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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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

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

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House of Lords

Tuesday 24 October 2017

2.30 pm

Prayers—read by the Lord Bishop of Salisbury.

Introduction: Baroness Fairhead

2.38 pm

Rona Alison Fairhead, CBE, having been created Baroness Fairhead, of Yarm in the County of North Yorkshire, was introduced and took the oath, supported by Lord Burns and Lord Sherbourne of Didsbury, and signed an undertaking to abide by the Code of Conduct.

Retirement of a Member: Baroness Trumpington

Announcement

2.43 pm

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

Animal Welfare Offences

Question

2.44 pm

Asked by ***Lord Allen of Kensington***

To ask Her Majesty's Government what plans they have to increase the current penalties, including custodial sentences, for animal welfare offences in England to bring them into line with the European average.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, on 30 September the Secretary of State announced that the Government will increase the maximum penalty for animal cruelty from the current six months' imprisonment to five years' imprisonment. My understanding is that the European average is 2.04 years' imprisonment.

Lord Allen of Kensington (Lab): I am particularly encouraged by that response, but we should put it in context. Germany three, Ireland five, Latvia five, Finland four, Spain three and Northern Ireland five—those are not the football scores but the number of years that people would spend in prison if convicted of animal welfare offences. As the Minister said, we have six—a shameful six months, not years. Could the Minister explain why we have been out of line for so long with our European neighbours, with public opinion and with the wishes of the Select Committee, which recommended five years? However, I am particularly encouraged that there is a process in place to make those changes and would be interested to understand the timeframe in which we will see these changes being put into practice.

Lord Gardiner of Kimble: My Lords, I said what the European average is. Before the Bill is brought forward, there will be a draft Bill which I very much hope we will publish later this year—not very long—so that we can get this done as soon as parliamentary business permits.

Viscount Hailsham (Con): My Lords, as one who is very concerned about overcrowding in prisons, I urge my noble friend to extend custodial sentences only to the most serious offences and, whenever possible, to use non-custodial alternatives.

Lord Gardiner of Kimble: My Lords, I understand that and indeed we considered it, but we think that for the most heinous crimes we should increase the sentence from six months. It would be helpful if your Lordships knew that currently an average of three people per year have been sentenced to the maximum, which gives an indication of the numbers involved.

Baroness Miller of Chilthorne Domer (LD): My Lords, if Brexit happens, will the Government ensure that it remains a criminal offence to import animals or birds captured in the wild? Before the EU brought in a ban, the UK was a ready market for people who pillaged other people's jungles and wild places.

Lord Gardiner of Kimble: My Lords, it is very important that we are understanding of the importance of not importing animals and birds that we should not. Indeed, we want not only to maintain what is going to come back from European law but in many cases to advance it.

Lord Trees (CB): My Lords, I welcome the strengthening of the sanctions for animal welfare offences. More than that, though, there is an increasing realisation that people who abuse animals frequently abuse, or go on to abuse, human beings. I pay tribute to the Links Group for drawing attention to that relationship. Given that, does the Minister agree that not only will strengthening the sanctions reduce the abuse of animals but it may also help to protect vulnerable people from abuse?

Lord Gardiner of Kimble: My Lords, whether it is abuse against animals or against human beings, we must do all that we can to reduce the scope for it. With this proposal, we are sending the very strong message that for heinous crimes there will be, among other things, the sanction of a custodial sentence of five years.

Earl Cathcart (Con): My Lords, I welcome the increased sentences for the most heinous cruelty to animals but, given what my noble friend Lord Hailsham said, should we not also be banning these people from keeping animals for life or, if not for life, then for a very long time?

Lord Gardiner of Kimble: My Lords, it is the case that in addition to imprisonment we can impose through the courts an unlimited fine. My noble friend is right: one of the ways to protect animals is the disqualification route, and indeed that can be for life. It is very important that that includes having any influence over the way that an animal is kept, and obviously that could include an animal that belonged to another family member. The most important aspect of our sanctions is to reduce the scope for cruelty and to root it out.

Baroness Jones of Whitchurch (Lab): My Lords, we very much welcome the Secretary of State's recent announcement of an increase in maximum sentences, as the Minister has described, but does he accept that the law is only as good as the people who will need to enforce it? For instance, the Dogs Trust has repeatedly highlighted the scandal of puppy smuggling into the UK. It is done not by individuals but by organised gangs which, as we know, frequently keep underage puppies in appalling conditions. Does he accept that more police and border control resources are needed to stop this cruel practice, otherwise the law becomes meaningless?

Lord Gardiner of Kimble: My Lords, what the noble Baroness has said is absolutely on the dot: we need to drive down on the illegal smuggling of puppies. That is why I endorse what the Dogs Trust has done in working with Kent County Council, Border Force and the transport companies. We absolutely want to rout out the illegal smuggling of puppies. That is one of the reasons why it is so important that we invite people who wish to have pets to consider rehoming and make sure that, if they want to buy a puppy, they see it interacting with its mother—look to those sources and do not go for puppies that very often arrive in this country ill.

Baroness Masham of Ilton (CB): My Lords, will the Minister tell us whether there are going to be CCTV cameras in slaughterhouses to help prevent cruelty?

Lord Gardiner of Kimble: My Lords, as the noble Baroness has suggested, we have just closed our consultation on the mandatory nature of CCTV in all slaughterhouses. We think that this is important: we have been consulting with industry and stakeholders because we think that this is necessary. We will bring forward secondary legislation on this matter before Parliament early next year.

Baroness Jones of Moulsecoomb (GP): My Lords, in response to a Question that I asked on 1 March this year, the Minister told me that legislation to prevent wild animals being used in circuses was going to be brought forward by this Government. Seven months later, however, there is still no legislation, despite there being cross-party support for it and huge public support. Will the Minister tell us when this legislation is going to come through? Last time, the Minister was kind enough to give me a list of the animals that are still in circuses, which included a racoon, so there is no need to repeat that.

Lord Gardiner of Kimble: I do have a list of 19 animals, but I will not enumerate them. Clearly, we have a desire to prohibit the use of wild animals in circuses. I am not in a position to say when parliamentary time will permit, but we wish to do this. That is why, in the meantime, the regulations we have for the two travelling circuses to look after the care of the 19 animals is so important.

The Lord Bishop of St Albans: My Lords, in the light of the Brexit debates on agriculture and other matters, can the Minister assure us that Her Majesty's Government will ensure that in future, after Brexit, the regulations requiring very high standards of care for animals that are being bred and transported in this country, will continue to be applied to animals that are brought in from other countries with lower standards?

Lord Gardiner of Kimble: My Lords, I think that my Secretary of State has made it very clear that we wish to enhance animal welfare standards. That means precisely that we do not wish to see produce or animals coming into this country that are not looked after to the same standards that we would expect from our own farmers and producers.

Parliamentary Voting System and Constituencies Act 2011

Question

2.52 pm

Asked by ***Lord Rennard***

> To ask Her Majesty's Government whether it remains their policy to reduce the number of MPs to 600 in accordance with the Parliamentary Voting System and Constituencies Act 2011.

Lord Young of Cookham (Con): My Lords, we are committed to ensuring fair and equal representation for the voting public across the UK. The independent Boundary Commissions are proceeding with the boundary review in accordance with laws already passed by Parliament, which provide for the number of constituencies to be reduced to 600. The Boundary Commissions are required to submit their final proposals in autumn 2018.

Lord Rennard (LD): My Lords, figures from the Cabinet Office itself suggest that about one in six voters are missing from the electoral registers, making it very hard for the Boundary Commissions to produce fair boundaries. Since they began work, millions of extra voters were added to the electoral roll during the course of the EU referendum and the recent general election. Will the Minister consider convening all-party talks aimed at producing a Bill to amend the 2011 legislation in order to allow the Boundary Commissions to include these voters in time for a general election in 2022, and to reconsider the appropriate number of MPs to be elected?

Lord Young of Cookham: On the last point, I see from the Liberal Democrats' 2010 manifesto that they committed themselves to cutting the number of MPs by 150, so I am not sure why the noble Lord is so squeamish about reducing the number by 50. There are a record 46.8 million people on the register, and what

he has proposed is yet another Liberal Democrat delay to the Boundary Commission proposals. The dates for the current boundary review were approved by an amendment—to which the noble Lord put his name—to the Electoral Registration and Administration Bill back in 2013. The amendment made it clear that the electoral register as at 1 December 2015 would be used in this review. That was an amendment to which the noble Lord put his name.

Lord Blunkett (Lab): My Lords, I put my name to none of this. I simply say to the Minister, who is a very reasonable person, that if there are 46.8 million people on the register but a substantial number of them are not counted in the reconfiguration of boundaries, that would be unacceptable to any political party.

Lord Young of Cookham: The date for the boundary review is inevitably a snapshot. During the period of all boundary reviews, people are added to the register. As I said, the date of 1 December 2015 was approved by this House when the relevant legislation went through, and any interference with the current review would mean that the next election would be fought on boundaries dating from the year 2000. That cannot be in the interests of democracy.

Lord Cormack (Con): My Lords, some people would think that the noble Lord, Lord Rennard, was brazen; others that he was brave. Does my noble friend remember that it was the former Deputy Prime Minister and leader of the Liberal Democrat party who scuppered all this in a fit of pique when he lost his Bill on reform of the House of Lords?

Lord Young of Cookham: My noble friend uses language which I would not dream of using at the Dispatch Box, but it is indeed the case that the coalition agreement, which was ratified by Liberal Democrat MPs and the membership of the Liberal Democrat party, committed them to reducing the number of MPs by 50, and that that legislation was taken through the other place by the Deputy Prime Minister, the leader of the Liberal Democrats. I cannot understand why the Liberal Democrats now seek to distance themselves from a measure which their former leader piloted through Parliament.

