know that it is very easy to miss them, and a trigger would be valued by many noble Lords.

In conclusion, I strongly support this amendment. It will give those embarking on a neighbourhood plan a tool of considerable worth.

5 pm

Lord Shipley (LD): My Lords, as we start Third Reading, I declare my vice-presidency of the Local Government Association. The Minister said that this was a better Bill for the work of this Chamber and I concur entirely. The value of the revising nature of this Chamber has been demonstrated in the work that took place in Committee and on Report. I pay tribute to the Minister and his officials for their willingness to meet and to listen, and for the courtesy they showed. The outcome is a much better and stronger Bill than when it came to this House. I learned from the debates we had that there is an appetite from all parts of this House to promote neighbourhood planning. There is a sense of common purpose about that which I strongly welcome.

I said at an earlier stage in the Bill that we need a plain English guide to the planning system which the general public could relate to. The noble Baroness, Lady Cumberlege, talked about the flow chart which will all be very helpful. Indeed, on the departmental website there is a plain English guide to the planning system in general terms. I am looking here for a plain English guide to the Bill which will become a practitioners' guide as opposed simply to a plain English guide explaining what the Bill is about. It should go into much more detail than we currently have. I notice that the Minister talked about the plans of the RICS to create further briefing materials for the examiner of a neighbourhood plan. I welcome that but if we are seriously to promote neighbourhood planning and achieve many more areas, particularly urban ones, engaging with the process, a practitioners' guide would be extremely helpful.

Amendments 1 and 5 are very helpful and reflect the discussions we had in Committee and on Report. I too pay tribute to the noble Baroness, Lady Cumberlege, for all her work in this area. The Minister talked about her generosity with her time and that is absolutely right. The amount of time and effort that went into convincing the Ministers, their colleagues and officials that this really is important has borne fruit. These two amendments bring the process of neighbourhood planning closer to those devising a neighbourhood plan. The noble Baroness talked about the planning system being rigid, and indeed it is. There are good reasons why that is the case in terms of challenges but, equally, it needs to be a system that is understood by all those trying to engage with the process. In Amendments 1 and 5 we have the publication of a draft report by the examiner and the potential for meetings to be held about that draft. This is a major step forward and I welcome it.

[Lord Shipley]

I have two further points. First, there is the timing of the regulations. The noble Baroness asked about that and it is very important that we get some sense of when it is likely to be. The Minister talked about the consultation on the White Paper and the outcome of that. The consultation on the White Paper is due to end at the beginning of May but we tend to find that there is then a long period—several months—before something happens. Of course, this will be going over the summer period as well so it could be even longer than that. I think I interpreted from the Minister's words—which included the word "swiftly"—that it is going to be faster than that. I very much hope that it will be, because so many of the helpful things that are being proposed in the White Paper need to be got on with as soon as possible. I hope that there will be a timetable that will speed up the process.

We have not quite finished Third Reading, but I want to say that the process of examining this Bill and getting it to the point where it is in a strong form to pass Third Reading is down to a great deal of effort by a large number of people. I pay tribute in particular to the Ministers, the noble Lords, Lord Bourne and Lord Young, for their support for this process, which has been hugely appreciated.

Lord Beecham (Lab): My Lords, I join the Minister and the noble Lord, Lord Shipley, in paying tribute to the noble Baroness, Lady Cumberlege, for her very thoughtful and constructive—and somewhat exhaustive—approach to the deliberations on the Bill. It has been a pleasure to work with both the Ministers, but particularly, if I may say so, with the noble Lord, Lord Bourne. I make that point having discovered recently that he, like me, is a great fan of Leicester City; in my case, it is my second team. I rather hope we might be playing in the same league next season and I hope that will be the Premiership. In that event, perhaps the noble Lord would care to accompany me to a match, when naturally Newcastle will expect to beat my other team.

The substantive issue this afternoon is not the fate of either of those teams but the drawing to conclusion of the Bill. It has been a pleasure to work in such a constructive way with both Ministers, but principally, on the major part of the Bill, with the noble Lord, Lord Bourne. He has listened carefully and been very constructive in his approach. Indeed, the whole experience has been a vast improvement on the dreadful time we had with the Housing and Planning Act last year. That is no reflection at all on the noble Baroness, Lady Williams, who struggled mightily to retain her sanity and promote ours during the course of that legislation.

I have one or two questions about Amendment 1. Proposed new sub-paragraph (3)(d) says that a meeting should be held following the issuing of invitations, which are outlined in proposed new sub-paragraph (3)(c). Is that a meeting with an individual, or is it envisaged as a public meeting in which other interested parties would be involved? There might be a number of people who make submissions; there might be only one or two. Would that meeting be just with those who make the contact, or will it be on a broader basis? The definition of "persons" is slightly mysterious. It talks about,

"the qualifying body … the local planning authority"—

that is obvious—

"and ... such other persons as may be prescribed".

Can the Minister indicate what is envisaged by that rather muffled description?

Then there is the question of the regulations. Will the regulations themselves be subject to consultation? The noble Lord, Lord Shipley, referred to consultation. Will the specific regulations in relation to this amendment be subject to consultation in the way that the Minister has described generally the consultation which will take place on other matters?

Having said that, and while I wait with anticipation to hear the Minister's response, again I congratulate him and the noble Lord, Lord Young, on the way they have conducted this matter. I look forward to that degree of co-operation continuing over the secondary legislation that will follow. It is very important that the Bill should go forward into practice in a way that, frankly, we have not yet seen adequately with the Housing and Planning Act 2016. I hope that we can learn from that experience and carry the Bill forward in the constructive way that Members of all sides have sought to treat it.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in the debate on these two amendments. First, I thank once again my noble friend Lady Cumberlege for the gracious way that she has approached this, and for her kind words in welcoming the amendment and the flow chart. I suspect that her kind words about the role of the officials in the flow chart will have its cost in terms of drinks and cakes; nevertheless, I thank her very much indeed for those kind comments. I can confirm to her and to other noble Lords that the regulations will be subject to the negative procedure which, given the weight of business we will have as a consequence of the EU withdrawal process, is welcome news.

I thank the noble Lord, Lord Shipley, once again for his kind words and very much agree that this is a better Bill because of the scrutiny that has come from all parts of the House. I agree that there is support for the neighbourhood planning principle from all parts of the House and it is important that we see that to safe haven. Clearly, it is not just about the Bill. I very much agree with him on the plain English guide—I know that he made that point before very forcefully. We will certainly do what we can with the website and the flow chart. I would welcome participation and views from noble Lords as to how we can improve them. I will pass on the thanks that he gave to the RICS for the practitioners' guide. I am sure we all hope that that will be in plain English, as it is extremely important.

I turn to a point raised by the noble Lords, Lord Shipley and Lord Beecham, and my noble friend Lady Cumberlege in relation to the timing of the regulations. Clearly, as the consultation ends on 2 May, I cannot anticipate how many responses we will have in relation to this matter. I hope that it will be quite a lot. We intend to move quickly and not to delay things, but we need to make sure that the system works well. I hope your Lordships will understand that we would want some time to take account of those views. In relation to

the very fair point made by the noble Lord, Lord Beecham, about continuing the process of consultation and getting it right by discussing it with others, I would anticipate discussing the shape of what we are going to do with my noble friend and with the noble Lords, Lord Beecham, Lord Shipley and Lord Kennedy, and others, but that would not be to slow the process down. We have to get the balance right there, but I would be very happy to do that.

I thank the noble Lord, Lord Beecham, for his generous invitation to St James'. An invitation from me would be to the King Power Stadium, if we are indeed in the same league next year. As he may know, I am in Newcastle on Friday of this week and when I said that I am visiting the two cathedrals, many people told me that there are actually three cathedrals—the third being St James'. I do not think I have time for it on this occasion, but I look forward very much to locking horns over football for once, rather than over politics. I am sure that would be a game we would both enjoy.

In relation to the points made by the noble Lord, Lord Beecham, about who is included under new sub-paragraph (3)(d) in Amendment 1, we want to make sure that there is an open, fair and transparent procedure. In relation to meetings, therefore, I do not think we would want to stipulate that a group should be of a particular size. It would not be just individuals, but if somebody wanted to come along from the neighbourhood group with a fair number of people, we would be looking to that. We are not prescribing anything; it is important that it is an open and transparent process. In relation to other bodies that may be prescribed, I think that other amenity groups might have an interest in the area—I will write to the noble Lord if I am wrong on this—and it could conceivably be the National Trust, if it had property there. I anticipate it would be that sort of thing.

I have dealt with the noble Lord's point in relation to the consultation on the regulations, which will, as I say, have the negative procedure. I thank again those noble Lords who have participated in the debate on these amendments.

Amendment 1 agreed.

5.15 pm

Amendment 2

Moved by ***Lord Taylor of Goss Moor***

2: After Clause 14, insert the following new Clause—

"Development of new towns by local authorities

(1) The New Towns Act 1981 is amended as follows.

(2) After section 1 insert—

"1A Local authority to oversee development of new town

(1) This section applies where the Secretary of State is considering designating an area of land in England as the site of a proposed new town in an order under section 1.

(2) The Secretary of State may, in an order under section 1, appoint one or more local authorities to oversee the development of the area as a new town.

(3) But a local authority may only be appointed if the area of land mentioned in subsection (1) is wholly or partly within the area of the local authority.

(4) The Secretary of State may by regulations make provision about how a local authority is to oversee the development of an area as a new town.

(5) Regulations under subsection (4) may, for example—

(a) provide that a local authority is to exercise specified functions under this Act which would otherwise be exercisable by the Secretary of State, the appropriate Minister or the Treasury;

(b) provide that a local authority is to exercise such functions subject to specified conditions or limitations;

(c) provide that specified functions under this Act may be exercised only with the consent of a local authority;

(d) make provision about the membership of a corporation established under section 3, including the proportion of the members of the corporation who may be members of or employed by a local authority;

(e) modify provisions of this Act;

(f) make different provision for different purposes;

(g) make incidental, supplementary or consequential provision.

(6) In subsection (5)(a) the reference to "functions" does not include a power to make regulations or other instruments of a legislative character.

(7) Where two or more local authorities are appointed in an order containing provision by virtue of subsection (2), the Secretary of State may in that order provide—

(a) that a specified function is to be exercised by a specified local authority, or

(b) that a specified function is to be exercised by two or more specified local authorities jointly.

(8) In this section—

"local authority" means—

(a) a district council,

(b) a county council, or

(c) a London borough council;

"specified" means specified in—

(a) an order containing provision by virtue of subsection (2), or

(b) regulations under subsection (4)."

(3) In section 77 (regulations and orders)—

(a) in subsection (2), after "which" insert ", subject to subsection (2A),", and

(b) after subsection (2) insert—

"(2A) A statutory instrument containing regulations under section 1A(4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.""

Lord Taylor of Goss Moor (LD): My Lords, this amendment is tabled in my name and that of the noble Lords, Lord Best and Lord Lucas, who have given great support on this issue during the passage of the Bill, as have noble Lords on all sides of the House. On Report, there was a very welcome commitment from the Minister to return to this issue.

I should draw attention to my interests. I advise many projects, including new settlement projects. I am a visiting professor of planning at Plymouth University, and over the years I have worked with government bringing forward policy changes.

This amendment is aimed at empowering local government communities to bring forward settlements of the highest quality, ensuring that the value that

[Lord Taylor of Goss Moor]
comes from development taking place is captured to create great places and deliver wonderful facilities for those places and is not captured in excessive profits for landowners or developers, and ensuring that the Government's objectives in bringing forward the garden villages, garden towns and garden cities programme are met in terms of the delivery of what comes forward, with opportunities for small builders, self-builders and contract builders to grow and deliver in new ways better quality, more affordable homes and all the facilities in these places to create sustainable and vibrant 21st century communities.

Why have I tabled this amendment? At the start of the passage of the Bill, I made the point that in the Neighbourhood Planning Bill the Government accepted proposals that I and other noble Lords brought to the House to simplify the process of using the New Towns Act. The New Towns Act is essentially from a period when central government was much more involved in local delivery and when that was accepted. We are now in an era of localism, yet the New Towns Act gives all the power to the Secretary of State who has no capacity to hand over the role of the corporations that will be set up to deliver these new settlements to the local councils that would bring them forward. In the modern world, it is not right that in seeking to deliver a new settlement through a new town corporation to ensure that it is delivered at quality and pace to meet local needs a local council would surrender all the powers to the Secretary of State.

I do not think that the Secretary of State would want to have power over every penny of expenditure, the power of planning, because these bodies would get planning powers, and the power of controlling the assets and, potentially, of future disposals of those assets. It is far more likely that local authorities and communities will be comfortable with this process if they have not simply identified the site and taken the decision that it should be brought forward. When it comes here and the necessary process is gone through in Parliament to approve it, they should be confident that those powers will be exercised locally and that in the long run the assets will be controlled locally for the benefit of the people who live there and the wider community.

When we first debated this, the Minister understandably said that the Government needed to think about this and work it through, but the White Paper made it clear that the Government agree with this process. I have been delighted that the Government have taken forward this policy, which I was very much involved in developing. On the back of the White Paper, we came back. I have to thank the Minister for his positive response on Report and for allowing me to talk to officials in working through something that might now work positively for the Government and that could be incorporated into this Bill.

I shall briefly speak to some of the detail. The principle of the amendment is to give the Secretary of State the power to appoint one or more local authorities in the designated area of the new town to oversee the delivery of the new town and the new development corporation. This is a localising measure. It hands really strong power to communities to ensure that new towns are delivered at quality.

The functions that would be transferred to local authorities for this purpose would be set out in secondary regulations subject to the affirmative procedure, so fully respecting parliamentary process. Since new towns may straddle the boundary of more than one authority, more than one authority could be appointed. This will make it much simpler in those circumstances to bring forward and deliver proposals. The Secretary of State would be able to set out how those powers would be transferred to those local authorities, for joint exercise or divided between them. Changes to the New Towns Act may be needed to allow this to work on subjects such as asset control. The purpose of the power to modify the Act would be to make the principle of local accountability work.

Therefore, this fits with the agenda that Members across the House have outlined, to bring many more homes forward to meet local needs and to capture the value of land in order to create supplements. In that way, we would not look to the taxpayer to fund the school, build the surgery, provide for shops or build a real community. The value of the land would be put into the process of making this work.

At the moment, where projects are approved, the risk is that they are sold on through the chain of speculators, developers and housebuilders. Then, by the time that they are delivered, on grounds of viability because of the price that has been paid for the land or because of the model of the housebuilder, none of the promises made at the start to the local community is delivered. The use of the development corporation as proposed would guarantee that what had been promised to people at the start would be delivered to people at the end.

This approach would open the opportunity to use compulsory purchase powers under the New Towns Act. These could be used where necessary, but normally purchase would be done by treaty in consultation with landowners. The point would be to reach a price that allows the delivery of the quality of place that has been promised. That promised quality would then be locked in through the development corporation process, rather than being at risk of never being delivered. I am afraid that I can take noble Lords to many places where much was promised and far too little of those promises was delivered. There are places where it has been done well, but only where there has been a landowner genuinely committed to it.

That partnership would, therefore, be available. Generally, I imagine that it would be done through joint venture and partnership and agreement but none the less locking in that quality. Where that did not happen, powers would be there to achieve the quality of place that is needed.

Above all, this is about three things. One is keeping it honest and delivering what is promised. That is essential if there is to be any credibility around the delivery, not just of housing but of communities and neighbourhoods, that this approach of garden villages and towns promises.

Secondly, it is critical if we are to move from a supply of new homes inadequate to meet people's needs that results in ever-accelerating prices beyond what is affordable. If we are to create the 250,000 to 300,000 homes each year that we need, rather than

150,000, those extra homes need to be delivered to a higher quality in places that they do not ruin. Rather than encircling existing historic towns and villages with endless bland housing estates, we need to deliver something better in places where people can accept them and where the public will support the programme. If we try to raise the numbers but deliver inadequate quality, as too often happens currently, there will simply be a public revolt and we will not get the houses delivered.

Finally, it is also critical that we understand that the big housebuilder model does not allow big housebuilders greatly to increase the numbers being delivered. They will not do so even if they wish to because of the way in which they are financed and the way in which publicly assisted companies are priced. The only way to deliver the increased numbers—and the increased quality—is to build up new entrants, whether housing associations, growing SMEs, self-builders or overseas developers of the highest quality. They all need places to build without the current tortuous process of land options and land banking.

These are the mechanisms to deliver it. But it will happen only if we have a very clear understanding that this means delivering great places to go with the plots to build them on, not just handing this over to the people who build houses and expecting them somehow to create great places. We know they deliver housing estates, but they do not deliver the quality of places demanded by people, which is what will give public acceptability to the programme.