Lord Kennedy of Southwark (Lab): My Lords, we have four parliamentary Boundary Commissions, one for each of the constituent parts of the United Kingdom. Can the Minister confirm that at the conclusion of the reviews, there will be brought before this House and the other place one Motion to approve all four reports, so there is no risk of, say, three reports being approved and one not, and it will be all or nothing, with no risk of cherry-picking the reports we like, as opposed to those we are not so keen on?

Lord Young of Cookham: I am happy to confirm that the position is exactly as the noble Lord said. The legislation requires the Minister to produce a single order to introduce the reports of all four Boundary Commissions, so there can be no cherry-picking—which would never have occurred to our side, but might conceivably have occurred to others.

Lord Tyler (LD): My Lords, assuming that Brexit actually happens—the Minister will have noted that Donald Tusk says that we do not have to do it—does the Minister not recognise that there will be a considerable increase in the workload of our House of Commons Members of Parliament, but, at the same time, a wonderful saving in costs when MEPs such as Mr Nigel Farage and his freeloading UKIP Members are abolished and removed from the European Parliament? Is this not a good opportunity to change the Government's mind?

Lord Young of Cookham: Yet again, we have a plea from the Liberal Democrat Benches to go back on an agreement which they were party to. When we passed the legislation in this House, the date of 2018 was endorsed by members of the noble Lord's party. Basically, this is special pleading to revisit a measure that, if everyone was sensible, they would put their minds behind this and just get on with it.

Lord Naseby (Con): My Lords, is my noble friend aware that when I stood for a marginal seat, despite the efforts of Mr Callaghan to postpone a review of the boundaries, nevertheless, I won my seat? Later, there was another review and I lost my seat. Against that background, it is not vital for all of us who believe in democracy to try to hit the target of each voter's vote being of equal weight?

Lord Young of Cookham: My noble friend came into the other place on the same day as me. My majority that year was 808—I am not sure whether that was more or less than his—and my seat was also subsequently abolished. My noble friend has put far more eloquently than I did a few moments ago the imperative of getting on with legislation that has been through both places to ensure that the next election is fought on up-to-date boundaries, not on boundaries that date back to the year 2000.

Brexit: Devolved Administrations

Question

2.59 pm

Asked by ***Lord Foulkes of Cumnock***

To ask Her Majesty's Government what discussions they have had with the devolved administrations regarding Brexit.

The Minister of State, Department for Exiting the European Union (Baroness Anelay of St Johns): My Lords, we are clear that the devolved Administrations should be fully engaged in our exit from the European Union. We are in discussions with them—both on our negotiations with the EU and on the domestic implications of exit—bilaterally and through the Joint Ministerial Committee on EU Negotiations, which met most recently this month. We will continue to engage the devolved Administrations as we seek a deal that works for the entire United Kingdom.

Lord Foulkes of Cumnock (Lab): My Lords, since the Irish border is the most intractable of the many problems of Brexit, and since a resolution needs the approval of the Northern Ireland Executive and Assembly,

[Lord Foulkes of Cumnock]
neither of which is attending these joint ministerial meetings, how can any agreement be achieved while they remained suspended?

Baroness Anelay of St Johns: My Lords, the noble Lord points to one of the issues of concern to all Members of both Houses. It should be possible as soon as maybe to achieve a resolution to the constitutional position in Northern Ireland. It is for everybody's benefit that they do so. In the meantime, with regard to engagement with the devolved Administrations, we continue to work closely with the Northern Ireland Civil Service at an official level on all the technical aspects.

Lord Foulkes of Cumnock: Not good enough.

Baroness Anelay of St Johns: The noble Lord thinks it is not good enough. As a Government, we stand ready to assist as far as possible in resolving the position in Northern Ireland. Clearly it is not a matter to be taken lightly, and we do not.

Lord Forsyth of Drumlean (Con): My Lords, does my noble friend not think it extraordinary that the Scottish nationalist Government should prefer our fishing and agriculture policy to be decided in Brussels and not by this United Kingdom Parliament in the interests of the United Kingdom?

Baroness Anelay of St Johns: Absolutely right, my Lords.

Lord Morris of Aberavon (Lab): My Lords, is it not a principle of good governance that powers once devolved should not be lightly withdrawn? Does the Minister agree that it is not beyond the wit of parliamentary counsel, properly instructed, to draft proposals to maintain the status quo and to provide for the interregnum in the meantime?

Baroness Anelay of St Johns: The noble and learned Lord, as ever, makes an important contribution on these matters. We are listening to discussions about the drafting of the European Union (Withdrawal) Bill arising out of amendments tabled in another place. It is the intention of this Bill that no decisions currently taken by the devolved Administrations will be removed from them. Each and every part of the noble and learned Lord's intervention is key to our decision to draft the Bill as it currently stands.

Lord Bruce of Bennachie (LD): My Lords, is the Minister aware that the LSE has produced figures which show that the Scottish economy could lose £30 billion as the result of Brexit? My own city of Aberdeen could lose 7% of its economy over the next five years. Will the Government now acknowledge that leaving the single market and the customs union cannot be a deal for the United Kingdom, but would betray the United Kingdom and put it at risk?

Baroness Anelay of St Johns: This Government will never betray the United Kingdom, and we will not betray the fact that, when the referendum was held, over a million more people in the United Kingdom voted to leave than to remain. We will continue to negotiate for a deal that is best for the whole United Kingdom. That is why, in her Florence speech, the Prime Minister set out the importance of making further progress, of having an implementation period and of ensuring that there is certainty as we move to the next phase of being able to make our own decisions in our own way.

Lord Sugar (CB): My Lords, it was the UK which made the decision to leave the EU. The other 27 members were not asking us to leave. They were sitting around minding their own business when we decided to go. We are now trying to negotiate an exit with 27 entities which have no urgency or incentive to provide us with a good deal. Applying commercial logic—

Noble Lords: Question.

Lord Sugar: Yes, it's coming, if you hold on a second. Be patient.

Will the Minister advise the House what negotiation experience and skills those who are handing this important matter on behalf of the UK have? Please correct me if I am wrong but, from my perspective, it seems that they are politicians and civil servants who have spent their whole lives in politics and, with respect, possibly have no clue about negotiating tactics.

Baroness Anelay of St Johns: My Lords, the United Kingdom negotiating team is several hundred strong and has already shown great expertise. I have had the benefit of briefings from lawyers and accountants and all those with expertise both outside and inside Whitehall. I cannot say whether they would meet the standards set by the noble Lord on his television programme but they certainly meet mine.

Baroness Hayter of Kentish Town (Lab): As the Minister will know, without changes to the Government's land grab over what is coming back from Brussels that ought to be going to the devolved Administrations, the Scottish and Welsh Governments have said that they will withhold consent to the Bill. Will the noble Baroness go a little further than she did and give an undertaking that the Government will accept the amendments tabled in the other place to Clauses 10 and 11 so that we respect and retain the devolution settlement?

Baroness Anelay of St Johns: My Lords, the way in which the Bill is drafted does precisely that: it protects the current constitutional arrangements. It is important that we achieve agreement on a common framework. There has been real progress at a technical level in the discussions with the devolved Administrations on how we may achieve that. I put on record my great appreciation of all those I have met in non-Brexit negotiations when I was talking about ongoing business with the devolved Administrations in the JMC Europe meetings. I know that that very constructive approach has been maintained through JMC (EN). We are all working together to achieve the best for the whole United Kingdom.

Lord Hay of Ballyore (DUP): My Lords, the noble Lord is correct: at this moment in time Northern Ireland has no power-sharing devolved Government. There is an urgency to resolve the current big impasse. The Secretary of State for Northern Ireland has set a new deadline of 6 November. However, that deadline will pass and there will be no resolution. It is sad for me to have to say that in this House. Negotiations are all about compromise but one political party in Northern Ireland is insisting on a take-it-or-leave-it approach and is saying very clearly that there has to be a stand-alone Irish language Act or there will be nothing. I say to that party in that case there will be nothing. The Government need to look at other methods of properly informing politicians in Northern Ireland about Brexit. I say to them that there is a feeling in Northern Ireland that politicians are not being properly informed.

Baroness Anelay of St Johns: My Lords, I simply reflect upon the fact that Members around this House feel passionately about our United Kingdom and ensuring that the Northern Ireland peace agreement, which was achieved at such cost, is maintained for our lifetimes and well beyond.

Daphne Caruana Galizia

Question

3.08 pm

Asked by ***Lord Robathan***

To ask Her Majesty's Government whether British detectives will travel to Malta to assist with the investigation into the murder of Daphne Caruana Galizia; and if so, whether they will also investigate the reason for her murder.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the UK is looking to identify how best we can support Malta at this time. We have not received any requests for UK officers to support the investigation into the murder of Daphne Caruana Galizia. Should a request be received, the Government would of course consider it.

Lord Robathan (Con): My Lords, the United Kingdom has a very historic relationship with Malta, which is of course a member of the Commonwealth and the EU. After her murder, Ms Galizia's son said the state in Malta had become "indistinguishable from organised crime". She was investigating corruption at the highest level, probably involving the Mafia, who may have been the people who killed her. Therefore, could Her Majesty's Government encourage the involvement of Europol, as it is important for all of Europe that the rule of law is observed, and seen to be observed, throughout the continent?

Baroness Williams of Trafford: My noble friend is absolutely right that we have a long-standing and close relationship with Malta. We have offered some initial advice to the Maltese and are considering with them how we can support the investigation in the long term.

Lord Lester of Herne Hill (LD): My Lords, Malta is one of four countries, including the UK, whose system is based on the common law. It is also party to the European Convention on Human Rights. This extraordinary, courageous and investigative journalist wrote articles accusing the Maltese Prime Minister and the leader of the opposition of abuses of power. In those circumstances, will the Government please remind Malta of its obligations under the European Convention on Human Rights to hold a truly independent and truly effective investigation?

Baroness Williams of Trafford: My Lords, I hope an effective investigation takes place—we will encourage that to happen. The noble Lord's point about journalists being free to express their views on what they perceive as wrongdoing in the country should absolutely be preserved. The state may not like it, but we welcome the preservation of free speech.

Lord Howell of Guildford (Con): My Lords, Malta is not only the current chair of the Commonwealth—it has held the presidency of the Council of the European Union. It also has a very close relationship with us and we need to take this matter very carefully and seriously, and give every possible support to the Government and leadership of Malta in clearing away all these accusations and rumours that have circulated and been much exaggerated in the press. They need to be cleared up that by clear, individual and strong evidence and examination. It is important to us as a nation to see that Malta is given fair understanding and support in this very difficult matter.

Baroness Williams of Trafford: I totally agree with my noble friend. Malta has great standing in the Commonwealth as its chair. We stand ready to support Malta should it request it, but also to encourage it, as the previous speaker suggested.

Baroness Stroud (Con): My Lords, I pay tribute to Daphne Caruana Galizia for her courage as a journalist. I had the privilege until recently of having her son Paul working with me at the Legatum Institute.

Only one in seven people in this world lives in a nation with freedom of the press. What steps is this country, where we do enjoy freedom of the press, taking to preserve our own freedoms and to see them extended worldwide?

Baroness Williams of Trafford: My Lords, my noble friend makes a very important point. The UK supports freedom of expression as both a fundamental right in itself and as an essential element of a full range of human rights. The freedom of expression is required to allow innovation to thrive and ideas to develop. People must be allowed to discuss and debate issues freely without fear of repression or discrimination.

Lord Rosser (Lab):I refer to the question of the noble Lord, Lord Robathan, about British detectives travelling to Malta—we certainly welcome his enthusiasm for Europol. I ask this as a serious question: unless there is some evidence that the murder of Daphne Caruana Galizia—shocking though it is—was also connected either directly or indirectly to corruption or other criminal activity in this country, do we any longer have detectives available to go to Malta following cuts in police numbers? We have now seen here a

[Lord Rosser]
dramatic increase in hate crime and violent crime. The director-general of MI5 has said that the terrorist threat is operating,

"at a scale and pace we've not seen before",

and police forces here are now no longer in a position even to start investigating some reported crimes. Do we really have detectives available to go elsewhere?

Baroness Williams of Trafford: My Lords, in the aftermath of Hurricanes Irma and Maria, the Home Office authorised the deployment of 63 police officers to support local police forces in the British Overseas Territories of the BVI and Anguilla, so we certainly have the capacity should it be requested. As for police funding and police numbers, police funding has been flat since 2015 and the police carry reserves of over £1 billion to be deployed as they see fit. There is also the point made by HMIC that there is scope for further efficiencies within the police, so that should be borne in mind.

Data Protection Bill [HL]

Order of Consideration Motion

3.14 pm

Moved by ***Lord Ashton of Hyde***

That it be an instruction to the Committee of the Whole House to which the Data Protection Bill [HL] has been committed that they consider the bill in the following order:

Clauses 1 to 9, Schedule 1, Clauses 10 to 14, Schedules 2 to 4, Clauses 15 and 16, Schedule 5, Clauses 17 to 20, Schedule 6, Clauses 21 to 28, Schedule 7, Clauses 29 to 33, Schedule 8, Clauses 34 to 84, Schedules 9 and 10, Clauses 85 to 110, Schedule 11, Clauses 111 and 112, Schedule 12, Clauses 113 and 114, Schedule 13, Clauses 115 and 116, Schedule 14, Clauses 117 to 147, Schedule 15, Clause 148, Schedule 16, Clauses 149 to 171, Schedule 17, Clauses 172 to 190, Schedule 18, Clauses 191 to 194, Title.

Motion agreed.

Raqqa and Daesh

Statement

3.14 pm

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer to an Urgent Question asked in the other place on the liberation of Raqqa:

"Raqqa was officially liberated on 20 October. The Syrian Democratic Forces—the SDF—supported by the global coalition against Daesh, began operations to liberate Raqqa in June 2017. Military operations are ongoing.

My right honourable friend the Secretary of State for Defence has highlighted the continued leading role that the UK is playing as part of the global coalition's counter-Daesh campaign. The UK is the second-largest military contributor to the global coalition and plays a leading role in the humanitarian response.

The liberation of Raqqa this month follows significant Daesh territorial losses in Iraq, including Mosul in July. Daesh has now lost over 90% of the territory it once occupied in Iraq and Syria. The Foreign Secretary will in due course provide a full update to the House on the counter-Daesh campaign, including the operation to liberate Raqqa".

3.15 pm

Lord Collins of Highbury (Lab): My Lords, I thank the noble Lord for repeating the response to that Urgent Question. I note that the Foreign Secretary will be giving a further, more detailed report to the other place and I hope that the noble Lord will be able to do likewise here. I have two brief questions. First, in the other place the Minister said that discussions about the future of the coalition were ongoing. Can the noble Lord tell us what role the armed groups that helped liberate the city from Daesh will play in its future administration and what we can do to assist? Secondly—I raised this point in the House last week, I think—we have seen horrendous crimes against humanity from all sides. It is important that the Government continue to support those who are gathering evidence so that ultimately we hold those responsible fully to account.

Lord Ahmad of Wimbledon: I thank the noble Lord for his continued support on these issues. He asked, first, what happens next. Our partner forces will close in on Daesh elsewhere in Syria. He will know that it is still present in the Euphrates river valley and on the border with Iraq. There, the Syrian efforts will meet up with those of the Iraqi security forces, closing in on Daesh from both sides. The noble Lord's second point is well made, as I have acknowledged previously. He is right to say that those on all sides who have committed crimes should be brought to justice. On Daesh-specific issues, in 2017 I was pleased to report back from the UN General Assembly that a resolution was passed specifically on the UK's efforts, including £1 million allocated by this country, to ensure not only evidence-gathering but the quick creation of a full investigation under the auspices of the UN to deal with Daesh. Other elements of the Syrian regime should also be fully accountable before international law.

Baroness Northover (LD): My Lords, I understand that 80% of Raqqa has been destroyed in the attempt to root out Daesh. What does the Minister think is the likely timescale for reconstruction? When might refugees be able to return and how might they be protected against any risks from the Assad Government?

Lord Ahmad of Wimbledon: This is an issue about which the noble Baroness and I have spoken on several occasions. She is right to point out the destruction in Raqqa. It is terribly regrettable that, because this was urban warfare, many buildings and much infrastructure were destroyed, and let us not forget that Daesh destroyed

much of the remaining infrastructure. That said, she will know that we have stepped up our humanitarian support in this regard. At the weekend, my right honourable friend the Secretary of State for International Development announced an additional £10 million to restore crippled health facilities and deliver much-needed medical support and relief. On her final point, safety and security remain the primary concern. As I have mentioned to the noble Baroness before, we will not engage in large-scale redevelopment of infrastructure in Syria until we can ensure both the political settlement and the safety and security of all citizens.

Lord Alton of Liverpool (CB): My Lords, regardless of what the Government have done at the Security Council in ensuring that evidence will be collected to bring those responsible for these crimes to trial, and building on the point made by the noble Lord, Lord Collins, what will happen next? What structures are we putting in place, either for a referral to the International Criminal Court or to a specially appointed regional tribunal to try those responsible for genocide and crimes against humanity? Surely our belief in the rule of law and perhaps the invocation of something like the Treason Act would be more appropriate in bringing British nationals to justice than yesterday's statement from Rory Stewart, according with statements from the White House, that people could be shot on sight if they had participated in these heinous crimes.

Lord Ahmad of Wimbledon: On the final point the noble Lord raises, let us be clear that people— certainly those of British nationality—who have travelled from anywhere in the world into the region and taken part in the crimes committed by Daesh were doing so at their own risk and were putting themselves into the line of fire. There is the important issue, he says, about bringing people to justice. He will be fully aware of the structured programme in which the CPS and the police are making criminal charges against those returning to the UK. Secondly, there is the issue of the International Criminal Court and other such bodies. As I have already alluded to, we have passed a resolution in the UN and we are currently looking at the governance structure, exactly as the noble Lord suggests. The final structure is to be determined, but it will respect all the norms of international law.

Viscount Hailsham (Con): My Lords, while I accept that lethal force can properly be used against those fighting for ISIS, including British citizens if they pose an immediate and real threat to the interests of ourselves or our allies, does my noble friend agree that this policy should be exercised with great caution and that it would be helpful if we had a fuller explanation of both the criteria and the controls?

Lord Ahmad of Wimbledon: I agree with my noble friend, of course. In any such situation, any intervention or military action should be exercised with strict rules of engagement. As I alluded to earlier in response to the noble Baroness, Lady Northover, we seek first of all to minimise civilian casualties in any action our military is taking. Secondly, on holding those to account, the important thing is that international law and rules of justice are upheld, whether for those surrendering themselves to coalition forces or to the Syrian coalition forces on the ground, or indeed those returning to any part of the world.

The Lord Bishop of Salisbury: My Lords, I thank the Minister for his statement and point out that the Christian presence in Iraq is integral to that country's cultural identity. A reconstruction committee composed of Chaldean, Syriac and Syriac Orthodox churches has restored over 1,700 properties, but that will restore fewer than a quarter of internationally displaced people. What can the Government do to help those displaced Christians to return safely to that space, like Jonah returning to Nineveh, a place where they belong and are called? How can the Government support them in that process where there is a real threat in terms of faith?

Lord Ahmad of Wimbledon: The right reverend Prelate is right to raise the issue of minorities and particularly the Christian minorities in Syria. The crimes committed in Aleppo have been a tragic example of the regime of Bashar al-Assad. I revert to the point I made earlier that any support that the British Government give to those returning is done to ensure their safety and security. We have begun to do exactly that in ensuring that, in the areas where people are returning, medical facilities are available including to all minorities who have been displaced. Let us not forget that over 50% of the Syrian population has been displaced. It will take time to ensure that they can return to their homes. Underlining our approach, both safety and security must prevail.