This amendment will be the critical factor in creating local empowerment to deliver what will be a genuine game-changer. I am very grateful for the support there has been on all sides of the House for this and to the Government for the positive way in which they have responded to the case. I beg to move.

Lord Best (CB): My Lords, I will speak briefly to the amendment, to which I have attached my name. I commend the noble Lord, Lord Taylor of Goss Moor, for following through on our earlier amendment and indeed for all his good work in promoting new garden villages and garden towns. This amendment is not as definitive as the one we discussed on Report, but it should achieve the same outcome, namely of placing local authorities centre stage in the creation and oversight of the new corporations that will be responsible for these major new settlements. This will greatly improve the prospects of these much-needed new communities getting off the ground.

I was delighted to hear today that the Local Government Association—I declare my interest as an LGA vice-president—is fully supportive of the amendment. If accepted, the amendment will mean it will be much more likely that a number of successful, well-designed, mixed-income new settlements will be developed over the years ahead. That would be of enormous benefit to many thousands of households, which will have great new places to bring up their families and live their lives, as well as to the nation as a whole in reducing acute housing shortages. I have every confidence that the Minister will find the amendment entirely acceptable, and if so, I congratulate the Government. Following the housing White Paper, and a number of the helpful measures in this Bill, I greatly welcome this further step in the Government's creation of a much-improved set of national housing policies. I strongly support the amendment.

Lord Beecham: My Lords, I join the noble Lord in complimenting the noble Lord, Lord Taylor, for his very thoughtful and constructive contributions to the Bill and on this amendment. However, I have one question to put to him about it. Proposed new subsection (8) defines a local authority as,

"a district council … a county council, or … a London borough council".

Where do the new mayoral combined authorities sit within this framework? Perhaps the noble Lord could assist me with that, or perhaps the Minister could indicate what role is envisaged for a combined authority, which will presumably by its very nature include land for development which crosses what would previously have been boundaries but are now within the new framework. I suspect the noble Lord, Lord Taylor, would wish that combined authority to exercise a role, but perhaps the Minister could indicate what the Government's attitude would be and whether any further step needs to be taken to ensure that that outcome is fulfilled.

Lord Porter of Spalding (Con): My Lords, I speak in favour of the amendment as well, and declare my interest in the register as chairman of the Local Government Association. The noble Lord, Lord Best, is right that the association welcomes this. It is pleased to do so, even in a version that is slightly watered down from the original. The Secretary of State should be congratulated on being prepared to cede some power: it is not very often that a Secretary of State is happy to let somebody else get on with something unless it is going to be a bad news story. I honestly believe this will be a good news story, so I am pleased that he is prepared to do it.

Like the noble Lord, Lord Beecham, though, I also have an issue with proposed new subsection (8): its definition of councils does not appear to allow unitary councils where they are the council of choice for people to be the body that makes a decision. It is fine for the districts or the counties to do that, but unitary councils outside London appear to be excluded. I am sure Newcastle or Sheffield would also want some space in this conversation. I am not sure at the moment how that could be changed, but perhaps it could be changed to "local planning authorities and county councils". That would capture all existing councils. I urge against including combined authorities at this stage until we are sure where the constituent members of those authorities see this power resting.

5.30 pm

Lord Mawson (CB): My Lords, I have just come out of a meeting this afternoon. I chair the regeneration and communities committee on the Olympic Park. I have been involved with the Olympic Park from the very beginning; I think this is year 18. We have been on a very long journey. Along with a colleague I wrote the document for Hazel Blears that eventually led to

[LORD MAWSON]
the setting up of the Olympic Park Legacy Company, which of course now is a corporation. So one has watched and been involved in all the detail of what is now happening in Stratford in east London, which is a very exciting cluster development. This afternoon we have seen a new school at Here East, businesses and housing all coming together.

There are one or two cautionary lessons. First, local authorities can be very good if you have the right leadership in place to drive them, but if you do not then very different things can go on. It is all about the people, not structures. I know from experience that local authorities, if they are not so good, can be warring factors and can play lots of politics around these things that do not deliver the best quality but sometimes undermine that.

Secondly, we have learned that it is important to have the right serious business partners on the board of the corporation who, together with public sector leaders and leaders in the social enterprise sector, buy into a narrative over a long period of time; and that getting the top, middle and bottom of these institutions to buy and act out that narrative is important as well.

Ultimately, it is all about people and relationships. Our experience suggests that giving local control is very important, but I suggest that it is not just about local authorities—it is about the relationships between people in business, the public sector and, particularly, the community sector. Sometimes local authorities can talk as though they represent and understand the local community, but I have found over the years that that might not actually be true. It is about the right relationships, the right people and the right experience around the table.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in the debate on Amendment 2. I thank particularly the noble Lord, Lord Taylor of Goss Moor, for moving it, supported by the noble Lord, Lord Best. I thank them both and indeed other noble Lords for their time and commitment on this issue and for the opportunity to discuss this matter. We have discussed it both in Committee and on Report, and I have been heartened to hear the support for the measure from across the Chamber.

This amendment seeks to support the creation of locally led garden towns and villages by enabling the responsibility for any development corporation created under the New Towns Act 1981 to be transferred to a local authority or authorities, covering all or part of the area designated for the new town or village. On the point made by my noble friend Lord Porter, I think the definition is broad enough to include unitary authorities; that is certainly the intention. On a different point about combined authorities that was made by the noble Lord, Lord Beecham, of course we can create mayoral development corporations in relation to the new combined authorities—we did so with Teesside a couple of weeks ago—so that could well be part of the deal with the new authority. However, along with other noble Lords, I would want to think carefully in conjunction with the combined authorities as to whether they wanted to take that power on. I think I am right in saying, although I may be wrong, that the designated garden towns and villages do not come within the purview of what at the moment is projected as a combined authority, but it is a point well made. Therefore, I would like to go away to ponder this and give a fuller response to the noble Lord, if I may, copying it to noble Lords who participated in the debate and putting a copy in the Library.

The aim of the amendment is entirely consistent with those of the Bill. The Government certainly support it and I thank in particular the noble Lord, Lord Best, for his pre-emptive congratulations on the Government's support. The amendment is very consistent with the approach of the Government, the department and the recently published White Paper in relation to the importance of localism.

I take the point of the noble Lord, Lord Mawson, about the importance of ensuring that all local authorities have the right attitude to these things. We hope that is accomplished through elections but the broad principle of it being done locally must be right. That has been echoed throughout the contributions on this legislation as it has gone through the House: local is better. We know that a number of local authorities—for example, those in north Essex—are interested in taking advantage of the new opportunity that the amendment would provide to support a new generation of locally led garden towns and villages, the 21st-century heirs to Letchworth and Welwyn.

I also welcome the support of the Local Government Association and the kind words of my noble friend Lord Porter for the principle behind the amendment. I am very pleased that it commands wide support throughout the House. This is a simple principle; making it work in practice will require detailed modifications to the New Towns Act, which my department will develop. We will want to keep in close contact with the noble Lords, Lord Taylor and Lord Best, both of whom I thank very much for the impetus and enthusiasm they have given this and the expertise they bring to the table. I pause at this stage to pay tribute to their work as effective champions of this issue throughout discussions on the Bill.

In conclusion, I am very pleased to support the noble Lord's amendment, which will help to fulfil an important White Paper commitment.

Lord Taylor of Goss Moor: My Lords, I shall respond very briefly. I thank the noble Lord, Lord Best, for all his support and encouragement, not only on this Bill but previously. I should also thank my noble friend Lady Parminter, who was in the Chamber but has had to go, for moving an amendment for me on Report that enabled this matter to be brought forward.

We have had a promise from the Minister to come back on the point made by the noble Lord, Lord Beecham. I should make it clear that the intention is absolutely that more than one local authority can be involved. We need to explore the mechanism for that and hear what the Minister has to say, but the ability for more than one authority to come together is here. I therefore imagine that in practice nothing would stand in the way of the point that was raised.

On the point of the noble Lord, Lord Porter, about unitary authorities, the intention is that they should be covered. Indeed, having worked very hard to support

the creation of a unitary authority in Cornwall, I would be horrified if I had managed in any way to get the drafting wrong on that point, but I believe it is covered.

I absolutely take the point of the noble Lord, Lord Mawson, and thank him for his support. In my comments, I talked about the fact that although the mechanism is here for local authorities to take a leadership role, the expectation is absolutely for a partnership approach. I thought quite hard about how one might look at the structures of a corporation. It is very important that this is not a 1950s or 1960s view, whereby a local authority chief executive is appointed and gets on with the job. The world has moved on since then. My view has always been that you need, as we see in Europe and in the States, a master developer and a master planner; you need expertise and business experience.

I chair a joint strategic board for the Carclaze garden village, which has been many years in gestation. The key thing has been to bring together the local authority, the private sector-led development body and the landowner in a partnership. That partnership has been incredibly successful. It took the development through the recession after 2008. The developer is Egyptian-owned, so the partnership took it through the storms of the Arab spring in terms of its financing. It is now in front of planning, and I think will be delivered. That has been possible only because we have built a really strong partnership between all parties, including the private sector, so there is a very deep experience of people creating fantastic places for business reasons, as well as the very important experience of the council representing people and understanding the processes of local government. There has been a great partnership with the HCA as well.

I could not agree more with the noble Lord's comments. That is why, although this provision uses the powers of the New Towns Act, it is very much in a 21st century setting—and that is not just about localism; it is about partnership between all the stakeholders. I also make the point that it is about holding people to promises, because too often people see wonderful designs at the stage when something is proposed, but the moment when it is allocated or an outline is commissioned, it is traded and traded and, somehow, it gets watered down and not delivered. That experience is important for business, too.

Lord Mawson: I welcome that, and I absolutely agree with the noble Lord. The Civil Service finds it very hard to understand—and I think that the noble Lord is saying the same thing—that what really matters is having people around the table from different sectors who care about the place and are going to stay on this journey a very long time. It takes a long time to deliver these things and it is very difficult, but it is all about having the right people—people who care.

Lord Taylor of Goss Moor: In every case when I have advised on new settlements coming forward, I have advised local authorities, councillors and communities but also those promoting the project to establish the basis of the joint venture and partnership for delivery of the original objectives and to hold people to it. It is only by getting everyone around the table jointly to discuss that—again, that is the case at Carclaze—at every key stage, whether in looking at the master plan and working out how to deliver affordable housing and quality, wherever the ultimate power may lie to take the decision, that we have all been jointly involved in coming to the right conclusion. That is what these bodies achieve; they are, ultimately, about keeping it honest, but they are also about getting it delivered. The noble Lord clearly has that experience in the Olympic context, and we need that experience in each of these initiatives.

The last thing that we want is to create bland housing estates in the countryside, not great communities. If we do the former, the project will die very quickly, and public enthusiasm will disappear; if we get it right, people will clamour for what are actually the intentions of the 1947 planning Act, when people talked about stopping suburban sprawl, rejuvenating cities and towns and building new communities to meet the needs of those who could not be housed. This is about returning to those objectives and putting back under control the suburban sprawl that we see once again too often around our historic towns and cities. It is a new option and a better one.

I thank the Minister very much for his supportive comments. We have worked very closely on getting this right.

Amendment 2 agreed.

Amendment 3

Moved by ***Lord True***

3: After Clause 14, insert the following new Clause—

"Local authorities meeting housing targets to be permitted to override prior approval

(1) Where a local planning authority can show that—

(a) the exercise of prior approvals for the conversion of offices to residential is having a detrimental effect on the local economy, including the expulsion of, or non-renewal of leases to, businesses to make way for residential development, and

(b) the relevant local authority is meeting its housing targets and can show reasonable evidence that it will continue to do so,

the local authority concerned may, notwithstanding any regulation or provision to the contrary, require any future application in any part of, or the whole of, the local authority area to seek full planning permission and may bring any part of the adopted local plan, or relevant neighbourhood plan, into consideration in determining that application.

(2) A local authority may recover all permitted planning fees and costs in relation to any application for a development determination by prior approval, as if the application concerned were subject to all procedures of a normal planning application."

Lord True (Con): My Lords, this is Third Reading and there is other business before the House, so I shall endeavour to be brief on this matter. However, it is important. I shall seek not to repeat points that I made on Report and on previous Bills. The subject that I have been trying to deal with is the problem in parts of London in particular, but also in other high-value areas, where there is arbitraging under the current very

[LORD TRUE]
free prior approval system and where you can switch without planning permission from office to residential, taking a very large profit—threefold or fourfold—and in so doing throwing out of premises businesses that in some cases have been established there for a very long time. I have argued for many years that this was an abuse. In our case, in my authority of Richmond—I declare an interest as leader—we have lost 30% of our office space. As I explained to the House before, in half of those cases the offices were partly or wholly occupied by businesses.

5.45 pm

I have been very grateful, in pursuing a way out of and a resolution to this injustice, for the support from the noble Lords, Lord Tope and Lord Shipley, on the Benches opposite. This started about four years ago, when they were my noble friends, although I hope that they are still my friends. I also thank the noble Lord, Lord Kennedy—he is understandably not able to be in his place—who is also a London councillor and gave a great deal of support.

The amendment before the House is not intended to be perfect or to be included in the legislation. I reiterate in the absolute strongest terms my sense of gratitude towards my noble friend on the Front Bench and to his colleague, my noble friend Lord Young, for the way in which they and their officials have conducted themselves on this legislation. Following our debate on Report, my noble friend gave hope that if I took away the amendment, he would give consideration with colleagues to addressing the two key issues that are highlighted in this amendment—or at least two of the key issues. The first is the inability of the local council to address this problem. We discussed the difficulties with Article 4 and I am hopeful that we may get some suggestion that those difficulties could at least in part be addressed. Second is the fact that local authorities lose an enormous amount of money when a developer goes round through the prior approval route, as they do not have to pay planning fees. I gave the figures in a debate at a previous stage—hundreds of thousands were lost to my authority alone, where it would have been a clear open and shut case for the developer to get planning approval because the offices were clearly not of strategic purpose. Subsection (2) of the proposed new clause refers to that issue.

I bring this back before your Lordships, having been encouraged to believe that when my noble friend responds he might give me some hope, short of seeking to take a legislative route through your Lordships' House today, that there may be some meaningful and positive response from the Government to help local authorities address this issue and for redress—sadly, the stable door has been open for a long time—to lift the fear that some small businesses still have of this threat coming their way. I beg to move.

Lord Tope (LD): My Lords, I find myself once again in tandem with the noble Lord, Lord True. He said correctly that we have been pedalling together on this issue for, I think, about four years now—mostly against a very strong headwind, it has to be said, both under the coalition Government and the present Government. I join him in welcoming, shall we say, a slightly less strong wind, a gentler breeze, on this occasion.

I still have the view that the question of the conversion of offices to residential—which is in many cases entirely desirable, where there are redundant offices, and so on—should be a matter for the local planning authority to determine in the light of local circumstances and to get such planning benefit as may be appropriate and possible. I understand that the breeze is still too strong for us to go quite that far, but when the Minister replied to our debate on this on Report—indeed, we have debated it at every stage of this Bill—he made some sympathetic and encouraging noises to encourage us to withdraw our amendment, which we of course intended to do anyway.

I would like the Minister to clarify two particular points for me, both of which I mentioned on Report—I will not go over all the ground again. I made the point that Article 4 is usually cited as the answer to all questions on this matter, and I related the experience of my own borough. Incidentally, I should once again declare that I am a vice-president of the Local Government Association. The following is no longer a declarable interest, but I was for many years a town centre councillor, and indeed leader of the council, in a south London borough not too far from the borough of the noble Lord, Lord True, and I have seen the effect of this measure on the ground there. When my then authority applied to introduce Article 4, the Government of the day made it extremely clear that they would certainly not counsel an Article 4 direction for the entire borough. They said that to a number of other London boroughs, and no doubt other authorities too. Indeed, they would not even allow it to cover a wider area within the borough and insisted on it being very tightly drawn around the town centre. That provision has had inevitable effects since it came into operation in our town centre area. It has now spread to the district centres, where Article 4 does not apply, and where we have seen an alarming spread of offices being converted to residential use. These are not empty, redundant offices. The figures I have cited several times in this debate applied to our town centre. While we waited for Article 4 to take effect, 28% of the office space in the town centre was lost. That was not redundant space; two-thirds of the offices lost were in active use at the time and the businesses in them had to move.

I hope the Minister will tell us what the Government's attitude now is towards local authorities that wish to introduce Article 4 over a wider area, or indeed over the whole local authority area, particularly where local authorities like mine have achieved, and indeed exceeded, the housing targets for many years. We are more than meeting government and London government requirements on housing targets. Will we now be allowed more leniency in the areas in which Article 4 may apply?