Lord Reid of Cardowan (Lab): My Lords, I am sure the whole House welcomes the liberation of Raqqa, but deeply regrets both the physical and human cost of Daesh's control of that area. Is the Minister in a position to say more about the breakdown and balance of the anti-Daesh forces now in control of Raqqa and that area, and anything about the co-ordination and co-operation between them for the future?

Lord Ahmad of Wimbledon: The noble Lord raises an important point. We have been supporting the coalition forces and the SDF. I acknowledge that the Russians have also been engaged directly in support of the regime forces. We are clear that the Assad regime initiated this conflict. Although a lasting resolution is very much a matter for the Syrian people, we do not believe it is right that the person who initiated this conflict should be involved in the final, lasting solution. Various international players are working on the ground. I reassure the noble Lord on our actions. The United Nations resolution specifically on Daesh was passed with unanimity, including support from Russia.

Lord Wright of Richmond (CB): Did the Minister see a letter in the *Financial Times* yesterday, saying that Raqqa is in Syria and reminding its readers that the Syrian regime bears a heavy responsibility for the clearance of ISIS from the city? Does he agree?

Lord Ahmad of Wimbledon: I have not seen the letter, but I align myself with the sentiments expressed in it and by the noble Lord. The responsibility for the

[LORD AHMAD OF WIMBLEDON]
larger conflict—not just in Raqqa—lies firmly on the doorstep of the Assad regime which created it in the first place. Daesh emerged as a symptom, created by what was happening on the ground. Wherever there is a vacuum and vulnerability, Daesh has reared its head. Although we all breathe a large sigh of relief on its defeat, we are not complacent in any way. Let us not forget that Daesh has recreated itself before and I am sure it is looking to regroup and do so again.

Financial Guidance and Claims Bill [HL]

Report (1st Day)

3.27 pm

Clause 2: Functions and objectives

Amendment 1

Moved by ***Lord Sharkey***

1: Clause 2, page 2, line 12, at end insert—

"( ) the consumer protection function;"

Lord Sharkey (LD): My Lords, in moving Amendment 1 I will also speak—eventually—to Amendments 2 and 7. They form a linked package of consumer protection measures enabled by, and consequential upon, Amendment 1. I am grateful to the noble Lord, Lord McKenzie of Luton, the noble Baroness, Lady Altmann, and the noble Earl, Lord Kinnoull, for adding their names to the amendments and for their support for them. Amendment 1 simply adds consumer protection to the functions of the SFGB. The notion of consumer protection is implicit in the other functions set out in the Bill, but the amendment gives it statutory life. In doing this, it allows a broader definition of the reach of the SFGB. It widens its remit to something closer to the real-world situation for consumers and enables it to deal more comprehensively with the dangers and risks that consumers face.

Pensions guidance, debt advice and money guidance are all aimed at doing this, of course, but there are related areas where intervention would be of direct benefit: cold calling is one. One effect of Amendment 1 would be to allow cold calling to be dealt with in the Bill. We have discussed cold calling many times during the passage of the Bill and on many other occasions in this House. On several occasions I have described it as an omnipresent menace—and no one has disagreed. It is clear that there is a firm and widely held dislike of and dissatisfaction with cold calling, extending well beyond this Chamber. It is not only a thoroughgoing social nuisance; it is often a threat, directly and comprehensively, to consumers' financial well-being. It is often an invitation—or more exactly, an inducement —to criminal activity.

The figures are remarkable and very alarming. There are now 2.6 million cold calls every month; that number has increased by 180% in the last 10 months. I noted that the Minister, when presented with these figures—and even larger ones—at an earlier stage in the debate, prayed in aid the ICO and the FCA. I am afraid that whatever the ICO is doing, and whatever the noble Baroness hopes the FCA might do at some unspecified time in the future, the problem is not only terrifyingly large but continuing to grow very rapidly.

On the fourth day of Committee, the noble Earl, Lord Kinnoull, made a very telling intervention; I am sure he will not mind me repeating it here. He quoted a Which? report from November 2016, which he described as detailing,

"the full horror of nuisance calls in the UK".—[*Official Report*, 13/9/17; col. 2491.]

The report found that in 17 of the 18 cities surveyed, more than a third of all private phone calls were nuisance calls, and four in 10 people in the Scottish sample were intimidated by these calls. It is not easy to intimidate people in Scotland. In the same debate, the noble Earl, Lord Listowel, pointed out and emphasised the fact that many old people are particularly vulnerable to cold callers.

Then there is the successor to the whiplash scandal: the absolutely huge, and rising, number of claims for alleged holiday sickness. In July and August 2016 alone, one operator took 750,000 British, 800,000 German and 375,000 Scandinavian customers to Spain. The Scandinavians lodged 39 claims; the Germans lodged 114; but the British lodged around 4,000 claims for holiday sickness—essentially, food poisoning. That kind of thing not only costs our travel industry a huge amount and raises prices for everyone but directly encourages criminal acts on a large scale. As the noble Lord, Lord Deben, said in Committee, this a huge industry which,

"encourages fraud and leads people to do things which they would never have done without this pressure".—[*Official Report*, 13/9/17; col. 2489.]

3.30 pm

We already ban cold calling for mortgages. The Government have promised to ban cold calling for pensions eventually. We can ban cold calling for claims management companies later in the Bill via Amendment 42, but we should also be able to ban cold calling, if we choose, for debt management companies. Last week, the FCA announced its second inquiry into the rather murky debt management area.

In fact, wherever cold calling causes consumer detriment, or intolerable nuisance, we should be able to ban it. Ministers have occasionally appeared sympathetic to such bans as the Bill has progressed. Indeed, sometimes the noble Baroness, Lady Buscombe, has been quite passionate in her support for the principle. However, in every case, no matter their sympathy, they have told the House that there is a problem of scope. They have also talked rather vaguely about waiting for the next suitable legislative bus to come along, without so far giving any clue as to when that may be.

Amendment 2 is consequential. It is enabled by Amendment 1 and deals directly with cold calling. It requires the SFGB to make and publish an annual assessment of any consumer detriment. If the SFGB concludes that there are products and services where a ban on cold calling would be conducive to the exercise of its functions, including consumer protection, it must advise the Secretary of State to institute such bans. Since cold callers may be outside the jurisdiction, or revenants who go out of business to avoid penalties and then set up again, Amendment 2 also breaks the revenue chain for such people.

The advice from the SFGB to the Secretary of State must include a ban on the commercial use of data obtained by cold calling. In other words, if you cold-call illegally, we will probably catch you, and in any case you will not be able to sell or use any data collected illegally. New subsection (3C) proposed by the amendment would give the Secretary of State the power to make such bans. The result of all this is that it would no longer be necessary to wait for the legislative vehicle to come along to address the problem of cold calling. Amendment 2 provides all that is necessary. Using it, the Secretary of State could ban cold calling for pensions, for CMCs, for DMCs and for any other activity the SFGB considered warranted a ban. No further primary legislation would be needed.

We have grappled with the problem of cold calling for a very long time. While we have been grappling, the problem has grown hugely in size, as has its potential to do real damage. Since banning cold calling for mortgages we have not really made any progress, but technology has made enormous progress. It has made truly massive-scale cold calling not only possible but a reality in our society. I believe that there is a widespread conviction in Parliament and in the country that cold calling in general is an unacceptable and omnipresent social menace. There is a widespread and entirely justified belief that cold calling can and does have dangerous and damaging consequences, especially for the vulnerable. I believe that there is general agreement that, when it comes to whiplash and holiday sickness, cold calling draws otherwise law-abiding people into committing fraud. It is time to be able to call a halt to all this, which is what Amendments 1 and 2 would do.

Amendment 7 builds on this and continues the theme of consumer protection. As things stand, the SFGB will have no powers of enforcement, as its name suggests. It will not be able to deal directly with what it may see, or knows its clients see, as approaches that amount to malpractice, misrepresentation or harassment —nor with what it may see, or knows its clients see, as dishonest, unfair or unprofessional conduct by those supplying relevant financial services. This misses an opportunity and may allow consumer detriment to persist. Amendment 7 would address this. It acts as a part of carrying out the consumer protection function in Amendment 1, but it is not an attempt to enlarge the competence of the SFGB or to give it redress powers. It is an attempt to make use of the information that the SFGB acquires in the normal course of its work.

The amendment would simply require the SFGB to pass on to the FCA casework from consumers in two circumstances. The first is where the SFGB suspects inappropriate, misleading or harassing approaches for debt advice, debt management, pensions access and claims management. We know that such approaches exist. The second circumstance is where the SFGB suspects dishonest, unfair or unprofessional conduct by the suppliers of financial services within the SFGB's ambit. We know that such conduct exists. It would be wrong to let information about such wrongdoing have no follow-up and no consequences.

That is not to say that the SFGB's predecessor organisations have not passed on such suspicions to the FCA and perhaps to other regulators, but it is to say that the SFGB should have in statute an obligation to do so as part of its consumer protection function. The FCA is the obvious place for lodging such suspicions of wrongdoing. It is the regulator that is best equipped, best resourced and most experienced in dealing with these issues. That is simply what the amendment does; it establishes a statutory obligation for the SFGB to pass on to the FCA casework where it has suspicions of wrongdoing both in approaches to consumers and in subsequent service delivery. We know that both exist and that both are damaging to consumers. The amendment would help reduce that damage and help protect consumers.

Amendments 1, 2 and 7 are a package, all linked directly to the thread of consumer protection. I hope that the Government will see them that way and see their merits. I beg to move.

The Earl of Kinnoull (CB): My Lords, my name was added to the three amendments. I declare my interests as set out in the register of the House, particularly in respect of the non-life insurance industry. I pay tribute to the noble Lord, Lord Sharkey, for his drafting skills—I shall make one or two points in a moment about the drafting, which I think is particularly elegant.

The dataset of 9 million telephone calls to UK cities to which the noble Lord, Lord Sharkey, referred had one other gem within it: 42% of those 9 million calls were nuisance calls. That dataset was gathered over three years, so it is fairly robust and it gives the House yet another sense of how inherent this problem is in our society. We stand here today with the opportunity to do something about that.

Keith Brown MSP, the relevant Minister at Holyrood, said when the report originally came out—it is a very good quote—that:

> "These calls are a serious problem that can cause both emotional and financial harm, particularly to some of our most vulnerable citizens".

Indeed, as the noble Lord, Lord Sharkey, pointed out, Citizens Advice Scotland, in data mining the same 9 million calls, said that four in 10 Scots had felt intimidated. That is a form of mental harm. In our society, if I do or threaten to do physical harm to people, we have protected our citizens under Section 47 of the Offences Against the Person Act 1861—he says, looking at a noble and learned Lord—but we have been less good at protecting them from mental harm. This is one of the ways in which we can begin to redress that balance.

These are subtle amendments because they seek to empower Ministers to go along that path by way of a double trigger. The first trigger is for the SFGB to state that there is a problem worth addressing and to make a report. The second trigger is that the Secretary of State concerned can then decide, yes or no, whether to make an order. The double trigger is particularly subtle because it means the problem will be considered in a complete way. Given that, ultimately, the order will have to come here, we can be assured that there will be plenty of debate.

This mechanism, which will enable the apparatus of government to protect people, will strengthen the legislation. I can see no down side but a strong upside,

[THE EARL OF KINNOULL]
given that Citizens Advice Scotland particularly noted that these nuisance calls weigh on the most vulnerable in our society.

Viscount Brookeborough (CB): I was on the Financial Exclusion Committee. When we talk about targeting the vulnerable, it is not a matter of someone taking all the numbers or addresses out of a book; it is done scientifically. These people look at the vulnerable and consider when they will be vulnerable and how they will get at them.

The amendment includes digital. We were given evidence that single, older and vulnerable people were especially targeted digitally in the middle of the night. So if they are not sleeping well and switch on their computer, what comes up? We should not think that this is just blanket coverage and some of these people picked it up. The high numbers we have been given are targeted numbers and therefore the response rate, sadly, is very high. These are the people we are trying to protect.

We would like to reduce the number of cold calls that people receive purely by chance and do not listen to, but far too high a proportion of these cold calls are listened to because they are targeted on vulnerable individuals in our society.

Lord Faulks (Con): My Lords, I join this debate relatively late and I hope the House will forgive my intervention. I speak from the position of having been a Minister in the Ministry of Justice. One of my tasks was to try to do something about cold calling and the frustrations and distress it can cause. The noble Lord, Lord Sharkey, was right to identify whiplash injuries and, more recently, the problem with holiday sickness. It is a scandal and one is acutely conscious that the vulnerable should be protected from this offensive practice.

My question to the Minister about the amendment is this: is this really the right body for this particular function? I note that the drafting by the noble Lord, Lord Sharkey, the skill of which I admire, tacitly acknowledges this by giving the body a consumer protection function which seems, on the face of it, rather beyond its original remit; albeit it includes a consumer protection function, I accept. Then there are the various stages which are included in Amendment 2 and the riders in Amendment 7. This is quite a cumbersome method of achieving what I think all the House will agree is a satisfactory aim, which is to prevent cold calling.

I understand that the Government are committed to doing something about cold calling. Various attempts have been made before and I acknowledge that they have not been as successful as they should have been, but this does not seem to be the obvious fit for such an initiative. Can the Minister satisfy me and the House that the Government intend to bring forward appropriate legislation if they believe, as I suspect they may, that this is not the right vehicle for that process?

3.45 pm

Viscount Trenchard (Con): My Lords, I understand the motives of the noble Lord, Lord Sharkey, and other noble Lords in seeking to introduce a consumer protection function to the Bill. However, I believe that it places too broad and onerous a responsibility on the single financial guidance body. If noble Lords look at the functions already included in the Bill, the first three are specific. The fourth, the strategic function, seeks to improve the financial capability of members of the public by supporting the provision of financial education to children and young people—although I think that should perhaps be widened. I believe that the strategic function enables consumers to protect themselves better than they would be able to do without it.

Proposed new subsection (3E) would define cold calling as,

"unsolicited real-time direct approaches to members of the public carried out by whatever means, digital or otherwise".

This is too all-encompassing. I would be delighted if cold calling by direct telephone and text were banned, but I am not sure that banning all unsolicited approaches is a good idea. If all unsolicited approaches were made illegal, including those by letter or email, how would a business market its services to new potential customers? Would such a draconian measure not result in severe restriction of choice for consumers? How would they know what products and services were available in the marketplace?

I suspect that the 2.6 million nuisance calls made every week—or 9 million a month; I am not sure what the figure referred to in the debate was—is a serious underestimation. What do the Government intend to do to protect the consumer from unsolicited telephone and text approaches?

Baroness Kramer (LD): My Lords, perhaps I can be helpful on a couple of the points just raised by the noble Viscount, Lord Trenchard. These amendments ban solicitations in real time, as he will have noticed. That obviously excludes letters. It means that you can send information through the post; no one would wish to prohibit proper kinds of marketing. It is the nuisance and intrusion and the element of pressure that comes from that real-time activity that is the pernicious side of solicitation. That, essentially, is cold calling and is exactly what this is intended to deal with.

The noble Viscount suggested that financial education and capability are the way to go; indeed, many in the Government feel that that is the route to deal with cold calling, so that people know to hang up. However, the noble Viscount, Lord Brookeborough, was very clear in illustrating that, while we all get cold calls, we are merely the tip of an iceberg. For those who pursue this, the real focus is on people who are absolutely the most vulnerable. Being realistic, financial education and capability, even on the most extraordinary scale, would be very unlikely to provide adequate protection to that group of people who are now constantly being abused.

On the point made by the noble Lord, Lord Faulks, if this body is not associated with consumer protection, quite frankly I wonder what this body is for. That is the underlying premise that sits behind both the predecessor groups that are now being put into the single financial guidance and advice body. It is essential to bring this on to the face of the Bill in a very clear way, as it is the underlying motivation and characterisation of this body, and certainly it is a responsibility.

The noble Lord, Lord Faulks, also suggested that the Government do intend to move in this area. We have been hearing that for an incredibly long period of time and, with constant pressure, perhaps one day the Government will move. The problem is that we need protection now. We need protection in the near term because, as my noble friend Lord Sharkey, the noble Earl, Lord Kinnoull, and others have illustrated, this has grown in such scale and momentum that there are daily victims. Every day that we wait there are more victims. Since it is completely unnecessary to wait because the language in this Bill serves the purpose, then in a sense it would be extraordinary to say we will sit back and wait 18 months or two years or whatever else, allowing people to be abused. We can bring a stop to it now in a very simple and straightforward way.

If I understand the Government correctly, they are willing to look at certain targeted areas in which to stop cold calling but not to provide a stop to cold calling in each area where there is clear detriment, which is what the amendment allows through use of this new single body to identify and communicate that detriment. These organisations are so slick and quick they can move from one topic to another very rapidly—you close one door and another door gets opened. For example, we stopped cold calling on mortgages. That is an excellent example that tells you we can do it. It is straightforward. The dimensions are understood. The complexities are well-considered and we have plenty of track record to look back at to make sure that it is done well. We have all of that in place. However when cold calling on mortgages was banned, it shifted on to the next issue—currently, it is pensions, claims management and holiday sickness. Everybody can be absolutely sure there will be something new, provided loopholes are left, by simply attacking one issue here and one issue there. That is the beauty of this particular amendment: it gives us the power to deal with this whole industry, the same people and the same players.

I shall make one last remark and then sit down. I want particularly to congratulate the four noble Lords whose names are on this amendment, all of whom have been working so hard in this area. Three of them are here today, able to speak for themselves, but one of them cannot. The noble Baroness, Lady Altmann, as we know, has been a real mover and shaker on these issues, not just over cold calling for pensions—pensions are her area of real expertise and we have heard her on that—but we have also heard her in this House speaking around the much broader issue as well, which is why she has put her name to the amendment. She had a speaking engagement at lunchtime in the Midlands which she felt she could not cancel. She has not eaten lunch but run to the train station. She is on the train which pulls in to the station at 4.30 and had been greatly hoping there would be a Statement today that would delay this long enough that she could be here to join in with this particular section of the debate. I am sure she will speak in later parts of this Report.

The noble Baroness should not be left out when we recognise that the movers and shakers on this are from every side of the House. This is not a partisan or party-political set of amendments. This is a set of amendments by Members of this House who recognise their responsibility to protect those who are most vulnerable now, before more damage is done, and I hope the Government will see it that way.

Lord Faulks: Before the noble Baroness sits down, will she clarify one thing? She was critical of my suggestion that the insertion of the consumer protection function is in some way an attempt to expand the scope of the SFGB. She said, quite correctly, that it is part of the SFGB's function to protect consumers, but surely the purpose of this amendment is to expand the scope of its activity beyond that which is already in the Bill so that it can deal with matters that are beyond what is apparently in other parts of the Bill.

Baroness Kramer: I thought that we could only speak once on Report, but I hope that the House will excuse me if I get to my feet again. Fundamentally, I disagree with the noble Lord. Consumer objectives are merely bringing to the face the underlying discussion and the ethos which sits entirely behind this body and every one of its instructions. If the noble Lord reads all the roles and responsibilities and the debates about those roles and responsibilities, he will understand that this meshes perfectly with these activities. It strengthens its hand in an obvious way, rather than leaving it in a slightly awkward, ambiguous situation.

Lord Elystan-Morgan (CB): My Lords, I am full of respect for and sympathy with the amendments and the spirit in which they have been moved. We are facing massive social abuse that is complicated and extremely extensive. I doubt very much whether in the complicated and convoluted society in which we live it is humanly possible to rid us of all of it. I am sure that is beyond us.