Secondly, as I have already mentioned, in the period we had to wait to implement Article 4, we lost 28% of the town centre office space. There was a reason for that. If Article 4 is introduced immediately, the local authority is liable to pay compensation, which could run to very considerable sums. Therefore my authority, and most, if not all, authorities, give 12 months' notice

of the intention to apply Article 4. It is inevitable that if you give 12 months' notice of the intention to apply restrictions, landlords and developers with a mind to convert offices to residential use are bound to go ahead in the period before Article 4 takes effect, especially if that is as long as 12 months, as it has to be. I hope that when he replies the Minister will say something about this long period. If local authorities are still to be required to give 12 months' notice, can he say anything about their liability for compensation to those who feel they may have a case for that compensation?

I conclude, as did the noble Lord—my noble friend—Lord True, by thanking the Minister in this place and the Minister in another place for taking a very much more sensible and realistic attitude to this issue and for listening to actual experience on the ground. I hope they will be willing to adopt measures to improve this situation. I thank the noble Lord, Lord True, for his very considerable persistence and perseverance on this issue throughout the previous four years.

Lord Beecham: My Lords, I support the amendment and I hope the Government will react sympathetically to the objectives that noble Lords outlined. We certainly are at one with them. I speak from my experience in Newcastle. It is important that the Government should see the logic of the case that is made in the amendment, and I hope they will treat it accordingly.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in the debate on Amendment 3 in relation to office-to-residential conversion. I particularly thank my noble friend Lord True and the noble Lord, Lord Tope, for bringing before us again the issue of permitted development rights for change of use. This enables me to set out in more detail the proposal that I put before noble Lords on Report in a very sketchy form, and to which I promised to return. At the time, I spoke about the potential benefit of allowing greater flexibility over whether the permitted development right for the change of use from office to residential should apply to those areas that are delivering the homes that their communities need. I am sure noble Lords will agree that it is in everybody's interest to ensure that we do not put future housing delivery at risk. In fairness, that point was made by the noble Lord, Lord Tope.

The housing White Paper sets out compelling evidence of why it is crucial that we fix our broken housing market—one of the greatest barriers to progress in Britain today. Noble Lords will know that in the year to March 2016, over 12,800 homes came from the change of use from offices to residential alone. However, as I said on Report, I recognise that while the national picture is positive in terms of the contribution of permitted development rights to housing delivery, in some places there have been concerns about the local impact.

We can all agree that some authorities are high performers in delivering new housing. I am therefore pleased to confirm our future approach to Article 4 directions to remove the permitted development right for the change of use from office to residential where the local planning authority is delivering 100% or more of its housing requirement. As we have set out in our recent housing White Paper, we will introduce a new housing delivery test which will measure an area's local housing delivery against its housing requirement. It is proposed that the housing delivery test will be measured as an average over a three-year rolling period and data will be published alongside the net additions statistics in November each year. We propose that housing delivery will be assessed against an up-to-date local plan, London Plan or statutory spatial development strategy—or in their absence, published household projections—and that the first housing delivery data will be published in November this year. This will indicate to local authorities whether this additional Article 4 flexibility would apply to directions they brought forward after this date.

We are committing today that, following the publication of the housing delivery data, where an authority is meeting 100% of its housing delivery requirement and can continue to do so after removal of the right, and where it is able to demonstrate that it is necessary to remove the right to protect the amenity and well-being of a particular area—that might address the point that the noble Lord, Lord Tope, raised; there is still that continuing obligation although it may conceivably be a larger area than at present, but there is not the necessity to satisfy that test—the Secretary of State will not seek to limit a direction applying to that area.

When considering whether to bring forward an Article 4 direction regarding office-to-residential conversion, the local planning authority must demonstrate that it can continue to meet its housing requirement when the right is removed. This provides an important safeguard to ensure that local areas will continue to deliver the homes that communities need. For instance, we know that in the year to March 2016, the homes delivered under the right made a significant contribution to housing delivery in some areas.

Importantly, the Article 4 direction must continue to meet the test set out in the National Planning Policy Framework. As I say, the local planning authority must still provide robust evidence to demonstrate that removing the permitted development right is necessary to protect the amenity and well-being of the area where the right is to be removed. This could include impact from the loss of office space. I hope that is helpful to the noble Lord and to other noble Lords who have participated in the debate on the Bill. Where these tests are met, we would look more generously at the area across which the direction would apply and not seek to limit the direction. Of course, housing delivery changes over time. Therefore, local planning authorities should review their housing delivery annually and, if it falls below 100% in subsequent years, we would expect them to review the direction and cancel or modify it as necessary. The local authority may then be able to bring forward a further direction at a later date on the back of improved delivery where it had dipped below the housing delivery test.

This approach reflects the intent of the noble Lords' amendment. It allows areas that are meeting their housing requirements local flexibility in having a greater say over where the right will apply as long as they can demonstrate that removal of the right is necessary and that they will continue to meet their housing need.

[Lord Bourne of Aberystwyth]
It enables local planning authorities to determine such cases in accordance with their local plan, any neighbourhood plan and other material considerations. At the same time, it provides safeguards should housing delivery decline. Moreover, it does so within the existing Article 4 processes, with which local planning authorities are familiar.

6 pm

The noble Lords also raised concerns on Report about planning application fees but, before I move on to that, I want to respond to a point raised by the noble Lord, Lord Tope, about the compensation payable and the 12-month notice period. National permitted development rights are set at a level which the Government believe is generally appropriate across the country, and only in exceptional cases should local authorities find it necessary to restrict these rights. In many cases, local authorities can avoid a compensation liability, as the noble Lord said, by giving 12 months' notice of their intention to introduce an Article 4 direction. So they could proceed with an Article 4 direction without notice but, in those circumstances, they would be liable to compensation, and we are not proposing to alter that provision.

I turn to the loss of planning application fees where an Article 4 direction is in place and the impact that this has on local authority resources—a matter on which my noble friend Lord True and the noble Lord, Lord Tope, have also focused. I am pleased to be able to respond to the concerns on this front as well, and I can today commit to a further measure to support local authorities.

We will bring forward regulations to allow local planning authorities to charge the statutory planning application fee where permitted development rights are withdrawn by an Article 4 direction. We believe that this is an important step in recognising the resource commitment for authorities in determining planning applications in areas where the permitted development rights have been removed for sound policy reasons. This will further support timely local decision-making in bringing forward development quickly in accordance with local needs.

Noble Lords will be aware that we have committed to a 20% uplift in application fees from July where the funding is to be used to support the planning function of the local authority. I can confirm that this uplift will also apply to the fee for prior approval. We believe that this approach in respect of Article 4 directions provides local flexibility for areas that are meeting housing need, while ensuring the continued delivery of homes under the right. As I committed to do on Report, I have set out this approach today and I have also set it out in a letter to my noble friend. I am not sure whether that letter has reached him but I will place a copy in the House Library. This will be supported by detailed guidance, which we will provide nearer the time.

In closing, I thank both my noble friend Lord True and the noble Lord, Lord Tope. I have a graphic image of the two of them on a tandem coming through south-west London and initially facing a strong headwind but now heading for the sunny uplands with a gentle breeze. It will be an image that is with me for some time. However, I thank them for the reasoned, constructive and patient way in which they have approached this issue—particularly my noble friend Lord True, who I know has been absolutely determined in relation to this issue over a considerable time and has approached it with great courtesy and great patience. However, in the light of the commitments that I have made, I respectfully ask him to withdraw his amendment.

Lord True: My Lords, I am extremely grateful for what my noble friend has said. My great-grandfather was a baker. I am told that my grandmother once said to him, "Some of these loaves don't look very good", to which he replied, "Well, it's the food they want, m'duck, not the fancy". The fact is that of course one could quibble about the issue of compensation and the crux between the 12 months' notice and so on. There are issues there and there will be continuing discussion between local authorities and the Government. However, it would be churlish not to concentrate on the substantial steps that have been taken. I am very grateful for those, particularly obviously in relation to the fees but also—we will study the details—for the very clear indication that some of the difficulties in using Article 4 will be removed.

As well as thanking my noble friends on the Front Bench, I thank the Housing Minister, Mr Barwell, who intervened in this matter very effectively and courteously. I do not want to destroy his career but at a meeting of some of the London council leaders earlier this week at which all three parties were represented, the change that the Minister had made was commented on, and this is one small token of it.

I particularly thank my noble friends on the Front Bench and colleagues on the Benches opposite, who have been very supportive over a long period. Having said that, I beg leave to withdraw the amendment.

Amendment 3 withdrawn.

Clause 42: Regulations

Amendment 4

Moved by ***Lord Bourne of Aberystwyth***

4: Clause 42, page 38, line 26, leave out "27(1), (2) or (3)" and insert "27(1) or (3)"

Lord Bourne of Aberystwyth: My Lords, in moving to this last amendment to be debated, I should note that this is a minor and technical amendment to correct a drafting inconsistency between Clauses 27(2) and 42(3).

In Clause 27, the Secretary of State has the power to make regulations concerning the temporary possession of land under subsections (1), (2) and (3). The Welsh Ministers, however, have the power to make regulations only under subsections (1) and (3) because none of the legislation referenced in subsection (2) is devolved. Therefore, Clause 42(3) specifies that regulations made by the Welsh Ministers under Clause 27 must follow

the affirmative resolution procedure. Amendment 4 thus removes the redundant reference to Clause 27(2). I beg to move.

Amendment 4 agreed.

Schedule 1: New Schedule A2 to the Planning and Compulsory Purchase Act 2004

Amendment 5

Moved by ***Lord Bourne of Aberystwyth***

5: Schedule 1, page 48, line 7, at end insert—

"(3) The regulations may in particular impose duties on an examiner which are to be complied with by the examiner in considering the draft plan under paragraphs 10 and 11 and which require the examiner—

(a) to provide prescribed information to each person within sub- paragraph (4);

(b) to publish a draft report containing the recommendations which the examiner is minded to make in the examiner's report under paragraph 13;

(c) to invite each person within sub-paragraph (4) or representatives of such a person to one or more meetings at a prescribed stage or prescribed stages of the examination process;

(d) to hold a meeting following the issuing of such invitations if such a person requests the examiner to do so.

(4) Those persons are—

(a) the qualifying body,

(b) the local planning authority, and

(c) such other persons as may be prescribed.

(5) Where the regulations make provision by virtue of sub-paragraph (3)(c) or (d), they may make further provision about—

(a) the procedure for a meeting;

(b) the matters to be discussed at a meeting."

Amendment 5 agreed.

Bill passed and returned to the Commons with amendments.

Higher Education and Research Bill

Report (4th Day)

Relevant documents: 10th and 19th Reports from the Delegated Powers Committee

6.07 pm

Schedule 9: United Kingdom Research and Innovation

Amendment 159

Moved by ***Lord Prior of Brampton***

159: Schedule 9, page 104, line 38, after "matters" insert ", the charitable sector"

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Prior of Brampton) (Con): My Lords, this is the first Bill that I have brought through the House of Lords to this stage, it having been through Committee, and I have to say that it has been a good experience. Everyone who has contributed can take some credit for having improved it considerably. For me, it is a good example of the value this House can bring to a Bill of this kind. Therefore, I thank all noble Lords who have contributed to improving the Bill.

I should like to start with the governance structures of UKRI and its councils. The issue of co-operation with the charitable sector was debated widely in Committee. Following the compelling argument put forward by a number of noble Lords—including the chair of the Association of Medical Research Charities, the noble Lord, Lord Sharkey—I am pleased to have tabled Amendments 159 and 164, which are also kindly supported by the noble Lord, Lord Mendelsohn.

These amendments will require the Secretary of State also to consider experience of the charitable sector on the equivalent basis to those other criteria in Schedule 9 when making appointments to the UKRI board. In doing so, we are recognising the vital contributions of charities to research in the UK, and ensuring that UKRI will be fully equipped to work effectively with this important sector.

In Committee, the noble Lord, Lord Krebs, and the noble Baroness, Lady Brown, tabled an amendment calling for an executive committee for UKRI. On that occasion, I was able to offer my reassurance that such a committee would be established. Now going a step further, we have tabled Amendments 168 to 171, which will include that in the Bill. Amendment 168 will also further empower the executive committee by enabling it to establish sub-committees, should it deem it necessary.

Also in Committee, a number of noble Lords made the case for increasing the maximum number of ordinary members on each council; including the noble Baroness, Lady Neville-Jones, and the noble Lord, Lord Willis, who drew on their own experiences as research council board members. Having listened to their concerns, we have now tabled Amendment 165 which will increase the maximum number of ordinary council members from nine to 12, thereby allowing individual councils greater flexibility for managing their breadth of activity, while still being mindful of best practice guidance on governance structures and board effectiveness.

While discussing the councils, allow me to introduce Amendment 167. In Committee, the Secretary of State's power to make one appointment to each of the councils was questioned. This is an important power; in particular, it provides the mechanism to appoint an innovation champion who will sit on both the UKRI board and Innovate UK council. However, it is right that such appointments should be made in consultation with UKRI. This amendment seeks to address concerns by requiring the Secretary of State to consult the UKRI chair before making such an appointment.

Amendments 179 to 181 seek to address the concern, raised in Committee by noble Lords, including the noble Lord, Lord Sharkey, that UKRI may steer away from the pursuit of knowledge for knowledge's sake, with the Bill being too narrowly focused on economic growth. As I did in Committee, I reassure noble Lords that UKRI will fund the full range of basic and applied research and will create opportunities to make

[Lord Prior of Brampton]
serendipitous discoveries. I have tabled these amendments to make this absolutely clear. Amendment 181 explicitly recognises that the advancement of knowledge is an objective of the research councils. Meanwhile, Amendments 179 and 180 clarify that when councils have regard for economic growth in the UK, this may result in both indirect as well as direct economic benefit.

Lord Sharkey (LD): My Lords, I declare an interest as chair of the Association of Medical Research Charities. Government Amendments 159 and 164 mirror amendments that we put down in Committee. As the Minister said, they rectify the omission of the desirability of experience of the charitable sector in those appointed to UKRI. The charity sector plays a vital role in UK research. Medical charities alone spend £1.4 billion each year, 93% of which goes through our British universities. It is clear that UKRI needed to recognise the importance of engaging with and understanding the sector. Sir John Kingman and the Minister were quick to accept that. These amendments put that acceptance on the face of the Bill. We thank the Minister for that and enthusiastically support the amendments.

Amendment 165 responds to a Committee amendment from my noble friend Lord Willis and me. It increases the maximum number of members of research councils from nine to 12. In Committee, my noble friend Lord Willis confessed that in our proposal to increase membership we had chosen a completely arbitrary number. We simply wanted to tease out from the Minister the reasoning behind their proposal for what was then a truly radical reduction in the size of the councils to nine from an average today of around 15. I am not sure we really got an explanation then in Committee, and I am not sure we have had a rigorously defended explanation today of this new figure of 12. Perhaps it is simply an application of the Goldilocks principle. However, nine seems to us to be too few and much too radical a reduction. Twelve is better than nine and likely to cause less disruption to the working of the councils themselves, and we welcome the amendment.

Amendment 165A is in my name and those of my noble friend Lord Willis of Knaresborough and the noble Lord, Lord Mendelsohn, whose support I am grateful for. As in Committee, the amendment would preserve the position of lay members on the research councils. As I pointed out, at the moment the existing councils have between 10 and 17 members, with an average of 15, of whom four or five are lay members, depending on how one defines "lay". I am sure the Minister would readily acknowledge the importance of having lay members on the council and the valuable contributions they make, not least in combating magic circle groupthink. Our amendment would simply include in the Bill the requirement that councils have lay members. At a time when the membership size and constitutional and governance arrangements of councils are all being rewritten, we believe it is important that the Bill preserve lay membership. I hope the Minister can confirm the Government's commitment to lay membership of councils, preferably by accepting Amendment 165A, but I am sure there are other means of doing that.

Finally, we welcome Amendments 179, 180 and 181, which helpfully clarify the areas to which the councils must have regard when exercising their functions. Amendment 181 is particularly useful. Its inclusion avoids imposing on councils what may be seen as exclusively economic obligations.

6.15 pm

Baroness Brown of Cambridge (CB): My Lords, I give my strong support to the government amendments in this group that allow for larger research councils, including an executive, and make it clear that our research can aim just to advance knowledge. I am very much an applied scientist, but I think it is hugely important that people are able do research that is just about moving forward the frontiers of their subject, even if we may not know for many years whether it has any purpose or practical application. I am delighted to see that such a provision has been included. I thank the Minister for not only listening to the comments of noble Lords and the research and innovation community, but responding to them.