The remarks made by the noble Lord, Lord Faulks, triggered two thoughts in my mind. The first relates to the Offences Against the Person Act 1861 and how well that Act has served society. We are still dealing with it day in and day out in the courts, and with the help of judicial interpretation it is as fresh in many respects as it was the day it was passed. In so far as the offence of assault occasioning actually bodily harm—Section 47—is concerned, the noble Lord is absolutely right. There should be a parallel offence that is not confined to an assault and does not concentrate upon a physical consequence. There have been attempts in the past to widen that offence, but they have been rather vague and less than totally successful. It has to be revamped completely so that the concept of assault is not basic to it and it is not confined to bodily harm.

My other point relates to the higher end of the scale with regard to cold calling. At the very bottom of the scale there is the fishing exercise, the hopeful prospect that something might come of what is not of itself a criminal act. At the other end of the scale, there is a very serious criminal act where A says to B "Let us pretend that an accident occurred—we know nothing like that ever took place—and you are the claimant in regard to that matter and that you are prepared to put forward a statement of facts about a fact that you know to be totally false. I will support you, and we will split the profits between us. You should be prepared, of course, to commence an action in the courts".

[Lord Elystan-Morgan]
The moment you do that, you have probably committed a very serious offence. You have attempted to pervert the course of justice. I believe that as a proposition of law, exceptional to the usual law of attempts, every attempt to bring about a perversion of the course of justice is of itself a perversion of the course of justice. It is at that end that we should start concentrating. Very few of these cases are brought to court, and very few of them are successful, but it would be marvellous to be able to make an example of some of the very worst cases, and by such example a very considerable social lesson would be taught.

Lord Mackay of Clashfern (Con): I would like to ask whether the "direct approaches" referred to in proposed subsection (3E) need to relate to financial matters.

Lord Sharkey: That would fall within the ambit of the consumer protection function of the SFGB.

4 pm

Lord Kirkwood of Kirkhope (LD): My Lords, I will be quick, as the House obviously wants to make progress on this. As a former business manager, I can see where all this is going and can anticipate what the Minister is going to say. The position was warmed up rather nicely by the noble Lord, Lord Faulks. He is an honest man, whose opinions always have to be weighed in the balance, but anybody who seriously suggests that there is going to be legislative time in the future for some other vehicle lives on a different political planet.

The noble Viscount, Lord Brookeborough, made an important speech, and I agreed with my noble friend Lady Kramer when she said a lot of colleagues have done a lot of serious work on this. I was first alerted to the extent of the evidence while serving as a colleague of the noble Viscount, Lord Brookeborough, on the Financial Exclusion Committee. There is a sense of rage and anger about this, which has been going on for far too long. The evidence is there, and as an institution we have a chance of changing it. I for one think it is inconceivable that any Minister in the position that the noble Baroness finds herself can convince this House—certainly me—that this is something we can do another day. We will be deep into European withdrawal for the next two years, and the DWP will be lucky if it gets any Bills during that time—I assert that based on my experience over many years. We have to deal with this now, and I support these amendments. I hope they will be pressed to a Division and passed.

Lord McKenzie of Luton (Lab): My Lords, I start by thanking the noble Lord, Lord Sharkey, for his comprehensive introduction of this important package of amendments, which we support in its entirety. As we have heard, fundamentally it would enable a ban on cold-calling across the piece, together with related reporting functions to the FCA on consumer detriment. We should congratulate the noble Lord, Lord Sharkey, on his drafting, which would enable us to proceed now with a ban. We know the detriment that cold-calling can bring, not only by CMCs but in the pensions arena, and the harm that can produce.

A number of noble Lords touched on this. The noble Viscount, Lord Brookeborough, talked about vulnerability in the digital age and how damaging that can be. The noble Earl, Lord Kinnoull, spoke about the opportunity to do something today to help deal with a process that causes real mental harm. We agree with that. The noble Lord, Lord Sharkey, talked about the scams around holiday sickness and the impact of the advance of technology if we do not get stuck into this sooner rather than later—the need to deal with the "omnipresent social menace", as he put it. I agree with the noble Lord, Lord Kirkwood, on his challenge to the noble Lord, Lord Faulks. If it is not in this piece of legislation, when will it happen?

The FCA recently published its *Financial Lives Survey 2017*, which identified that in the last 12 months, 23% of adults, or 11.6 million, received an unsolicited approach, although of course that does not mean that they would all have necessarily suffered detriment from that. Banning cold-calling is not only an opportunity to deal with a nuisance, it is an effective way of disrupting the business models of the scammers and fraudsters. Perhaps this would be an opportunity to get to those higher-end activities to which the noble Lord, Lord Elystan-Morgan, referred.

I know the Minister is supportive of a ban on "every type" of call, because she told us so in Committee, but the strenuous efforts of Ministers have apparently failed to deliver on that aspiration. Notwithstanding the asserted complexity that the legislation might entail, we were told that if it was in scope, it would be in the Bill. It seems that it is in scope. That hurdle has been overcome, so what is the problem? We accept that there may be some complexity in drafting, but surely nothing beyond the wit of parliamentary counsel.

We urge the Government to make progress. Every day that goes by without the ban holds the risk that someone somewhere will be defrauded of their savings, their life turned upside down. We may hear from the Government, as we have before, that there are already restrictions on cold-calling and unsolicited direct marketing, but this has not prevented consumer detriment continuing. On several occasions during our debates the Minister has told us she has disconnected her landline. If there is such confidence in the current framework, why on earth would that be necessary?

This is a hugely important issue, which is why we have common cause around the Chamber from pretty much all Benches. This is an opportunity to do something now. If we do not do it now, when will it be? I urge the whole House to support the amendments of the noble Lord, Lord Sharkey.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, I thank all noble Lords who have taken part in this important debate with which we begin our Report stage on this important Bill. Amendments 1, 2 and 7, tabled by the noble Lords, Lord McKenzie and Lord Sharkey, my noble friend Lady Altmann and the noble Earl, Lord Kinnoull, would introduce a consumer protection function for the body and a statutory duty in respect of cold calling. I want to say straightaway that we do not believe that Amendments 1, 2 and 7 would depend on each other to work.

Amendments 1 and 7 would set a statutory function for the Financial Conduct Authority to pass on casework from consumers to the FCA on inappropriate, misleading or harassing approaches by financial services providers to consumers, as well as poor behaviour by providers in the areas of activity related to the body. The Government agree with the logic behind this but the Bill already gives the body the power to share information with the FCA under its information-sharing provisions. Specifically, Clause 12 contains a two-way information-sharing gateway between the single financial guidance body and the FCA that allows the disclosure of information, provided it is pursuant to the functions of either organisation. This would include information relating to cold calling on debt advice, debt management and pension access services.

The single financial guidance body will not exist in a vacuum. It will need to work closely with key stakeholders, and Clause 12 is designed to facilitate close working between the body and its sponsor department, the devolved authorities, the Financial Conduct Authority and the body's delivery partners. The clause allows these key stakeholders to share information with the body and vice versa. The intention is to allow unpublished data, such as performance-related statistics and confidential insights gained into the financial guidance landscape, to be shared. This information may include personal data as long as any disclosure is in accordance with the Data Protection Act. The clause also allows information to be shared regarding suspected dishonest, unfair or unprofessional conduct by those supplying financial services so that the FCA can take appropriate action against the offending firm.

The powers would enable casework to be passed between the body and the FCA. We would expect that, subject to provisions in Clause 12 and the Data Protection Act, the body would share this with the FCA if that were the right thing to do for the individual. The Bill does not require the body to supply information of this kind to the FCA because there will often be circumstances in which it would be more beneficial for the customer to be signposted elsewhere—for example, to the Pensions Ombudsman Service or the Financial Ombudsman Service. As such, it is best for the body and the FCA to work out how this handover could take place using the powers in Clause 12.

To illustrate, let me give an example of what a consumer's journey looks like today when impacted by fraud or scams, and what we see as the new body's role to support the consumer. Where the body believes there has been wrongdoing, we would expect it to contact the FCA or other appropriate authorities. If an individual feels that they have been subject to inappropriate approaches or misconduct by an authorised firm, we would expect the new body to recommend to the individual that they contact the Financial Ombudsman Service or the Pensions Ombudsman Service, depending on the particular nature of their complaint. If an individual suspects that they have been contacted by an unauthorised firm or individual carrying out an FCA-regulated activity, it is already possible for the new body to transfer the casework to the FCA.

Furthermore, organisations involved with Project Bloom, a multi-agency group dedicated to tackling pension fraud scams—of which the FCA is part—have an agreed customer journey to which we would expect the new body to sign up. Part of this journey is that, if the individual or the body believes that a customer may have been a victim of a scam, the body should encourage them to contact Action Fraud, which is the UK's national fraud reporting centre. The body would also recommend that customers contact Action Fraud when a customer or the guider suspects that the customer has been a victim to types of fraud other than pension scams. Action Fraud will collect information from the customer about the alleged fraud, and then act as a co-ordinator to cascade the information to the City of London Police or other relevant local police forces to investigate the issue further.

When you report a fraud to Action Fraud, you are given the option for your contact details to be passed on to Victim Support, a national charity that helps those affected by crime. If you take up this option, you will then be contacted by someone from the charity and offered free and confidential emotional support and practical help. Indeed, the Pensions Advisory Service currently encourages those who have been a victim of a pension scam to come back and contact TPAS for support in rebuilding their retirement savings, and offers a bespoke appointment where they discuss rebuilding pension funds and potential next steps. We would expect that the body would perform a similar service.

I hope this illustrates that a blanket obligation to share casework with the FCA would be unnecessary. A requirement for the body to share the casework could lead to adverse consequences; at worst, this could result in the customer being hindered from getting the right help that they need. I hope this reassures noble Lords that there is provision in the Bill for individuals to be channelled to the appropriate services if they have been victims of fraud or scams. It is of paramount importance that the body helps customers in this situation.