I also add my support to Amendments 164A and 166A in the name of the noble Lord, Lord Mendelsohn, which would add a senior independent member to each council. I encourage the Minister to adopt that approach among the many other excellent improvements that he has already made.

Lord Krebs (CB): My Lords, I, too, echo the thanks of the noble Baroness, Lady Brown, to the Minister, the Bill team and the honourable Member for Orpington for the fruitful discussions and for listening to the points we raised at earlier stages of the Bill. I strongly support the government amendments in this group. There are two amendments with my name on them, which have already been discussed: on the establishment of an executive committee of the executive chairs of the research councils. I should declare that I am a former chief executive of the Natural Environment Research Council, so I have first-hand experience of this issue.

The noble Baroness, Lady Brown, and the noble Lord, Lord Sharkey, both mentioned the importance of Amendment 181, which sets out that one of the research councils' objectives is the advancement of knowledge. In fact, I would go further and say that the core objective of research is to advance knowledge. The fruits of that may be to improve the economy or quality of life but, as I said at Second Reading, one can never predict where those fruits will grow. I quoted the words of Nobel Prize winner Andre Geim, saying how important the advancement of knowledge for knowledge's sake was in helping to promote the well-being of society and of the economy.

Amendment 164A concerns a senior independent member. I would have preferred to have a non-executive chair because I know from my own experience as the chief executive of a research council that it is quite hard to fill the roles of both the chair of the board and the proposer of initiatives to the board, but I understand that for various reasons the Government are not willing to go down that road. The role of the senior independent member who can be a mentor to the executive chair,

and in difficult circumstances perhaps chair the board if it wishes to take the executive chair to task, is an important addition.

Also from my own experience, I strongly support the notion of lay members on the council as set out in Amendment 165A. There were occasions when I was the chief executive of the NERC when disputes between the warring factions of the academics—the earth scientists, the oceanographers, the ecologists and the atmospheric scientists—became so severe that I had to call upon the lay members to act as brokers in order to resolve them. I can hear the noble Lord, Lord Willetts, laughing at that remark, so obviously he has seen that kind of phenomenon before. The lay members of the research councils will have a key role to play and we should certainly support their inclusion among the 12 board members.

That is all I want to say at this stage, other than to repeat my thanks to the Minister and to noble Lords on these and other Benches with whom I have worked in trying to improve the Bill; I think we have significantly improved this part of it.

Lord Broers (CB): My Lords, I compliment the noble Viscount, Lord Younger, and the noble Lord, Lord Prior, on their willingness to talk about these issues and on the changes that have been brought about in the Bill. In the end, it has been a very positive experience. I too would like to support Amendments 164A and 166A, tabled by the noble Lords, Lord Mendelsohn and Lord Prior, as they resonate with the opinion that I expressed on Report. Those points have reached a satisfactory conclusion.

Lord Mendelsohn (Lab): My Lords, in Committee certain clear governance gaps were identified which the Government have addressed in some measure, and we thank them for their positive response. Indeed, we have signed the government amendments and we are pleased that such a positive response has been forthcoming. We would like again to associate ourselves with Amendment 165A tabled in the name of the noble Lord, Lord Sharkey, which addresses the important point about the valuable contribution which can be made by lay members.

Amendments 164A and 166A tabled in my name propose that each council should comprise a senior independent member alongside an executive chair and the other council members. This would ensure an element of independence and balance in the governance of the council, complementing the role of ministerial appointees. We believe that there is still a weakness in the governance of the research councils with the establishment of executive chairs and the UKRI governance structure. We also feel that without a proper governance role, the membership of research council boards will be denuded of talent if they believe that they are not part of an effective operating board. In Committee we discussed whether appointing chairs to research councils might address this weakness, and Amendments 164A and 166A, as the noble Lord, Lord Broers, has just pointed out, mark an evolution in the debate.

We believe that this is a sympathetic and effective change which is consistent with the Government's objectives and is likely to benefit the governance of research councils. The senior independent member is modelled on the practice in public companies of having a senior independent director. The title in this case is "member" specifically to ensure that the role is not confused with the duties of a director, which would raise structural issues that are not appropriate to the Bill. In the private sector, appreciation of the important role played by the senior independent director has grown in recent years. It was introduced in 2003 at the time of the Higgs review of the combined code, and the idea was that the senior independent director should be available to shareholders if they had reasons for concern that contact through the normal channels of the chairman and the chief executive had failed to resolve. Over time that remit has changed and the senior independent director is seen as a versatile intermediary who is in part ambassador, conciliator, counsellor, senior prefect and kingmaker. Most importantly, it establishes an address that stakeholders are able to go to and takes away the sometimes divisive politics of trying to find an appropriate address.

It is in this area that the role would be most useful in the context of UKRI. The senior independent member would ensure that there is a recognised channel to use from the level of the board of the research council to the board of UKRI to make sure that matters can be solved and conflicts and issues resolved. It is about not establishing new lines of management but creating a governance structure which is flexible enough to resolve issues as they arise. We have not set out a detailed role or job description, and certainly the latter is not appropriate for legislation, but there is flexible scope to ensure that such an individual can play a useful role in many different circumstances, from deputising in situations to leading aspects of succession processes to reviews of board effectiveness and other such matters. I hope that the Minister will see this amendment as a useful and flexible suggestion.

Lord Prior of Brampton: My Lords, first, I thank the noble Lord, Lord Mendelsohn, for not pressing his amendment requiring a shared OfS and UKRI board member with at least observer status. While I do not think that such arrangements need to be put on the face of the Bill, I recognise absolutely the value of establishing such a link between the OfS and UKRI boards. As such, I am pleased to be able to confirm that the chairs of both the OfS and UKRI would welcome an observer of each other's organisations at their respective board meetings.

I turn now to Amendment 165A. The noble Lord, Lord Mendelsohn, and the noble Lord, Lord Willis, drawing on his experience as a member of the Natural Environment Research Council, have previously outlined the value of lay members, and they have been supported today by the noble Lords, Lord Sharkey and Lord Krebs. Although in the future appointments to councils will be a matter for UKRI, I should like to take this opportunity to make it clear that the Government have the full expectation that the current practice regarding lay member representation will continue and we will commit to reflecting this in guidance to UKRI. Perhaps I should add in passing that the number of 12—the Goldilocks solution—reflects best practice advice from the Cabinet Office. I cannot recall

[Lord Prior of Brampton]
what the code says on numbers, but 12 is a manageable figure. If a board is much larger than 12 members, it becomes much more difficult for it to be effective.

The idea of a senior independent member was raised in Committee by the noble Lord, Lord Broers, and described just now by the noble Lord, Lord Mendelsohn. I really cannot add to his description of the sometimes critical role in acting as a very important channel, in this case to UKRI from council members. That could be extremely important. I have some words here about the senior independent council member, but given the way the noble Lord has set out the role, I feel that I no longer have to do so; I will simply agree with what he said.

Having discussed the issue with the chair and chief executive of the future UKRI, I am pleased to be able to confirm that a member of each council will be appointed as the senior independent council member. This does not need to be set out in the legislation, not least because the amendment would result in an additional member of each council beyond what I believe to be a reasonable and workable number. Instead, I can commit to making this a permanent feature of the organisation through setting the role out clearly in the governance documentation for UKRI. I therefore ask the noble Lord not to press his amendment.

Amendment 159 agreed.

Amendments 160 and 161 had been withdrawn from the Marshalled List.

Amendment 162

Moved by ***Lord Stevenson of Balmacara***

162: Schedule 9, page 105, line 2, leave out from "least" to end of line 4 and insert "—

(a) one person with relevant experience of Scotland;

(b) one person with relevant experience of Wales;

(c) one person with relevant experience of Northern Ireland;

with the respective agreement of the Scottish Government, Welsh Government and Northern Ireland Executive."

Lord Stevenson of Balmacara (Lab): My Lords, Amendment 162 is taken from Amendment 476, moved in Committee by the noble Lord, Lord Patel. While there is no dissatisfaction with the way the Government responded at that stage, it is more that, particularly in relation to the changes wrought by the decision reached a few days ago for the Scottish Government to try to move forward on a second independence referendum, a certain piquancy has been added to the debate and discussion. It might be time to reflect a little further on some of the issues that were raised on that occasion.

When the noble Lord, Lord Patel, moved his amendment in Committee, he was clear that he did not expect this to be a surrogate for a change in the way in which UKRI is set up. It is not a representative body and I do not think that either he or I in this amendment are trying to make that change. However, as the noble Lord pointed out, there are significant differences in the customs, practice, legal systems and operational practices of the Scottish university sector and research community to suggest that at least there, and I believe also in Wales and Northern Ireland, it would be sensible for UKRI to have regard to—more than just once in a few returns around the membership cycle—having someone with experience and practical knowledge of how things operate in those parts of the United Kingdom. In Committee we also talked about other parts of England requiring certain attention, but I do not think the difference between what happens in the regions of England in any sense mirrors the differences present in the legal and other structures that operate in Scotland and will over time also accrue in Wales and Northern Ireland.

6.30 pm

In re-presenting this amendment, I make no excuses for going over some of the same ground, but it is important that we reflect very carefully before agreeing to a system that will not give specific responsibilities to those who have worked in and have experience, understanding and knowledge of the operation of Scottish universities and research institutions. In his response last time the noble Lord, Lord Prior of Brampton, quoted the words of Sir Alan Langlands, who has been vice-chancellor of the University of Dundee. He said essentially what I have been saying, which is that,

"given the dynamics of devolution and the fact that essentially we are dealing with four different financial systems and four different policy frameworks, the one thing that has stuck together through all this has been the UK science and research community".

He draws a different conclusion from the one I would draw, but the point he makes is worth saying.

I hope I have said enough on this occasion to show that, while we welcome what the Government did in the other place to ensure that the Secretary of State, in appointing members to UKRI and its board, must have regard to the desirability of including at least one person with relevant experience in either Wales, Scotland or Northern Ireland, I do not think it is sufficient. Will the noble Lord think again about this issue? I beg to move.

Lord Wallace of Tankerness (LD): My Lords, I shall speak to Amendments 184, 193 and 194 in my name. Amendments 184 and 194 are supported by the noble Lord, Lord Patel. In many respects these amendments complement the amendment that has just been moved. I will describe briefly what they would do. Amendment 184 would require that, before approving a research and innovation strategy for UKRI, the Secretary of State would be obliged to consult the devolved Administrations. Amendment 193, which relates to Clause 100, would add an obligation to the general duties of UKRI to have regard to the promotion of research and innovation in Scotland, Northern Ireland and Wales. Amendment 194 refers to guidance that would be given by the Secretary of State to UKRI. It states that the Secretary of State,

"must have regard to the promotion of research and innovation in Scotland, Wales and Northern Ireland".

I apologise that I was not able to be here in Committee as I was abroad at the time, but I noted the debate and the amendments moved very effectively and eloquently by the noble Lord, Lord Patel. He emphasised that

this is not special pleading for Scotland or any of the devolved parts of our United Kingdom; rather, it seeks to address a situation where UKRI will have a remit right across the United Kingdom but, in respect of some parts of its business, will be focused on England only. We know that, with the best will in the world, if you are dealing day by day with one part it is sometimes easy not to have the full picture of—I do not mean ignore—what is going on in other parts of the United Kingdom.

We know from what has been said in previous debates that the contribution of Scotland's universities to United Kingdom research and innovation has been immense. Scottish universities certainly punch well above their weight in terms of the research funding that they have received from the research councils. That is a mark of the quality of the research that goes on in Scottish universities and, in turn, of what they put back into United Kingdom research and innovation. That is something I am sure we all wish to see continued.

There have of course been reassurances from the honourable Member for Orpington—the Minister, Mr Jo Johnson MP—and from Sir John Kingman that UKRI will work for the benefit of all parts of the United Kingdom. I do not for a moment doubt the sincerity of these aspirations and the personal commitment, but the principal of the University of Edinburgh—I declare an interest that it is one of my almae matres—Professor Tim O'Shea, said in a letter to Mr Jo Johnson on 17 February:

"I remain concerned that UKRI's attention to devolution issues relies on personal trust rather than being hard-wired into the statutory framework of UKRI".

These amendments would ensure that some of that hard-wiring was put in statute.

I read the Minister's response to the debate on 30 January. I also express my thanks to him and his officials for meeting me earlier this week to discuss these amendments. In response to the amendment on statutory consultation he said:

"I disagree that this should be achieved by requiring the Secretary of State to formally consult with the devolved Governments on reserved UK government policy, which would undermine the whole devolution settlement".—[*Official Report*, 30/1/17; col. 1004.]

With respect, there is a bit of hyperbole there; nor do I think it is wholly accurate, as I will deal with in a moment.

There is no doubt that important aspects of research and innovation are devolved. I recall when I had responsibility in the Scottish Executive as Minister for Enterprise and Lifelong Learning. The annual letter that I sent out to the Scottish Higher Education Funding Council referred to priorities, including priorities for research. Research and innovation are in a number of respects devolved matters. The Scottish Government put money into research and innovation in Scotland. This is not a situation where, as was perhaps suggested, having statutory consultation would trespass on a reserved matter. It is important that we have such consultation because important work in research will be going on with which the Scottish Government, or for that matter the Welsh and Northern Irish Administrations, are wholly cognisant.

The Minister's department, BEIS, will be dealing day in, day out with what is going on in England. It will have a much better picture of what is going on in England, but it is no criticism that it will not be as familiar with the landscape of research and innovation in Scottish institutions. It would not be a very effective use of public funds if, through lack of proper consultation, it led to duplication or it cut across things that were being done in Scotland that could have been done much more effectively and efficiently if there had been that consultation.

My preferred option would certainly be that the Minister would accept the hard-wiring of a statutory requirement, but he knows that devolution has shown flexibility as it has proceeded. There are memorandums of understanding between the United Kingdom Government and the Scottish Government, and indeed the other devolved Administrations. I hope he would be willing to consider that a memorandum of understanding would be possible if he does not feel that the statute book is the proper place for these requirements. Regarding the guidance that the Secretary of State would give to UKRI in Amendment 194, a commitment from the Minister that that guidance will not be in statute but nevertheless would include a direction to UKRI to have regard to the promotion of research and innovation in Scotland, Wales and Northern Ireland would be very welcome indeed.

I said that it was not wholly the case that these matters were reserved. The reservation in head C12 in Part II of Schedule 5 to the Scotland Act 1998 refers to:

"Research Councils within the meaning of the Science and Technology Act 1965. The subject-matter of section 5 of that Act (funding of scientific research) so far as relating to Research Councils".

That has been amended quite significantly. That amendment, passed by a Section 30 order under the Scotland Act in 2004, added the Arts and Humanities Research Council. When it was established it was not covered by the reservation in the Scotland Act 1998. I recall that when the then Higher Education Bill was going through this Parliament, I had to take the legislative consent Motion through the Scottish Parliament to allow the Arts and Humanities Research Council to apply in Scotland. There was subsequently an order—I think that it was the first ever order which reserved something which had previously been devolved back to the Westminster Parliament. My concern is that the minor repeals schedule to this Bill—it is a small-print detail—puts the work of UKRI into Schedule 5 to the Scotland Act. The Bill defines the functions of UK Research and Innovation as to,

"carry out research into science, technology, humanities and new ideas".

That is probably quite right, because, as we stand here today in March 2017, we do not have a clue what kind of issues will be here in, let us say, March 2027, where it would seem perfectly right and proper for there to be research council activities. However, I do not see "new ideas" in the 1965 Act. Therefore, what I think is being done by this legislation is to extend the reservation. I am not sure that the legislative consent Motion picked that up. I do not think for a moment that it is a deliberate subterfuge or land grab, but I think that it

[Lord Wallace of Tankerness]
has not been fully thought through. I invite the Minister to address that, because he knows that we are in sensitive times dealing with devolution and devolved and reserved issues.

My main point to the Minister is that he should recognise the different landscape—the different environment—for research and innovation. There is great merit in going forward as a United Kingdom, but the specific arrangements in Scotland, Wales and Northern Ireland have to be catered for.

Baroness Garden of Frognal (LD): My Lords, I support the amendments in this group. I add thanks from these Benches to those expressed to the noble Lord, Lord Prior, and the noble Viscount, Lord Younger, for the government amendments that they have brought forward and for supporting those from noble Lords, which have certainly made it a much better Bill.

Amendment 162 mirrors an amendment which we brought forward in Committee. For all the good reasons which the noble Lord, Lord Stevenson, has expressed, it seems niggardly to have one person trying to represent the three devolved Administrations. The arrangements would be stronger if there were somebody with experience of each of the three. There are distinct differences in higher education provision in the four parts of the United Kingdom. UKRI would benefit if it had relevant experience of all. We note that the amendment insists not that the person be Scottish, Welsh or Northern Irish but that they have experience of those three devolved Administrations. I hope that the Minister will look favourably on it.