Amendment 2 introduces a statutory duty in respect of cold calling, which has been the subject of most noble Lords' interventions this afternoon. The amendment seeks to do a number of things: to require the new body to publish an annual assessment of consumer detriment as a result of cold calling; to require the body to advise the Secretary of State to institute bans on cold calling if it thinks that would be conducive to its functions; and to give the Secretary of State the power to introduce a ban on cold calling, if recommended by the guidance body. I assure the House that the Government already do work to consider the impact that unsolicited calling has on consumers. Indeed, we have been clear that there is no place for nuisance calls or texts and there are already a number of measures in place to protect consumers from the impacts of such nuisance calls.

As I noted in Committee, the Information Commissioner's Office enforces restrictions on unsolicited direct marketing. We have already increased the amount that regulators can fine those breaching direct marketing rules. On top of that, we have forced companies to display their number when calling people, and made it easier to prosecute wrongdoers.

As noble Lords will be aware, cold calling is already illegal in certain circumstances, such as where a person has registered with the Telephone Preference Service

[Baroness Buscombe]
or has already withdrawn consent. Furthermore, the Bill already provides the possibility for the body to alert other organisations to any issues relating to cold calling. Clause 12 contains a two-way information-sharing gateway between the single financial guidance body and the FCA that allows the disclosure of information to each other, provided it is pursuant to the functions of either. This would include, for example, information relating to cold calling on debt advice, debt management, and pension access services. This information may include personal data, as long as any disclosure was in accordance with the Data Protection Act. The clause also allows information to be shared regarding suspected dishonest, unfair or unprofessional conduct by those supplying financial services, so that the FCA could take appropriate action against the offending firm.

4.15 pm

A number of other organisations are also active in this space, including Action Fraud. Action Fraud is the UK's national fraud reporting centre and provides support against a broad range of scams. The body would be able to recommend that customers contact Action Fraud where they have been a victim of scams. Action Fraud will collect information from the customer about the alleged fraud and then act as a co-ordinator to cascade the information to, for example, the City of London Police or other relevant local police force to investigate the issue further.

The amendment goes further by giving the Secretary of State the power to ban cold calling, if that were recommended by the guidance body. However—this is really important—it would not give the Secretary of State the power to enforce a ban on cold calling. I think we can all agree that to give the Secretary of State a power to ban cold calling but not the power to enforce it would be tantamount to not having a ban at all.

However, I have listened to the views of the House. We know that cold calls continue and understand that more needs to be done truly to eradicate this problem. We have already committed to ban cold calls relating to pensions, and are minded to bring forward similar action in relation to the claims management industry. I have asked officials to consider the evidence for implementing a cold-calling ban in relation to claims management activities, and I am pleased to say that the Government are working through the detail of a ban on cold calling by claims management companies. There are complex issues to work through, including those relating, for example, to EU directives. We would therefore like time to consider this important issue properly, and propose bringing forward a government amendment in the other place to meet the concerns of this House.

As the House is aware, the Government have already announced our intention to ban cold calling in relation to pensions, and I repeat that commitment, which would include banning all unsolicited approaches, including texts and emails. We want to ban pensions cold calling because a private pension is often an individual's most valuable asset. Scams can cost people their life savings and leave them facing retirement with limited income and little or no opportunity to build their pension savings back up.

Lord Rooker (Lab): My Lords, I am sorry to interrupt, and I have listened to the whole debate, but how can a Government bring forward an amendment in the other place unless there is a vehicle sent from this place to allow them to do so? You cannot simply amend on the exchange like that without an amendment from this place.

Baroness Buscombe: My Lords, I beg to differ. Despite the noble Lord's extensive experience in another place, it is entirely possible for us to bring forward an amendment in the Commons to introduce such a ban.

As I was saying, we want to ban pensions cold calling because a private pension plan is often an individual's most valuable asset. A ban will send a powerful message to consumers to put the phone down. My officials recently met a range of stakeholders to explore the details of the ban and are currently working on developing the details of the policy arrangements.

Pensions cold calling is also a complex area which we want to get right. Indeed, the recent discussion with stakeholders uncovered interesting questions around how to define existing relationships and express requests for information. The Government will continue to finalise these complex policy details and we intend to publish draft legislation for scrutiny in early 2018. Following this, we will legislate at the earliest opportunity. This gives us the opportunity to develop legislation which is more carefully targeted and allows us to make proper provision for enforcement which this current draft does not allow.

The Government have listened and want to work at pace to introduce a targeted response which will strengthen the arrangements already in place. However, the proposed approach in this amendment could delay implementation of any such ban. If this amendment were passed, the Government would first have to wait for the body to be set up. It is not expected to be set up and operational until October 2018. Then, recommendations would have to be made to the Secretary of State. No doubt, this would not be immediate because this body will have a huge amount of work to undertake when it is first set up. So it could be at least another year or two before any consideration could be made, prior to a recommendation being put to the Secretary of State to introduce such a ban. Then the Secretary of State would have to make and lay affirmative regulations.

The noble Baroness, Lady Kramer, said that we need protection now. If Amendment 2 were passed, there would be much more delay than if the Government were to wait.

Baroness Kramer: I think the Minister distinctly said that she was considering a ban being introduced in the Commons on cold calling for claims management but not for pensions. So the timetable she has described becomes rather complicated compared with the alternative for which she has not given a timetable.

Baroness Buscombe: I have already made it clear, as we did in Committee, that we intend to bring forward a ban on pension scams. We cannot be entirely accurate on timing because, as the noble Lord, Lord Kirkwood, made clear, we have to find a legislative opportunity.

As I have just said, we will introduce draft legislation early next year and that will go through a process of pre-legislative scrutiny. I hope noble Lords will accept that this is very sensible in order to get it right. Indeed, some years ago, this House introduced the possibility of draft legislative scrutiny in important situations such as this. We do not want to get it wrong.

I also say to the noble Lord, Lord Kirkwood, that it is not without this planet to expect and hope that there will be opportunities—gaps in the timetable—for legislation to come forward. Given the timetable for setting up the body and for the many things it will have to undertake in its early months, I suspect that passing this amendment would mean a protracted delay in introducing a ban on CMCs. The noble Baroness knows perfectly well that we cannot introduce the ban on pensions cold calling in this Bill because it is out of scope. CMCs are actually in scope.

Baroness Kramer: This amendment is in scope. It allows the banning not only of cold calling, but of a broader range of issues. The point made from the Labour Benches was that the Government always said they would have done it in this Bill had there been any mechanism for it to be in scope. It is now in scope, which is why we are debating it on the Floor today. We are not debating an out-of-scope amendment.

Baroness Buscombe: That is why I am making it clear that banning pensions cold calling is out of scope of this Bill, but the CMCs are in scope. I am sorry; this is very confusing for noble Lords. I shall focus on what really matters—namely, whether this amendment would bring forward a ban on cold calling. I must stress that that is not the case; there would be a protracted delay.

To reiterate, the Government agree with the spirit of these amendments and will bring forward legislation in this Bill, in the other place, in relation to cold calling for claims management activities. Along with our pre-stated commitment to ban pensions cold calling, I hope that reassures the House.

My noble friend Lord Faulks asked whether the SFGB is the right body to handle cold calling. I stress that I do not believe this is the right duty to place upon this body. It should be the subject of primary legislation. However, the Government intend to bring forward the appropriate legislation that will work in practice. That is the important thing here. My noble friend Lord Trenchard questioned whether this amendment was right and said that we needed to take care to avoid unintended consequences with a complete outright ban that could possibly work to the detriment of the consumer.

I shall detain noble Lords no longer. I hope that the amendment will be withdrawn.

Lord Skelmersdale (Con): My Lords, before my noble friend sits down, she has given a commitment to legislate, or move an amendment, in another place to cover something like 90% of what is required by this amendment. Since when, the noble Lord, Lord Rooker, questioned the ability of the Government so to do. Surely to goodness, this Bill started in this House and has not even touched another place. Therefore, surely to goodness the Government can do what they like.

Baroness Buscombe: I am very grateful to my noble friend for clarifying that point.

Lord Sharkey: My Lords, I am grateful to all noble Lords who have spoken in this debate. I am particularly grateful to the Minister for her close engagement with the matters in these amendments and for her willingness to discuss the issues involved both inside and outside the Chamber. However, I am afraid that the Minister's objections to Amendment 1 did not have much conviction or force at all, not even when supported by the noble Lord, Lord Faulks. The simple fact is that the SFGB should obviously be in the business of consumer protection. Its remit should allow it to consider, for example, the effect on consumers' financial well-being of cold calling for financial services. That is what Amendment 1 does, thereby allowing the consequential Amendment 2 to tackle financial harm caused by cold calling. I was grateful for the Minister's proposals to ban cold calling for CMCs via a Commons amendment, which clearly could be done. However, Amendment 42, which is only a week away, would do exactly the same thing. Why do we have to go round to the other place to do what this Bill would do if Amendment 42 were accepted? I look forward to the Government's support for Amendment 42 as a means of saving time in the Commons.

I was also grateful for the commitment to publish—I think I heard it correctly—draft legislation on a pensions cold-calling ban. I am sorry that the train of the noble Baroness, Lady Altmann, is due to arrive in only two minutes. However, I think I heard the Minister say that she would publish this in early 2018, which is government-speak for probably June. But I note that there was no indication at all of the timetable for such a Bill, and I refer the House again to the remarks made by my noble friend Lord Kirkwood when it comes to the probability of such a Bill. I am afraid that I did not feel the objections aimed at Amendment 7, though extremely extensive in length, were at all compelling. They were full of "shoulds", "expects" and "mays", when in fact "must" is better, which is what the amendment does.

With these amendments we have an opportunity to increase significantly the financial protection of consumers —particularly vulnerable and financially stretched consumers. We can, with this Bill and these amendments, bring about bans on cold calling—not just for pensions, but also for CMCs and DMCs if there is evidence of consumer detriment, as there clearly is. We have argued about preventing cold calling for a very long time, during which the problem has become significantly worse. These amendments would finally address the problem and would address it for whatever creative cold-calling scam comes next off the cold-calling scam production line. These are simple, effective and linked measures which will reduce nuisance, reduce harm and significantly increase the protection of consumers. I would like to test the opinion of the House.