The Earl of Lindsay (Con): My Lords, the amendments proposed by the noble Lord, Lord Stevenson of Balmacara, and the noble and learned Lord, Lord Wallace of Tankerness, address an important issue. I acknowledge that the significant proportion of research policy and funding reserved to Westminster offers advantages in its ability to support and encourage a cross-UK research ecosystem that can benefit all parts of the UK. I have had first-hand experience of what such cross-UK advantages can achieve from a Scottish perspective.

Until recently, I was chairman of a Scottish HEI with a strong research track record. The HEI that I refer to is SRUC, or Scotland's Rural College. In the 2014 research excellence framework results, SRUC, in collaboration with the University of Edinburgh, came top in the UK for research power for agriculture and veterinary and food science. This is just one example of the extent to which Scotland contributes significantly to the overall strength of the UK research sector.

However, the ability of a cross-UK research ecosystem to benefit all parts of the UK, and in turn to benefit from all parts of the UK, relies on the research infrastructure. More specifically, it relies on a research infrastructure designed and operated in such a way that it clearly involves, understands, reflects and serves the needs of all parts of the UK equally.

In this respect, I am aware of well-placed concerns about the currently proposed design arising from the view that the different parts of the UK need a better defined role and involvement in setting overarching UK research policy and direction, hence my interest in Amendments 162, 184, 193 and 194 and my hope that my noble friend will support their intent.

The amendments would result in more structured, more certain and less ambiguous protection of UKRI's duty and capacity to act in the interests of the whole UK. It could make sense for UKRI's research strategy to be subject to consultation with the devolved Administrations. It could make sense for UKRI and for the councils to include members with experience drawn from the devolved jurisdictions of the UK to ensure that decisions were informed by knowledge of the diverse contributions made by different parts of the UK. It would also make sense for Innovate UK's priorities to be informed by the specific economic policies of the devolved jurisdictions as well as by the UK Government's economic policies. I hope that my noble friend will acknowledge the importance of the issues that the amendments address.

6.45 pm

Lord Prior of Brampton: My Lords, I thank all noble Lords who have spoken in favour of the amendments. I think we all share the sentiments that lie behind them.

Perhaps I may first deal with the interesting, rather technical point raised by the noble and learned Lord, Lord Wallace, about the scope of the matters in the Science and Technology Act 1965 that are reserved under the Scotland Act 1998. He raised it with me earlier in the week and I agreed to write to him on it if I can, as it is of a fairly technical, legal nature, and to put the letter in the Library for others to see if they are interested.

I acknowledge that I and the Government appreciate the sentiment of the amendments and the underlying concerns from those working in the devolved nations. It is essential that we continue to work together to secure for the long term the UK's global reputation for excellence in research and innovation. This joint working happens on a number of levels, from regular informal discussions to formal partnership arrangements. Where appropriate, it can include the development of an MoU between the bodies, the devolved Administrations and their agencies and institutions.

There are many such arrangements at present, from ESRC's MoU with the Scottish Government on the What Works programme to the MoU between HEFCE and the devolved funding bodies, which ensures the operation of the UK Research Partnership Investment Fund across the whole UK. There is even an MoU between BBSRC and the Scottish Government for the horticulture and potato initiative. These arrangements will continue and I can commit to new MoUs being put in place where appropriate. I know from my own experience that MoUs can be window dressing, but they can be of great substance—it varies, entirely depending on the intent behind them of both parties. I sometimes think that we are beguiled by an MoU, when it is the informal relationships that lie behind them which are often much more important.

As we have debated at length and agreed on a number of occasions, it is vital that UKRI, a body which will operate UK-wide, is empowered to work for the

whole of the UK. Noble Lords do not need to take my word for this. Duties for it are built into the Bill—hardwired, if you like—in multiple clauses.

Let me make it clear that these reforms will not affect current funding access for institutions in Wales, Scotland or Northern Ireland. As part of UKRI, the research councils and Innovate UK will continue to operate across the UK, funding projects through open competition on the basis of excellence wherever it is found.

On the UKRI board, the Bill as amended in the other place recognises that the Secretary of State has a duty to consider appointing at least one person with relevant experience of the devolved nations. This change means that the Bill already goes further than the current legislation, which makes no such requirement. Of course, this should not be taken to mean just one person. The search for UKRI board members now under way actively seeks suitable applicants with experience from across all nations of the UK. We want and are actively working to recruit a board that will have this broad experience. However, requiring experience of all four countries at all times could have potentially unintended consequences. If a member of UKRI's board were to step down from their position, we would not want only to be able to recruit a like-for-like successor with the same background as their predecessor. Equally, we would not want to limit experience of each nation to just one individual on the board if the quality of applications is high. Such flexibility is essential to ensuring that the diversity and quality needed to deliver the best outcomes for research and innovation across the UK is present on the UKRI board at all times.

Amendments 193 and 194 ask that UKRI and the Secretary of State have regard to the promotion of research and innovation in Scotland, Wales and Northern Ireland. I agree wholeheartedly with the sentiment of these amendments. In fact, we already provided for UKRI to undertake this in its functions, described in Clause 89(1)(h), which says that UKRI may,

"promote awareness and understanding of its activities".

However, the proposed drafting of these amendments limits the scope of this additional duty to Scotland, Wales and Northern Ireland. I understand noble Lords' admirable desire to ensure that the interests of Scotland, Wales and Northern Ireland are suitably protected, but this should not be done at the expense of English institutions. Ministers' responsibilities are to the whole UK, and the Secretary of State, and UKRI, should be held to account by Parliament on that basis.

I also share noble Lords' desire that UKRI's strategy should work for the whole of the UK. The strategy will be the product of consultation and engagement with research and innovation institutions and bodies from across the UK. Let me also assure noble Lords that this consultation will of course incorporate the views of the devolved Governments. However, the development of a full research and innovation strategy for the UK may be an infrequent affair. I have spoken to Sir John Kingman, chairman-designate of UKRI, and he agrees that regular consultation with the devolved Administrations on UKRI's priorities would be a more appropriate way of ensuring their views are captured and taken account of regularly. This would be consistent with the MoU between the UK Government and the devolved Administrations, in which the principle of good communication with each other is key. The primary aim is not to constrain the discretion of any Administration but to allow them to make representations to each other in sufficient time for those to be fully considered. I commit today to putting this intention regularly to consult on strategy with devolved Administration colleagues into guidance from the department to UKRI.

I have been clear today that there are many areas where we expect UKRI to work with the devolved Administrations, and many areas where we have a common goal. I have committed to capturing this in guidance to UKRI. Therefore, I ask the noble Lord to withdraw his amendment.

Lord Stevenson of Balmacara: My Lords, I thank all those who spoke in this debate. We learned a great deal from the contribution of the noble and learned Lord, Lord Wallace, whose experience is of course unparalleled in seeing things from the perspective of the devolved Administrations. The noble Earl, Lord Lindsay, has real experience of trying to operate in an institution that is largely based in Scotland but that draws from the strength of UK science and UK contributions to its work. He therefore understands the mechanics of what we are about.

It seems that Goldilocks has been ignored in this process. I agree that "not just one" does not exclude "more than one", but I think that Goldilocks would have wanted a little more in her porridge than just the promise that over a period of time there would be not one bowl but three bowls and that she could sup from all of them—I think my metaphor is about to run out, but noble Lords get my point. I hear what the Minister said, and he is an honest and good man. I am sure that he is trying to set up an arrangement under which we will achieve what is set out in Amendment 162. I will not press that to a vote on this occasion. We will take his assurances, but I hope he recognises that we are in difficult circumstances here.

Hardwiring may be too hard an approach to this. Underwiring, with support from below, may not be sufficient. I just hope that in some way, in the gap between memoranda of understanding and letters of guidance, we can get to a more settled arrangement over a period of time. I agree that it is difficult and I am not trying to constrain the Minister in any way. However, it is a bit defensive to say that one reason you do not wish to go down this route is so as not to disincentivise or in other ways constrain English institutions. That is exactly the sort of poison that will be used by those north of the border and in Wales and Northern Ireland to complain they are not getting fair treatment. The sensibility is probably right, but the wording must be looked at carefully. I hope that that message will get across.

We seem to be permanently in difficult times in terms of constitutional issues. This is not the time to let any chink through. If we all agree around the House, as I think we do, that this matter cannot be ignored and must be brought forward and foregrounded,

[Lord Stevenson of Balmacara]
then we can make progress together. Our commitment will not be doubted. I beg leave to withdraw the amendment.

Amendment 162 withdrawn.

Amendment 163 had been withdrawn from the Marshalled List.

Amendment 164

Moved by ***Lord Prior of Brampton***

164: Schedule 9, page 105, line 9, after "matters" insert ", the charitable sector"

Amendment 164 agreed.

Amendment 164A not moved.

Amendment 165

Moved by ***Lord Prior of Brampton***

165: Schedule 9, page 105, line 15, leave out "nine" and insert "twelve"

Amendment 165 agreed.

Amendment 165A not moved.

Amendment 166

Moved by ***Baroness Brown of Cambridge***

166: Schedule 9, page 105, line 16, at end insert—

"( ) In the case of Innovate UK, the Council must have a non-executive Chair, and the non-executive Chair and the majority of the Council members must be from science-related business backgrounds."

Baroness Brown of Cambridge: My Lords, I rise to move Amendment 166 and support the other amendments in this group, which focus primarily on ensuring that Innovate UK—a very important business-facing council which is joining a group of academic research councils in UKRI—retains its unique character, strong business focus and ability to act in different and innovative ways. Innovate UK is, for good reason, a very different organisation to the other research councils.

My Amendment 166 goes beyond the earlier proposal for senior independent members. I was delighted to hear the Minister's response on that, and I very much welcome the approach he will take on senior independent members. My amendment proposes that Innovate UK retains a non-executive chair and that a person appointed to the role be a senior figure from business.

Most of Innovate UK's funding goes to companies, not to universities or research institutes. This funding is used to support innovative and strongly product and process-focused research and demonstration. Innovate UK's support has direct economic benefit and will be all the more critical as we exit the EU, with a change in relationship to the industry-focused programmes of Horizon 2020. Innovate needs to retain its strong business voice, both inside UKRI and, critically, also outside it. That voice will be very much amplified if Innovate is chaired by a leading industrial figure and has a majority of business members on the board. This is the purpose of Amendment 166.

Government Amendments 173 and 183 are enormously welcome, recognising the need for UKRI and Innovate to be able to provide a wide range of forms of support to new products and companies, which could include investing in and forming companies as well as giving grants and loans, reinforcing Innovate's role in supporting UK business—as indicated in Amendment 183. I beg to move.

Lord Oxburgh (CB): My Lords, I will speak to Amendment 173A. On the face of it, it appears that the provision, under "Supplementary powers", in paragraph 16(3)(b) of Schedule 9 prevents the research councils from doing a number of things that are important to their fundamental function. Clearly, they should be able to continue to do them. I hope the Minister will be able either to explain to us that this amendment is unnecessary because of provisions elsewhere in the Bill that I have not spotted or to accept that this is something that needs to be changed.

Lord Broers: My Lords, I have put my name to Amendment 173A. Although the wording of the amendment does not say it, this applies especially to Innovate UK. In its functions, Innovate UK very often has to collaborate and work with industry, so it would seem unnecessary to forbid it from setting up joint ventures.

7 pm

Baroness Young of Old Scone (Lab): My Lords, I support Amendment 166 in the names of the noble Baroness, Lady Brown of Cambridge, and the noble Lord, Lord Stevenson of Balmacara. I apologise that I was not present for this item when it was dealt with in Committee because I was abroad, but I have read carefully the discussion that happened at that point.

I, too, am a member of the Science and Technology Committee, which looked at this issue recently. I share the concern that was raised by a number of witnesses that Innovate UK would be hijacked by the research councils and become the commercialisation and innovation arm of the research councils, and that that would usurp the hugely valuable role that Innovate UK currently has in being business facing and supporting innovation, especially by small businesses and especially at very early stages, when an entrepreneur has a bright idea but no backers and no proof of concept. I share the concerns of the noble Baroness, Lady Brown of Cambridge, that the membership and chairmanship of the committee for Innovate UK need to be very much business focused and to include a predominance of business-focused people.

I recognise that the Government have gone some way in Amendment 183 and I welcome that. Indeed, I welcome the meetings that I have had with Ministers here and Sir John Kingman and with the Minister of State for Universities and Science in the other place—who is not here today, although he regularly is—but it is probably my conversations with Jo Johnson that have

made me the most alarmed, I am afraid, because although he gives assurances throughout about the business-facing role of Innovate UK, every time I have heard him describe it unprompted, he immediately describes it as being the innovation arm of the research councils.

I hope the Minister will recognise that the role of Innovate UK needs further strengthening and that to give it a business-based chairman and a predominance of business-based members on the committee would do that.

The Earl of Selborne (Con): My Lords, I welcome government Amendment 183, which addresses the issue that the noble Baroness, Lady Young, has just referred to. As chairman of the Science and Technology Committee, I can confirm that we were indeed concerned at the original proposals, some months back now, that Innovate UK should be put together with Research England into a research council, because it was clearly absolutely essential that the business community should have confidence that it had Innovate UK very much at its disposal as its organisation, and it was not somehow going to be subsumed by the research councils to be the commercial arm of Research Councils UK.

I accept that the concerns expressed by the noble Baronesses, Lady Brown and Lady Young, have validity, but I recognise that the government amendments, particularly paragraphs (a) and (b) in Amendment 183, requiring arrangements to have regard to,

"persons engaged in business activities",

and,

"the need to promote innovation by persons carrying on business",

go a very long way from where we were some months ago. I, for one, am content to accept these as meeting most of my original concerns.

Lord Bhattacharyya (Lab): My Lords, I draw attention to my interests as declared in the register, and specifically to my chairmanship of WMG at the University of Warwick. I should also mention that I served as a member of Sir Paul Nurse's review of the UK research and innovation landscape that put all this together.

As peace appears to be breaking out today, I hope that those who laboured for so long in the salt mines of Committee will allow me a few brief words on Amendments 166, 173 and 183. All three will help Innovate UK promote partnerships between business and academia. I can tell your Lordships that that can be a tough job. When I started WMG, we encountered a lot of opposition. Academics are protective of their independence from commerce. However, engineers like making an impact—the bigger, the better—so their curiosity won out in the end.

We know that academic traditions can obstruct business collaboration. For example, grant application writing is a highly prized skill in universities, for a very good reason: critical assessment of research proposals is vital to academic debate. Businesses see this rather differently, especially if they are expected to disclose commercially sensitive knowledge. The Technology Strategy Board was created to address this cultural gap. We debated it here for about four years before it was formed because there were arguments on whether government should intervene and pick winners and many other arguments at that time. But we won and the Technology Strategy Board was created. Of course, this body is now Innovate UK.

Change is constant, so Innovate UK needs leaders who understand the way business and science are changing, as well as the flexibility to create the right partnerships. Amendment 166 would ensure this. Today, every business is multidisciplinary. If you make cars, you need programmers, cryptographers and medical researchers, as well as metallurgists and engineers. Bringing Innovate UK and the research councils under the same roof makes both scientific and commercial sense. Amendments 173 and 183 will ensure both business and scientific knowledge in Innovate UK's leadership, allowing it to build flexible partnerships with business.

Innovate UK's role is to act as a catalyst for business collaboration and partnership with academia. However, although flexibility is needed, Innovate UK should not be a bank. It has neither the resources nor the skill set. Instead, it should use its commercial expertise to create incentives to encourage businesses to invest in innovation. Its role is that of a matchmaker, not a moneylender. Its role has to be to improve productivity in this country via scientific research. The amendments in this group will help Innovate UK deliver on that vital task. More generally, the amendments proposed elsewhere today will do the same for UKRI as a whole.

Lord Bilimoria (CB): My Lords, in relation to Amendment 166, I want to emphasise again the importance of having individuals from a business background because, all too often with these initiatives, the Government have the best of intentions but there are people involved who do not have experience in business and have not run businesses, and it is when you run businesses that you realise that innovation and creativity are at the heart of it. I would go further and say that they must come from science-related business backgrounds. Any good business has to be innovative. In my industry—food and drink—you have to be innovative. But the key issue here is having people with business backgrounds at the top table.

Lord Stevenson of Balmacara: My Lords, I confirm that we are signed up to Amendment 166 and support the comments made by the noble Baroness, Lady Brown. It is important to get the balance right. There is probably another Goldilocks pun there but I am sure the Minister will pick it up and we will get a response to that.

We have also signed up to government Amendments 173 and 183, which are at the heart of the debate we had earlier. Again, this plays to the argument made by the Minister that there are ways of improving the Bill. We have been able to explore them in Committee and now on Report, and it is good to see that there are movements here that have support right round the House, which we are pleased to be part of.

We also feel that more constraints may emerge from the business consideration than have perhaps been allowed to emerge so far. As my noble friend Lord Bhattacharyya

[Lord Stevenson of Balmacara]
pointed out, given the genesis of all this through the Technology Strategy Board, and now through Innovate UK, it is important that institutions learn from their history and gain from their experience over time. The formation of UKRI and the involvement of Innovate UK in that was not recommended by Sir Paul Nurse, who just felt that the issue should be looked at. But the Government decided to move forward and it is therefore their responsibility to make sure that we get the most out of it.

My noble friend Lord Bhattacharyya was also at pains to point out that we are talking about the creation not of a bank here but of a ginger group. It is an opportunity to create incentives and a ginger group that moves forward with the support of industry will be much better than one which tries to do it on its own. I look forward to hearing what the Minister has to say about that.

Lord Prior of Brampton: My Lords, I find myself in complete agreement with the noble Baronesses, Lady Brown and Lady Young, my noble friend Lord Selborne, and the noble Lords, Lord Bhattacharyya, Lord Bilimoria and Lord Stevenson. All our sentiments are the same. To pick up on a phrase from the noble Lord, Lord Bhattacharyya, about the purpose of Innovate UK, if we were to sum it up in three words, which he did, they would be "productivity from research".

When we discussed the first amendment today, the noble Lord, Lord Krebs, talked about the serendipitous fruits that can sometimes spring from blue-sky basic research. The point of Innovate UK is to ensure that more of those fruits take root in the UK, rather than ending up in Silicon Valley or Israel, or in other countries which are frankly more innovative than we are. The whole purpose of UKRI in bringing together Innovate UK with the research councils is to create more fertile soil for some of the great ideas, technologies and research that come out of our universities.

In creating UKRI we are making something new, greater than the sum of its constituent parts. We are not merely bolting together nine separate bodies. To make this work the governance structures need to change, so we are introducing an overarching board in UKRI and a high-profile chair and chief executive. It is appropriate that the governance of the councils changes too to reflect this. We have been listening to debate on this for some time now, particularly the contributions on the role of the council chairs from the noble Baroness, Lady Brown, the noble Lord, Lord Mair—I know that he cannot be here today for other reasons—the noble Lord, Lord Broers, and my noble friend Lord Selborne. However, introducing a non-executive chair for the councils into these new lines of accountability would risk confusing accountabilities within UKRI and undermine its key strategic role. This would apply just as much to Innovate UK as to the other councils.

Although I can of course see the attraction of having a well-known leading industrialist as a non-executive chair of Innovate UK, it would not sit well within the governance structure of UKRI. I think it would fatally undermine the whole concept of UKRI. However, we acknowledge that chairs can play valuable roles outside direct lines of accountability, for example in giving support to the chief executive and acting as a route for high-level communication. We have already discussed the sensible suggestion by the noble Lord, Lord Broers, that we give one member of each council the role of a senior independent member. We have given assurances that that will be done and we hope that it is adequate to address his concerns. The noble Lord, Lord Mendelsohn, gave a good description of the important role that a senior independent member can play in these circumstances, without undermining the integrity of the governance structure of UKRI.

Amendment 166 also seeks to determine the background of a majority of Innovate UK's council members. As was discussed in respect of UKRI board members in an earlier group, prescribing the background of members of councils in legislation would encroach on the freedom of UKRI and its councils to manage their own affairs and could be unhelpful in achieving the best possible mix of individuals at any one time. However, we agree with the sentiments expressed. In the case of Innovate UK, government would have a strong expectation, set through guidance, that a substantial proportion of members should have a science-related business background. Indeed, Innovate UK's current board membership speaks for itself, with most of the council members having science and technology-related business backgrounds. In addition, the board contains much complementary experience of universities, finance, economics, consulting and government.

7.15 pm

On Amendment 173, many of your Lordships have asked to see stronger language in the Bill to protect Innovate UK's business-facing role. In Committee, the Government undertook to reflect on how this could be done and have tabled an amendment that achieves this in two ways. First, our amendments introduce stronger language to describe Innovate UK's role in supporting the business community. Having,

"regard to … the need to support … persons engaged in business"

is substantially more direct than the previous text. Secondly, Amendment 183 introduces a new requirement to have regard to,

"the need to promote innovation by persons carrying on business"

in the UK. Finally, it maintains the overarching mission to increase economic growth and the existing duty to have regard to,

"the desirability of improving quality of life".

It has been said that productivity is not everything but it is nearly everything. If there is one word that should be in Innovate UK's DNA, it is "productivity". With these amendments, the Bill could not now be clearer on Innovate UK's mission to support business innovation. It is therefore distinct from the other councils of UKRI.

The noble Baroness, Lady Brown, and the noble Lords, Lord Broers and Lord Mair, also raised concerns in Committee that Innovate UK's freedoms to engage in certain activities appeared overly restrictive in the Bill. Let me be clear: there will be no diminution of Innovate UK's current freedoms in the move to UKRI. The Bill's text is based on conditions that apply to all government departments and public bodies, and is determined by the Treasury.

Government Amendment 183 is intended to make it clear that UKRI can, for example, enter into joint ventures or form or invest in a company subject to appropriate safeguards and, moreover, that the broad parameters of these activities will be set out clearly in advance and can be iterated as Innovate UK's portfolio of support develops. I hope that these amendments reassure noble Lords over the Government's positive intent for business innovation. These reforms come in the context of the historically large Autumn Statement settlement for innovation funding as part of the industrial strategy.

Finally, regarding Amendment 173A, tabled by the noble Lords, Lord Oxburgh and Lord Broers, let me reassure them—I hope that this meets the point raised by the noble Lord, Lord Oxburgh—that it is not the intention of the Bill to disrupt existing commitments and obligations within the current councils. Government will not require UKRI or its councils to seek the Secretary of State's permission to continue with existing joint ventures as part of the legal process to set up UKRI and, in forming new ventures, government will not subject councils to any oversight from the Secretary of State that the councils do not already undergo. Indeed, our ambition is that they will be subject to less process and be able to concentrate more on their functions.

Furthermore, noble Lords may not be aware that a great deal of work is currently under way in the councils and their parent departments to ensure a smooth transfer of personnel, assets and activities from the current organisations to the OfS and UKRI—subject, of course, to the will of Parliament. Joint ventures, alongside many other forms of corporate arrangements, are very much in scope of this work. The Bill provides tools in Schedule 10 to transfer these assets efficiently from the councils to UKRI through property transfer schemes. If more specific intervention is required, for example as may be the case where a joint venture is not arranged under UK law, the novation of contracts and joint ventures will be individually addressed.

I hope this reassures the House of two things: first, that we do not intend to inflict any undue process on UKRI and its councils; and, secondly, that they will continue to have delegated autonomy over matters pertaining to their subject areas. In summary for this group addressing Innovate UK and UKRI's financial freedoms, I kindly request the noble Baroness, Lady Brown, to withdraw her amendment.

Baroness Brown of Cambridge: I thank noble Lords who have contributed to this short debate and the Minister for his detailed response. I recognise from what he said that we have a strongly shared objective of retaining the different role and character of Innovate UK. In the light of the government amendments, which go a long way towards doing that, and of his earlier and very positive assurances on an important role for senior independent members of the councils, I beg leave to withdraw the amendment.

Amendment 166 withdrawn.

Amendment 166A not moved.

Amendments 167 to 173

Moved by ***Lord Prior of Brampton***

167: Schedule 9, page 105, line 20, at end insert "after consulting the chair of UKRI"

168: Schedule 9, page 107, line 11, at end insert—

"Executive Committee

8A_(1) UKRI must establish a committee called "the Executive Committee".

(2) The Executive Committee is to consist of—

(a) the CEO, who is to be its chair,

(b) the CFO,

(c) the executive chair of each of the Councils, and

(d) such other members as the CEO may appoint.

(3) Those appointed under sub-paragraph (2)(d)—

(a) must be employees of UKRI, and

(b) if they cease to be such employees, may not continue as members appointed under that provision.

(4) The Executive Committee may establish sub-committees, and a sub- committee so established is referred to in this Schedule as an "Executive sub-committee".

(5) An Executive sub-committee may include persons who are not members of UKRI, Council members or employees of UKRI.

(6) UKRI must pay such allowances as the Secretary of State may determine to any person who—

(a) is a member of an Executive sub-committee, but

(b) is not a member of UKRI, a Council member or an employee of UKRI."

169: Schedule 9, page 107, line 13, after "Councils" insert "and the Executive Committee"

170: Schedule 9, page 107, line 33, leave out sub-paragraphs (1) and (2) and insert—

"(1) UKRI, a Council and the Executive Committee may each determine their own procedure and the procedure of any relevant committee.

(1A) "Relevant committee" means—

(a) in the case of UKRI, a general committee,

(b) in the case of a Council, a Council sub-committee established by it, and

(c) in the case of the Executive Committee, an Executive sub- committee.

(2) But sub-paragraph (1) is subject to the rest of this paragraph."

171: Schedule 9, page 108, line 16, after "committee," insert "or of the Executive Committee or any Executive sub-committee,"

172: Schedule 9, page 109, line 8, at end insert—

"( ) The report must include a statement regarding how UKRI has cooperated with the OfS during that year."

173: Schedule 9, page 109, line 31, leave out from beginning to third "the" and insert "But UKRI may do any of the following only in accordance with terms and conditions specified from time to time by"

Amendments 167 to 173 agreed.

Amendment 173A not moved.

Amendments 174 and 175

Moved by ***Lord Prior of Brampton***

174: Schedule 9, page 110, line 14, leave out "paragraph" and insert "paragraphs 8A and"

175: Schedule 9, page 110, line 23, leave out "paragraph" and insert "paragraphs 8A and"

Amendments 174 and 175 agreed.

Clause 88: The Councils of UKRI

Amendment 176

Moved by ***Lord Prior of Brampton***

176: Clause 88, page 58, line 12, at end insert—

"(4) Before making regulations under subsection (2), the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(5) UKRI must, if requested to do so by the Secretary of State, carry out such a consultation, on behalf of the Secretary of State, of such persons.

(6) In such a case, UKRI must carry out the consultation in accordance with such directions as the Secretary of State may give."

Lord Prior of Brampton: My Lords, I start by expressing my gratitude to the noble Lord, Lord Krebs, and the noble Baroness, Lady Brown, who have worked so constructively with me and my colleagues over the past few weeks and months. I am also indebted to my noble friend Lord Willetts, whose written definition of the Haldane principle is, and will continue to be, a beacon for Ministers, setting out in detail this important principle and its practical applications.

The Government have been consistently clear in stating that the spirit of the Haldane principle, through various provisions, is already, to use the word of the noble Lord, Lord Mendelsohn, "hardwired" into the Bill. I am grateful to all noble Lords who spoke on this point at Second Reading and in Committee, many of whom asked for a firmer form of words that directly refer to the principle itself. I offered to reflect on this, and I am delighted to table Amendment 191. I hope noble Lords will be equally delighted to accept it. We have drawn from the first line of my noble friend Lord Willetts's Written Statement to define the Haldane principle as the principle that decisions on individual research proposals are best taken following an evaluation of the quality and likely impact of the proposals, such as a peer review process. This amendment is hugely symbolic and an important protection for UK research by putting a reference to the Haldane principle in legislation for the first time.

Amendments 176 and 182 place a duty on the Secretary of State to consult formally before laying regulations to alter the names, number or fields of activity of the research councils. I am grateful to the noble Lord, Lord Stevenson, who asked for clarity on the point of prior consultation in Committee. I hope that these amendments overdeliver on my promise to address the noble Lord's question. While this Government previously committed to consult before altering a council, these amendments will bind future Governments to this commitment.

Likewise, this Government have been consistent in their pledge to allocate separate budgets to each council of UKRI. I listened carefully in Committee to the calls from the noble Lords, Lord Patel and Lord Broers, and the noble Baroness, Lady Brown, for greater protections. I have reflected on their speeches, and in response the Government have tabled Amendment 188, which requires the Secretary of State, when making grants to UKRI, to publish the whole amount and the separate allocations that will go to each council. This will ensure complete transparency, from this Government and future Governments, on all funding allocations to UKRI and to the research councils, Innovate UK and Research England.

In Committee, my noble and learned friend Lord Mackay spoke passionately about the definition of "relevant specialist employees" in Clause 91. This provision is intended to ensure that the research councils may continue to recruit directly certain specialist staff who are employed in relation to a council's field of activity. My noble and learned friend raised concerns that the current definition could lead to ambiguity for relevant staff who may not be considered by some to be researchers or scientists. I have reflected very carefully on the powerful case that he put forward, and I am very happy indeed to table Amendment 178 to address his points. This amendment draws on the language my noble and learned friend employed in his amendment in Committee and expands the definition to include any person with knowledge, experience or specialist skills that are relevant to the council's field of activity who is employed by UKRI to work in that field of activity. I sincerely hope that this amendment alleviates the concerns of my noble and learned friend.

I look forward to hearing noble Lords speak on the other matters included in this group, and I will respond after they have had a chance to speak to these amendments.

Lord Judd (Lab): My Lords, I rise simply to make two brief points. In doing so, I hope I will be forgiven for taking the opportunity to pay the warmest tribute to, and to express my admiration for, my noble friends Lord Stevenson and Lord Watson for the sterling work they have put in on the Bill on behalf of this side.

There is a great deal of feeling in the research community about the points covered by these amendments. I am sure there is a recognition that a tremendous amount of work has gone into trying to find an acceptable formula of words. It should be put on record that many of those who are involved in the most outstanding research in our universities remain mystified about why the phrase,

"(such as a peer review process)"

should be in brackets. They believe it should, if anything, be in capital letters because they see peer review as essential to the process.

There is some feeling that the word "excellent" should not have disappeared. Quality is, of course, important, but what ultimately matters in the research record of our universities and in its contribution to Britain's noble standing in the world community for the quality of our research is its emphasis on excellence. As this goes forward it will be essential to keep those two important concerns of the research community in mind. In saying that, I should emphasise that I am involved with three universities and that I was a governor of the LSE for many years and am now an emeritus governor.

Lord Krebs (CB): My Lords, I thank the Minister for his introduction of these amendments. I shall refer very briefly to Amendments 189, 190 and 191 which are related to the Haldane principle. I am delighted

that it is in the Bill. During the passage of the Bill we heard many different views on what the Haldane principle is, whether there is more than one Haldane principle and, indeed, whether it should be called the Willetts principle because one of the key references is the paper by the noble Lord, Lord Willetts.

Cutting to the core of what is involved here, it is about peer review and deciding which individual projects are funded within broad areas. Of course, it is reasonable for Ministers to have broad priorities, just as when the noble Lord, Lord Willetts, was Minister for Universities and Science, he described the eight great technologies that he thought were priorities for this country. However, within those, it should be the peer review system, the practitioners and others who are close to the action, who decide which projects are funded. Although the wording says "quality", if I were on a peer review committee I would interpret "quality" as including excellence, echoing the point made by the noble Lord, Lord Judd. Therefore I warmly support this amendment.

7.30 pm

Amendment 176 is about changing the name of research councils or reconfiguring their remit, and in the past we have seen many changes in the research councils. The 1993 White Paper and the legislation that followed it introduced a complete reconfiguration of the councils and we have seen a number of changes since then. We all accept that both the remit of individual councils and indeed the names and the configuration may change. What is important is that changes are the result of wide consultation taking into account the views of the scientific community. Therefore I welcome Amendment 176 too.

Lord Mackay of Clashfern (Con): My Lords, I thank the Minister for Amendment 178. The point was drawn to my attention by the Prospect trade union. I am glad to say that it is also satisfied with this amendment.

Lord Sharkey: My Lords, I will speak to Amendments 177A and 178A. Amendment 177A in my name and that of my noble friend Lord Willis of Knaresborough returns to the subject of the ability of research councils to enter into funding partnerships. We discussed this extensively in Committee. We had two key questions. The first was, under UKRI, would there be any additional requirements above those already existing for research councils in forming these partnerships? The second question was, are there circumstances in which such partnerships would require explicit prior approval from UKRI?

The Minister addressed the partnership issue in his letter to us all of 8 February. He acknowledged that the councils currently engage in many partnerships, nationally and internationally, to significant effect. He quoted from a letter that Sir John Kingman had written to me in which he had said:

> "The individual councils of UKRI will of course have delegated autonomy and authority to agree these arrangements within their areas of expertise".

This was helpful but did not quite seem to answer our two questions explicitly.

I explored this further in a subsequent meeting with the Minister and his officials. The essence of our discussion was over the meaning in practice of "delegated autonomy and authority". In particular, I was anxious to have an explicit answer to the two questions. I thought that it would be helpful for everyone involved, especially the councils, to have maximum clarity. What differences, if any, would the councils see under the new regime when it came to forming partnerships? Amendment 177A allows the Government to answer these questions and to put the matter beyond doubt.

Amendment 178A is in my name and that of my noble friend Lord Willis of Knaresborough, who regrets that he cannot be present today, having urgent family business to attend to. As with Amendment 177A, this amendment looks for clarity and confirmation from the Minister. The context is set out in the letter of 8 February that the noble Lord, Lord Prior, sent to us all. On the penultimate page, the Minister addresses the concerns of the noble and learned Lord, Lord Mackay of Clashfern, over the employment by UKRI of the "relevant specialist employees" to which Clause 9 refers. Government Amendment 178 deals with that matter.

However, in his letter to us, the Minister also referred to the research councils' role in appointing some relevant specialist staff in line with the principles of autonomy. As he reminded us:

> "A package of flexibilities for research council institutes was approved by Her Majesty's Treasury at the 2015 Budget".

There were five flexibilities. Two of them are of concern to my noble friend Lord Willis, who is a member of the NERC, and to the CEO of the NERC. These are the exemptions concerning pay and the rollover of commercial income.

The CEO of the NERC has pointed out that neither of these exemptions is in practice available to research councils. They do not form part of the councils' agreed delegations and there is no mechanism within BEIS for their approval, so they do not happen. For example, to address the 20% pay gap that now exists between NERC institutes and the HEIs requires a multiyear strategy. NERC as an employer must have confidence that this can be adopted without being placed in annual jeopardy by being subject to annual BEIS approval. There is no real sense in which the councils have the freedom to manage payroll within existing budgets as agreed at the 2015 Budget. Neither does the rollover flexibility work. In practice, an offer is made to HMT to consider a rollover of commercial income in January. NERC did this but had received no reply by the second week in March. If no answer is received, the money will be lost. Accordingly, NERC has now committed the relevant expenditure in this year. That means that in reality the rollover flexibility does not work either.

Our amendment addresses this problem. It seeks to impose an obligation to have regard to the agreed package of flexibilities and it seeks to give the Minister an opportunity to explain if the freedoms granted to the research councils in the 2015 Budget will in fact be available after the introduction of UKRI and the reorganisation of the councils.

[LORD SHARKEY]

I acknowledge that we are raising these rather complex matters at a late stage. I apologise for that. I should entirely understand it if the Minister preferred to write to us in response.

Lord Stevenson of Balmacara: My Lords, it has been a good debate on a wide range of issues broadly around the work of the research councils. It includes the Government's important and welcome commitment to uphold the Haldane principle—or Willetts principle—and indeed to enshrine it in the Bill and throughout the instructions that will be given to the various bodies that are to subscribe to it.

We are delighted to be able to sign up to a number of government amendments in this group. We are pleased to see the concession made to the point argued strongly in Committee by the noble and learned Lord, Lord Mackay, about including under specialist employees all technical staff where they are involved in research. That contrasts with the attitude taken in Committee and earlier stages of the Bill, when we attempted to broaden the representational elements relating to the Office for Students—or office for higher education, as it should be called. In particular, we raised the lack of engagement with students, which seems perverse given the Government's willingness at this stage to include others involved in their discussions.

I shall speak briefly to Amendment 177—the one amendment to which no one has spoken—and seek the Government's response. We all accept that the strength of our higher education and research institutions will be central to the health of our economy and vitality of our society. As we look towards a post-Brexit world, the role of research in driving innovation, investment and well-being will surely assume greater significance. The capacity of research institutions to act with autonomy and independence will be key to their success.

The Government's amendments, as I have already said, rightly respond to concerns raised about the need to embed the principle of institutional autonomy more firmly within the Bill. Why, therefore, have the Government not accepted Amendment 177 or brought forward their own version of it?

The Government did respond to arguments about autonomy in relation to the OfS. We welcomed their amendments and signed up to them—they are now in the Bill—such as that on,

"the institutional autonomy of English higher education providers".

Yet as it stands, UKRI has no such duty, despite the extensive influence and engagement—indirect and direct—that it will have with higher education providers under the new system. We accept that UKRI is not a regulator, but its role is instrumental. It is bound to be engaged in discussions with institutions and bodies that are in a different sector from the institutional autonomy provided by the Secretary of State and the OfS.

That is an asymmetry that I regret. Could the noble Lord, when he comes to respond, at least give us some solace by accepting that, although it may be too late to amend the Bill at this stage, the institutional autonomy issue percolates through to research, is important to the institutions that will be working with the research councils and UKRI post-implementation of the Bill, and is something which the Government should address at some point, whether through memorandums of understanding or by guidance?

Lord Prior of Brampton: My Lords, first, I echo the words of the noble Lord, Lord Judd, about excellence. I subscribe to the views he expressed on excellence absolutely, 110%. I am pleased as well that my noble and learned friend Lord Mackay is happy with our Amendment 178. I also thank the noble Lord, Lord Krebs, for his comments about the incorporation of the Haldane principle into the Bill. I think he almost called it the Willetts, rather than the Haldane, principle, but in any event, we will amend the Explanatory Notes to the Bill to make clear reference to my noble friend Lord Willetts's Written Statement, so there is complete clarity about what we mean by the Haldane principle.

I turn to the amendment in the name of the noble Lord, Lord Mendelsohn, introduced today by the noble Lord, Lord Stevenson, regarding institutional autonomy. I agree that this is also a very important principle and I think we are all glad to see it so clearly articulated in Part 1 of the Bill. I assure the noble Lord that UKRI has the necessary protections already built in through existing provisions in the Bill, much enhanced by the Government's Haldane principle amendments.

Clauses 97 and 98 already protect institutional autonomy, as they mirror the language used in the definition of institutional autonomy that noble Lords have agreed should be added to this Bill, specifically with respect to courses of study, the appointment of staff and the admission of students. In fact, they already go beyond this and extend this protection to cover universities' research activities, as supported by Research England. Funding from research councils and Innovate UK is competition-led, and I assure the noble Lord that they do not, nor can they, tell institutions and businesses what they may or may not research or develop, or how they may recruit staff.

This amendment would require UKRI to have regard to the need to protect the institutional autonomy of English higher education providers but, unlike the Office for Students, UKRI's remit is not limited to these institutions. UKRI will have a strategic vision for research and innovation across the whole UK. It will fund and engage with research institutes and facilities outside the university sector as well as with businesses, both domestically and internationally.

This is why the Government have made the provisions I have already described. Combined with our commitment to the dual support system, the Bill already protects the autonomy of institutions in a way that is tailored to UKRI's mission. This additional amendment is unnecessary and potentially confusing in relation to the scope and responsibilities of UKRI, which are very different from those of the OfS. Again, in sentiment, I think we are fully agreed on this, but I hope in view of what I have said the noble Lord will feel able not to press the amendment.

The noble Lord, Lord Sharkey, made a powerful case regarding the research councils' ability to strike up partnerships with other funding bodies directly.

I have to confess I got a little lost at some point as he was making his speech, and I will take up his offer to write to him when I can read it tomorrow in *Hansard*, but I will try to be as clear as possible in my response this evening. As part of UKRI, the research councils will be able to form partnerships with other bodies, such as charities, in the same way as they do now.

The noble Lord has rightly identified the need to still abide by prevailing public sector expenditure rules—for instance, those covered in HM Treasury's *Managing Public Money*. Although decisions on more routine partnerships such as joint funding research programmes in a particular discipline will still be taken by the councils themselves within delegated limits set by the department, other more complex arrangements—which might involve setting up an SPV or joint venture, for example—would, as now, require explicit prior approval from government. I am grateful to the noble Lord, Lord Sharkey, for raising this important point, and I hope sincerely that my strong assurances are enough to persuade him not to press his amendment.

Amendment 178A would enshrine in legislation a package of spending flexibilities afforded to some research council institutes by Her Majesty's Treasury in 2015. These flexibilities recognise the important work these institutes undertake and are designed to provide freedom over how much institutes can pay staff, how much they may pay for marketing and how they may carry out procurement, alongside assurances around approval processes for budget exchange activity and exceptional depreciation. I assure noble Lords that these flexibilities are not affected by the creation of UKRI, and there are no plans to alter them.

However, it is absolutely essential that we do not ossify such flexibilities in primary legislation. Not only is it the prerogative of Her Majesty's Treasury to determine cross-government rules on public expenditure, but it is important that we are able to evolve these flexibilities over time to respond to changing circumstances. I hope noble Lords will acknowledge the irony of solidifying a "package of flexibilities" in primary legislation, rendering the package unalterable, and hence inflexible. These amendments enshrine the Haldane principle in law and further protect the autonomy of UKRI's councils.

Amendment 176 agreed.

7.45 pm

Clause 89: UK research and innovation functions

Amendment 177 not moved.

Clause 91: Exercise of functions by science and humanities Councils

Amendment 177A not moved.

Amendment 178

Moved by ***Lord Prior of Brampton***

178: Clause 91, page 60, line 12, leave out subsection (3) and insert—

"(3) A "relevant specialist employee", in relation to a Council, means—

(a) a researcher or scientist employed by UKRI to work in the Council's field of activity (see the table in subsection (1)), or

(b) a person who has knowledge, experience or specialist skills which is or are relevant to the Council's field of activity and is employed by UKRI to work in that field of activity."

Amendment 178 agreed.

Amendment 178A not moved.

Amendments 179 to 182

Moved by ***Lord Prior of Brampton***

179: Clause 91, page 60, line 18, after "contributing" insert "(whether directly or indirectly)"

180: Clause 91, page 60, line 18, after "growth" insert ", or an economic benefit,"

181: Clause 91, page 60, line 18, after "Kingdom," insert—

"( ) advancing knowledge (whether in the United Kingdom or elsewhere and whether directly or indirectly) in, or in connection with, science, technology, humanities or new ideas,"

182: Clause 91, page 60, line 24, at end insert—

"(6) Before making regulations under subsection (5), the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(7) UKRI must, if requested to do so by the Secretary of State, carry out such a consultation, on behalf of the Secretary of State, of such persons.

(8) In such a case, UKRI must carry out the consultation in accordance with such directions as the Secretary of State may give."

Amendments 179 to 182 agreed.

Clause 92: Exercise of functions by Innovate UK

Amendment 183

Moved by ***Lord Prior of Brampton***

183: Clause 92, page 60, line 31, leave out subsection (3) and insert—

"(3) Arrangements under this section must require Innovate UK, when exercising any function to which the arrangements relate, to have regard to—

(a) the need to support (directly or indirectly) persons engaged in business activities in the United Kingdom,

(b) the need to promote innovation by persons carrying on business in the United Kingdom, and

(c) the desirability of improving quality of life in the United Kingdom."

Amendment 183 agreed.

Clause 95: UKRI's research and innovation strategy

Amendment 184 not moved.

Clause 97: Grants to UKRI from the Secretary of State

Amendments 185 to 188

Moved by ***Lord Prior of Brampton***

185: Clause 97, page 62, line 39, after "subsection (1)" insert "in respect of those functions"

186: Clause 97, page 63, line 9, after "subsection (1)" insert "in respect of those functions"

187: Clause 97, page 63, line 15, at end insert—

"( ) provide for the allocation of the whole or a part of the grant to a particular Council and for subsequent changes in that allocation,"

188: Clause 97, page 63, line 22, at end insert—

"( ) Where the Secretary of State makes a grant to UKRI under subsection (1), the Secretary of State must publish—

(a) the amount of the grant, and

(b) if the terms and conditions of the grant allocate the whole or a part of that amount to a particular Council—

(i) the name of the Council, and

(ii) the amount of the grant which is so allocated to it."

Amendments 185 to 188 agreed.

Clause 99: Balanced funding and advice from UKRI

Amendments 189 to 191

Moved by ***Lord Prior of Brampton***

189: Clause 99, page 64, line 7, at end insert—

"(za) the Haldane principle, where the grant or direction mentioned in subsection (1) is in respect of functions exercisable by one or more of the Councils mentioned in section 91 (1) pursuant to arrangements under that section,"

190: Clause 99, page 64, line 8, after "principle" insert ", in any case"

191: Clause 99, page 64, line 10, at end insert—

"(2A) The "Haldane principle" is the principle that decisions on individual research proposals are best taken following an evaluation of the quality and likely impact of the proposals (such as a peer review process)."

Amendments 189 to 191 agreed.

Amendment 192 had been withdrawn from the Marshalled List.

Clause 100: General duties

Amendments 193 and 194 not moved.

Clause 108: Cooperation and information sharing between the OfS and UKRI

Amendment 194A

Moved by ***Lord Smith of Finsbury***

194A: Clause 108, page 67, line 26, at end insert—

"( ) Where a decision to be made by the OfS or UKRI relates to—

(a) the power to award research degrees; or

(b) research students;

the OfS and UKRI must make the decision jointly."

Lord Smith of Finsbury (Non-Afl): My Lords, I rise to move Amendment 194A, standing in the name of the noble and learned Lord, Lord Mackay of Clashfern. I remind the House of my interest as master of Pembroke College in Cambridge.

The Bill has been substantially improved over the course of recent weeks, and we are very grateful for many of the amendments the Government have brought forward. But one aspect of the Bill still gives rise to concern: its basic failure to understand the essential interrelationship between teaching and research. Research is not only important in universities of and for itself in pushing ahead the frontiers of knowledge and understanding, and vital for our economic future and success as a country; it is also important for the way it enriches, enlivens, illuminates and deepens the teaching universities undertake. Having postgraduate students alongside undergraduates enhances the undergraduate experience, provides added value to their learning and benefits the overall academic atmosphere of the university community.

The recognition of research degree-awarding powers is therefore of critical importance but the Bill fails to recognise that. It ultimately places the authority for the awarding of such powers solely in the hands of the Office for Students. As a result of government amendments, the Bill now helpfully requires the OfS to seek the advice of UKRI before granting, varying or revoking degree-awarding powers. That point was reinforced in the letter the Minister helpfully sent us this morning.

However, seeking advice is not enough. In Clause 108, the phrase "may co-operate" is not enough, nor are "may provide information" and,

"must, if required … by the Secretary of State".

Our amendment seeks to put this right very simply by saying that the decision to grant, revoke or vary research degree-awarding powers should be made jointly by both the Office for Students and UKRI. The body that knows about students and the body that knows about research should both be intrinsically involved in that decision. It would be daft to leave open the possibility, as the Bill does at present, that the OfS could ignore the advice, knowledge, expertise and research experience of UKRI in deciding whether a university should be able to grant research degrees. Worse, if a decision to vary or revoke has been made, the university can make representations but only to the Office for Students. The OfS could deal with these representations unilaterally. An appeal could then be made to the First-tier Tribunal. At the moment the Bill envisages only an appeal relating to an Office for Students decision. Surely an appeal should be able to be made in relation to the views and decisions of both the OfS and UKRI. If it is a joint decision, there will rightly be subsequent joint accountability for that decision.

It is also worth pointing out that UKRI will be a major funder—post Brexit, quite possibly the major funder—of postgraduate research study. Are we seriously saying that it should take only a minor advisory role in ratifying a university's degree-awarding status? I urge the Government to think again, support research, intertwine research and teaching to the fullest possible extent, bring clarity and firmness to the process and ensure that the best decisions are taken with the full expertise of UKRI intimately involved. This must surely be a joint process. I beg to move.

Lord Mackay of Clashfern: My Lords, I have my name on this amendment. I am grateful to the noble Lord, Lord Smith of Finsbury, for moving it so fully and eloquently, and I entirely agree with everything that he said.

It seems extraordinary, and I thought this at Second Reading, that the research knowledge and capability is at UKRI but—so far as I know, and I will be corrected if I am wrong—there is no requirement of any sort that the Office for Students should have any particular knowledge or experience of research or, for that matter, research degree-awarding powers. Therefore, the decision is to be taken by people who profess no particular knowledge of the subject matter of research degree-awarding powers. That is to be left to a matter of advice. The difficulty with that, as the noble Lord, Lord Smith, has pointed out, is that when it comes to accountability all that the Office for Students can say is, "Well, we got this advice from UKRI. That's our defence". Surely, the people who should defend the advice that is the essence of the matter should be the people who give it. There is a difference between decision-makers and advisers, as we were authoritatively informed some years ago: Ministers decide, advisers advise. In this context, the decisions are to be taken by the Office for Students while UKRI, with all its expertise, is relegated to being an adviser.

I have interests in the University of Cambridge, in the sense that I am an honorary fellow of two of the Cambridge colleges and I am a member of the Council for the Defence of British Universities. However, my view, which I have expressed consistently since Second Reading, is that UKRI's research capabilities mean that it should be involved in the decision-making process as a decision-maker, not merely an adviser. As the noble Lord, Lord Smith of Finsbury, said, we got a letter this morning, which was followed up by an invitation to telephone. Naturally, I accepted the invitation to telephone as soon as I was free to do so. We had a considerable discussion, and I was asked whether the second part of the amendment was as important as the first, the second part being about research students. I said, "Not for me"; I thought the essential part was the first part. I thought, "This sounds good". Your Lordships will no doubt wait with bated breath to hear what the answer is to that. Anyway, I expressed the view that the second part was not so important. Therefore, if at some stage the amendment is subject to further consideration, I would be perfectly happy—I think this goes for its co-mover as well—to forget about that. The essential part is the decision-making. Surely the Government recognise that there is a difference between a decision-maker—a person with some responsibility for decisions—and an adviser. I strongly support the amendment and feel rather disappointed that the Government have not seen the logic of its position.

Lord Bilimoria: My Lords, I support what the noble Lord, Lord Smith, and the noble and learned Lord, Lord Mackay, have said.

I shall read out the mission statement for the University of Cambridge, which is very short:

"The mission of the University of Cambridge is to contribute to society through the pursuit of education, learning, and research at the highest international levels of excellence".

That came home to me when I was a student there. We finished the last supervision of term in my favourite subject with a brilliant supervisor, and he said, "Have a good holiday. Now I can get on with my real work, which is research". That is the importance of research to our top academics.

At the University of Birmingham, where I am chancellor, I chaired the annual meeting earlier this month. We announced that Birmingham had won three more Nobel prizes, taking our total to 11, because of our research.

The University of Cambridge Judge Business School, where I chair the advisory board, has in just over a quarter of a century become fifth in the world in the global *FT* MBA rankings. One of the main reasons for that is the absolute priority placed on research.

Anything we can do to make sure that we have robust support for our research—not just through advice but taking the expertise of UKRI along with that of the OfS, jointly—would be good for the future of research and the excellence of our universities.

8 pm

Lord Winston (Lab): I have a brief question for either the noble and learned Lord, Lord Mackay, or the noble Lord, Lord Smith. One thing that slightly concerns me is that certain institutions, such as the conservatoires, are generally not funded in their research by UKRI at all. Very often these students, who do PhDs at the Royal College of Music, for example, are either self-funded or funded through other charitable grants. Could the noble Lord, in summing up, address why we would need that kind of governance for the research degree? I should just like a bit of clarity on that.

Lord Stevenson of Balmacara: My Lords, I am also signed up to this amendment. I come from a slightly different position, but I arrive at the same point. Throughout this section of the Bill, the Minister has been at pains to stress how it has been improved by the preceding contributions and debate of noble Lords who have experience of operational activity in the field we are covering. He is, I think, aware of my feeling—I explained it to him earlier this evening—that, had we had the same measure of agreement earlier in the passage of the Bill, we would have made a lot more progress and the Bill would be a lot better. We had to force our way into a position of improvement in the earlier parts of the Bill, but we have been able to do it by dialogue and discussion in this part, which is to be welcomed.

I say all that because this issue of research degree-awarding powers is really important for the higher education institutions in this country. In this section, we are dealing primarily with the UK-wide impact on research funding, but the reality is that this issue relates to the power to award research degrees. English higher education providers, as we need to call them, have attached great strength to this—so great that it was the motivation behind the insistence that we try to change the way the Bill is configured by ensuring that an amendment, which was resisted very strongly by the Government, was added to the very first clause to set out what we meant by a university. Intrinsically wired into what we mean by a university is the question of who has responsibility for awarding degrees. That was decided in the context of the opening clause with a discussion of what universities meant. Then we agreed with the Government to insert a very strong sentence referring to institutional autonomy and academic

[Lord Stevenson of Balmacara]
freedom. With that goes the ability for universities—higher education providers in England, particularly—to award degrees in their own right within a framework established by statute. This issue goes right through the Bill. It is interesting and quite informative that we have come back to it at this point. It has been a long and interesting journey.

Goldilocks, who featured earlier in our discussions, would have taken the view that there was a need here for some sort of equitable approach. It is very surprising that the very presence of the former Lord Chancellor, the noble and learned Lord, Lord Mackay, sitting directly behind the Minister and looking sternly at him, although he cannot see it—that got him moving quickly—has not had more success in cutting through on this point than his case warrants. He made it clear early in Committee that this was something he felt very strongly about. He got a lot of support around your Lordships' House and he is still there today. It is an extraordinary situation, unprecedented in my short experience here, and I cannot wait to see the denouement of this process. We wait to hear what the Minister will say. He has tried a letter, he has tried a phone call and now he is going to do it in person—what a wonderful triage we will have before us on this occasion. I am rambling slightly, but I wanted to make the point—

Noble Lords: Hear, hear!

Lord Stevenson of Balmacara: Hush. I wanted to make the point that this is important. It matters to the institutions and cannot be taken away or given just by discretion—it really is about what universities are about. Not to approve the requirement that the Office for Students or office for higher education must work jointly with UKRI is to take away a very valuable part of our community. I support the amendment.

Lord Prior of Brampton: My Lords, I rather fear that an irresistible force has met an immovable object on this occasion. That is a shame because we have agreed on so much in this part of the Bill and we all agree that the various amendments that have been made have vastly improved the Bill. I would argue that we have done 98% of the work required. Despite the very eloquent speeches made by the noble Lord, Lord Smith, and my noble and learned friend Lord Mackay, I feel we are somewhat dancing on the head of a pin on this issue. What is the difference between the two cases being put? On the one hand, my noble and learned friend and the noble Lord, Lord Smith, say that research degree-awarding powers should be made jointly by the OfS and UKRI, whereas the Bill says they should be made by the OfS with advice from UKRI. There is clearly a distinction between the two and I understand it, but we are not talking about a huge distinction this evening. It is important to bear that context in mind as we wind our way to the end of this debate.

I start by stating that the Government fully recognise the importance of a co-ordinated approach to supporting the pipeline of undergraduate and postgraduate talent and skills development. Let me explain briefly where responsibilities will lie across the two organisations, UKRI and the OfS. The OfS will be responsible for maintaining the quality of higher education in England, including postgraduate provision, and promoting the interests of students in English higher education providers, including students engaged in postgraduate research and study. In Scotland, Wales and Northern Ireland this is the responsibility of the devolved Administrations.

UKRI will support the cost of postgraduate research degree programmes in English universities through Research England's dedicated PGR funding stream. Support of this type is also a devolved matter for Scotland, Wales and Northern Ireland. Additionally, the Government made an amendment in the other place that clarified UKRI's ability not only to support postgraduate provision but to encourage it. At his appearance before the Science and Technology Select Committee last October, Sir John Kingman argued that these reforms would improve oversight of the research talent pipeline.

UKRI will be a major and influential advocate for the importance of maintaining a strong, healthy pipeline of research students. Crucially, it will have a strategic centre that can gather and analyse intelligence on the pipeline from across its councils and can work with the OfS and the devolved funding bodies to develop a more holistic and comprehensive picture of the landscape than is possible under current arrangements.

The Government are backing UKRI to succeed. In the Budget—funnily enough, very little publicity was given to this aspect of it, which is surprising given the importance I know noble Lords attach to it—the Government committed to spend £250 million over the next four years to increase the number of highly skilled researchers and develop the talent needed by British industries for a thriving and innovative economy. We also announced £100 million for global research talent over the next four years to attract the brightest minds to the UK and help maintain the UK's position as a world leader in R&D. That was a very significant announcement. Let me be clear: UKRI will work closely with the OfS and its equivalents in the devolved Administrations to ensure that this vital part of the university system is protected.

I turn now to the amendment in front of us; there are two distinct proposals within this amendment. First, on the matter of research students, it must be said that the OfS is an England-only regulator, while UKRI is a UK-wide funder. It would be entirely inappropriate to give the OfS a decision-making power in relation to a research council's doctoral funding for a Scottish, Welsh or Northern Irish university, for example. Secondly, each organisation will make countless decisions that relate to research students. Requiring them to make every one of these decisions jointly would result in a duplication of effort and, in many instances, simply not make sense. For example, the OfS will not be well placed to take decisions on where research funding should be allocated to fund doctoral training for the purpose of enhancing the UK's research capability where this is outside the university sector—for example, in one of the UK's world-leading research institutes. Conversely, this amendment would risk giving UKRI unnecessary decision-making responsibilities on regulatory issues which affect all higher education students, but where UKRI will have no particular remit or expertise, such as on ensuring institutions have appropriate student protection plans in place.

As we have been clear throughout the passage of this Bill, the OfS and UKRI can share information and will co-operate at all levels to ensure that the respective decisions they make regarding research students are appropriately informed by the expertise of the other organisation. This is a much more proportionate and effective approach. Clause 108 already enables this and, since both organisations have a duty to have regard to the need to operate in an effective and efficient way through Clauses 3 and 100, the Bill actively encourages such co-operation. In addition, this House has already agreed amendments that require the OfS and UKRI to detail in their annual reports how they have co-operated in the past year. We fully expect evidence of co-operation on matters related to research students to be included in these reports and, through provisions in Clause 108, Ministers can act to require this to happen should the evidence suggest otherwise. However, I put to the House that while co-operation and collaboration is appropriate, asking the OfS and UKRI to make joint decisions in every instance is not.

On research degree-awarding powers, we considered carefully the constructive arguments made in Committee by my noble and learned friend Lord Mackay, the noble Lords, Lord Mendelsohn and Lord Stevenson, and the noble Baroness, Lady O'Neill, that this should be a matter where OfS and UKRI should make decisions jointly. Having given this matter much thought, we do not agree that the decision itself should be a joint one between the two bodies, given that UKRI has no direct regulatory function in relation to higher education providers. Nevertheless, while we believe that the OfS as regulator of the sector is best placed to take the final decisions, we fully agree that it is important that the expertise of UKRI should be fully utilised in ensuring that the OfS makes well-informed decisions. Because of this, we put forward an amendment, which this House has already agreed, requiring the OfS to request advice from the designated quality body or committee on degree-awarding powers. This amendment ensures that the advice must be informed by the views of UKRI when it concerns research degree-awarding powers, and this advice cannot be ignored by the OfS. This gives UKRI a clearly enshrined role, securing its influence in decisions on research degree-awarding powers, which is much stronger than anything that has gone before in securing a guaranteed role for such advice to be given for matters concerning research degree-awarding powers. Through our reforms, we see UKRI having a bigger role than any research organisation currently has, or that HEFCE has now.

The new system that we have designed has clear accountabilities, and instituting joint decision-making in this way could give UKRI a role in matters which have nothing to do with an institution's research capability. Further, the Government will also commit to giving UKRI an important advisory role when the department is preparing guidance on the criteria by which applications for research degree-awarding powers will be assessed. These are meaningful legislative provisions. The Bill does not prevent UKRI having a role in the appeals process when appropriate. We believe that it is a more practical and reasonable alternative to the amendment, taking into account the real-world operations of the two bodies, while crucially ensuring that any decisions are informed by the relevant expertise. The amendment as drafted would make it a legal requirement for the OfS to jointly take decisions about the number of doctoral training places to be supported by the research councils, about the funding of doctoral research training in research council institutes and facilities, and about the support given by UKRI for doctoral training in universities in the devolved Administrations. These things are the primary responsibility of UKRI and are outside the scope of the OfS's responsibilities, and I believe it would be wrong to put them into legislation today. It is with those things in mind that I ask the noble Lord, Lord Smith, to withdraw his amendment.

Lord Smith of Finsbury: First, briefly to address the point from the noble Lord, Lord Winston, even though UKRI may have no direct funding responsibility in relation to conservatoires, it can none the less play a useful role in making a joint decision, and I do not think that diminishes in any way the research standing of the conservatoires.

Lord Winston: I do not want to delay this debate any longer, but I am still puzzled by this. A huge number of research degrees are master's degrees with a research component. Of course, they are often not funded by research councils; sometimes they are, but sometimes they are not. Where do they stand with relation to this proposal? I would like a bit of clarity about it.

Lord Smith of Finsbury: I do not think that our amendment would make any substantive difference from the position under the provisions of the Bill. It simply means that UKRI is part of the process alongside the Office for Students.

In relation to UKRI, the Minister has shown in our discussions much wisdom and willingness to take on board points made from all sides of the House. This is only to be expected from an alumnus of Pembroke College. However, on this particular issue, about research degree-awarding powers, he says that we are dancing on the head of a pin. I do not think that we are. There is a fundamental difference between having a statutory duty to give advice and for that advice to be considered, and taking a joint decision. There is a world of difference between those two. The question is who has the ultimate authority, who has the subsequent accountability and whether we can, by making this a joint decision, give reassurance to many of our leading research universities, which have expressed concern. As I said earlier, the body that knows about students and the body that knows about research should both be involved in the decision about whether to give research degree-awarding powers, and they should make that decision jointly. It would be useful to test the opinion of the House.

8.18 pm

Division on Amendment 194A

Contents 101; Not-Contents 142.

Amendment 194A disagreed.

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8.29 pm

Clause 112: Power to make consequential provision etc

Amendments 195 and 196

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

195: Clause 112, page 69, line 9, leave out "subsection (3)" and insert "subsections (3) and (4)"

196: Clause 112, page 69, line 14, at end insert—

"(4) Provision made under subsection (1) by virtue of subsection (2)(b) may not revoke a Royal Charter in its entirety."

Amendments 195 and 196 agreed.

Clause 115: Regulations

Amendments 197 to 202

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

197: Clause 115, page 70, line 11, at end insert—

"( ) regulations under section 10 (1)(prescribed description of providers for whom a transparency condition is mandatory);"

198: Clause 115, page 70, line 16, at end insert—

"( ) regulations under section 38 (3)(prescribed description of providers eligible for financial support);"

199: Clause 115, page 70, line 24, after "or" insert "of"

200: Clause 115, page 70, line 27, at end insert "any of the following provisions of that Schedule applies—

(a) paragraph 4(1A)(first regulations prescribing the higher, basic and floor amounts);

(b) "

201: Clause 115, page 70, line 29, leave out "applies"

202: Clause 115, page 70, line 29, at end insert—

"( ) paragraph 5 (accelerated courses)."

Amendments 197 to 202 agreed.

Schedule 11: Minor and consequential amendments relating to Part 1

Amendments 203 to 206

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

203: Schedule 11, page 112, line 35, leave out "in receipt of remuneration"

204: Schedule 11, page 113, line 6, at end insert—

"Education (No. 2) Act 1986

4A_(1) Section 43 of the Education (No. 2) Act 1986 (freedom of speech in universities etc) is amended as follows.

(2) After subsection (4) insert—

"(4A) The establishments in England to which this section applies are—

(a) any registered higher education provider;

(b) any establishment of higher or further education which is maintained by a local authority;

(c) any institution within the further education sector."

(3) In subsection (5), after "The establishments" insert "in Wales".

(4) In subsection (6), in the definition of "governing body", for "in relation to any university" substitute "—

(a) in relation to a registered higher education provider, has the meaning given by section 81 (1) of the Higher Education and Research Act 2017;

(b) in relation to a university in Wales,".

(5) In subsection (6), after the definition of "governing body" insert—

""registered higher education provider" has the meaning given by section 4 (10) of the Higher Education and Research Act 2017;".

(6) After subsection (6) insert—

"(6A) For the purposes of this section—

(a) an establishment is taken to be in England if its activities are carried on, or principally carried on, in England;

(b) an establishment is taken to be in Wales if its activities are carried on, or principally carried on, in Wales."

(7) In subsection (7)(a), after "subsection" insert "(4A)(b) or".

205: Schedule 11, page 117, line 25, at end insert—

"29A (1) The Education Act 2005 is amended as follows.

(2) In section 92 (joint exercise of functions)—

(a) in subsection (2), for "Higher Education Funding Council for England" substitute "Office for Students", and

(b) omit subsection (5)."

206: Schedule 11, page 117, line 26, leave out "to the Education Act 2005"

Amendments 203 to 206 agreed.

Clause 120: Commencement

Amendment 207

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

207: Clause 120, page 72, line 8, leave out subsection (1) and insert—

"(1) The following provisions of this Part come into force on the day on which this Act is passed—

(a) sections 111 to 113;

(b) sections 115 to 117;

(c) section 119;

(d) this section;

(e) section 121."

Amendment 207 agreed.

Amendment 208 not moved.

House adjourned at 8.30 pm.