4.30 pm

Division on Amendment 1

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Amendment 1 agreed.

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Amendment 2

Moved by ***Lord Sharkey***

2: Clause 2, page 2, line 18, at end insert—

"(3A) In exercising its functions the single financial guidance body must have regard to the effect of cold-calling on consumer protection and must make and publish an annual assessment of any consumer detriment.

(3B) If the single financial guidance body considers that there are products or services where a ban on cold-calling would be conducive to its functions it must advise the Secretary of State to institute bans on such cold-calling and the commercial use of any data obtained by such cold-calling.

(3C) On receipt of advice from the single financial guidance body under subsection (3B), the Secretary of State may by regulations made by statutory instrument introduce a ban on cold-calling and the commercial use of any data obtained by such cold-calling as recommended by the single financial guidance body.

(3D) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(3E) For the purposes of this section "cold-calling" refers to unsolicited real-time direct approaches to members of the public carried out by whatever means, digital or otherwise."

Lord Sharkey: I wish to test the opinion of the House.

4.47 pm

Division on Amendment 2

Contents 253; Not-Contents 205.

Amendment 2 agreed.

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5 pm

Amendment 3

Moved by ***Baroness Buscombe***

3: Clause 2, page 2, line 19, after "public," insert "free and impartial"

Baroness Buscombe: My Lords, before turning to Amendment 3, it may be helpful to the House if I were to say now that, in the light of earlier Divisions, the Government will accept Amendment 7 as it is consequential on Amendment 1.

Amendments 3, 5 and 6 address concerns raised by the noble Baroness, Lady Drake, and referred to by other noble Baronesses, including the noble Baroness, Lady Coussins. They provide certainty that the information, guidance and advice services provided by the single financial guidance body and its delivery partners will be impartial and free to members of the public.

As we stated in the Government's response to the consultation on the single financial guidance body—and as I confirmed in Committee—it has always been the Government's firm intention that the body's information, guidance and advice services should be provided free to members of the public. We recognise the concerns that often the people most in need of financial guidance or debt advice are already in financial difficulty. The existing organisations already provide free services and we are clear that this should not be any different when those services transfer to the new body.

In Committee, the noble Baroness, Lady Drake, made a number of very pertinent points about the importance of the new body being wholly customer-focused and not influenced by commercial interests. She highlighted that, in the case of guidance, the body needed to be trusted to take the customer up to, but not into, the "decide and buy" or "decide and act" moment. She stressed that a commercial comparison website that takes commission is very different from a factual comparison table that provides information based on customer needs.

We agree that guidance from a provider with a vested interest in the decision a customer makes carries a greater risk of being partial. Impartiality—ensuring that the person or organisation giving the information, guidance and advice has no vested interest, whether that be the single financial guidance body itself or its delivery partners—should be central to the new body's ethos. This amendment provides certainty on these two important matters. It places impartiality at the heart of the body's culture and ensures that its services will be free to members of the public. For these reasons, I beg to move.

Baroness Drake (Lab): My Lords, I support and very much welcome these government amendments. I thank the Minister for the consideration she has given to the arguments put forward in Committee. These amendments would make the guidance and advice free to the user and impartial. It is very important that it should be free to the user and not vulnerable to ministerial discretion to decide to charge a fee at some later point for three important reasons.

I do not want to prolong the debate, having got the amendments but, just in case there were ever to be reconsideration of the point, I say that if the new body is to be effective in meeting its objectives it needs to be trusted and universally recognised for supporting members of the public and those most in need. To charge for information and guidance would make the relationship transactional, which risks undermining trust and public perception of the purpose and ethos of the service.

[Baroness Drake]
It also needs to be free to the user if it is to reach the people who need it most. Charging a fee could deter many people on low and moderate incomes. In many instances, getting customers even to seek guidance often needs a pull, and charging just makes that problem more difficult. If the service is not free to the user but subject to a fee, the new body's priorities and impartiality could be compromised because of potential conflicts over where to put resource from the organisation—towards those most in need or to the services with the greatest potential to raise revenues.

The requirement in the Bill that guidance and advice given must be impartial is very important. The Minister referenced arguments used in Committee that there are so many providers of information and guidance that they nudge or encourage the consumer in directions that are not driven solely by their needs. It will be the fact that the new body is impartial in the advice and guidance it gives that will distinguish it and allow it to build trust and to deliver its statutory objectives. I thank the Minister for bringing these amendments forward.

Baroness Kramer: My Lords, I join in thanking the Minister for bringing these amendments forward. I think she recognises that the three existing bodies to be merged all have a reputation for impartiality. Their services are free and she is making it absolutely clear that those vital elements which she respects and appreciates so much in the existing bodies will carry through into the new body. It seems to me that stating it clearly, rather than leaving it to be read and potentially misconstrued, is exceptionally helpful.

Lord Stevenson of Balmacara (Lab): My Lords, I thank the noble Baroness for making the statement she did at the Dispatch Box at the start of this debate. We are very appreciative of the acceptance of Amendment 7, which goes with the spirit of the way we have conducted the discussions over the Dispatch Box and in meetings over the period of the Bill. It has been one of the happiest Bills I have been involved in and I have been involved in some very happy Bills. I extend the thanks to the Bill team for their good supportive work. It has been a very good experience all round. This amendment is another example of that, because Members will recall that in Committee the Government's line was that—although they absolutely agreed that advice, guidance or information given by the new body or by its contracted other bodies must be free at the point of use—they did not think it necessary to amend the Bill. However, over the time we have been talking about it, it has grown on them that there might be an advantage in doing so, for all the reasons my noble friend Lady Drake gave. Having those words at the heart of its mission statement and affecting all the work it does will make it a much better body, so we are very grateful and we support the amendment.

Amendment 3 agreed.

Amendment 4

Moved by ***Baroness Drake***

4: Clause 2, page 2, line 21, at end insert "including by means of provision to the public of a pensions dashboard."

Baroness Drake: My Lords, the intent of Amendment 4 is to require that the introduction of a pensions dashboard shall be as a single, public service dashboard overseen and hosted by the single financial guidance body, a safe viewing space where an individual can see all the information on their state and other pensions savings. I welcome the Government's recent statement that the Department for Work and Pensions is to take ownership of the dashboard project and take it forward to the next phase. Releasing data on individuals' state pension entitlement to the dashboard is a key criterion for its success. The DWP being now responsible for the database of state pension entitlements and taking ownership of the project is in itself reassuring, because the department could never allow release of this personal state data through the dashboard unless it was completely satisfied with the governance, standards and protection of individuals.

The industry has done a good job in driving the dashboard project forward and the recent report on the project from the ABI asserts,

"that it is possible to build the 'plumbing' to connect multiple pension schemes to dashboards and for people to see their pensions in one place … infrastructure can be delivered, and a data standard for sharing information can be agreed … industry can work successfully with FinTech providers to make this happen".

That is good and it has done good work, but the project now needs to move into a new phase, owned and driven forward by the Government, engaging a wide body of stakeholders, including, importantly, consumer groups. The public need to see clear proof of concept from the perspective of the consumer's interest and the public good.

Within the dashboard there will be a pension finder service: the engine that sends out messages to search the records of all providers and schemes records to see if there is a match to the customer details. The engine then collects that data to populate the consumer's front-end viewing space. If introduced, the data of millions of people will be accessible through the dashboard—high standards, tough regulation and sound governance will be required. To be successful, a dashboard requires all providers to release their data, but there are some big and significant questions still to be answered on governance, implementation and consumer protection before the Government can move to compel all providers to provide their data, which the industry is calling for.

There is a major governance challenge to be addressed: the consumer protection of millions of people in both the provision of the dashboard and the infrastructure that supports it. Issues such as identify validation and security, data matching and pension-finding consent need to be overseen and policed.

The ABI report acknowledges,

"the need for strong governance to make clear what obligations, liabilities and controls are in place … to oversee the setup and maintenance",

of the dashboard. Under what circumstances should individuals' data be shared with third parties? What will be the requirements around consent and protection? What happens if those parties are not regulated? Certainly, any unregulated party must be excluded from using dashboard data. After all, the consumer will be giving permission for the use of their personal data to search for pension savings, and for the provider or scheme to share that data with the dashboard.

The dashboard, in requiring near-universal coverage, raises the governance bar on protecting consumers from bad behaviour by both regulated and unregulated providers, scammers and consumers' own vulnerability when all their pensions and savings data can be identified and viewed in one place, accessible through a digital identity. Oversight of that governance must rest with a public body with the right powers to work with regulators and industry to deliver what is required.

The potential scale of the dashboard raises the importance of public control over its implementation and rollout. There will be the constraint of the minimum viable product, but a staged implementation approach to full coverage will reduce the risk to the consumer. I recognise the dashboard is only as useful as the data that populates it, so a pathway to full coverage is needed for its success, but that needs public control.

The Government need to give clarity on the consumer benefits and public policy outcomes that a pension dashboard is expected to deliver. Any decisions on the project must be benchmarked against these desired benefits and outcomes. The dashboard may provide people with the information they need to consider their options but, of itself, it will not enable them to make informed decisions. It is important that support structures exist around the dashboard to avoid people making poor decisions with the information they have accessed.

5.15 pm

Public policy on this project has to complement government's overall strategy to support and protect savers. A dashboard can contribute but does not provide the solution to the problem of the need for better and more informed decisions when people access their savings. It will not be a silver bullet for customer engagement. International experience indicates that more people are likely to use the dashboard if it is part of a wider approach to promoting pensions. Delivering a successful dashboard involves not only the governance and implementation challenges but consideration of the activities and policies that come off the back of that dashboard. The engagement of individuals is important, but the evidence consistently reveals that defaults are the most powerful drivers of behaviour and good outcomes. The use of glide paths and default products is likely to develop even further in future. Greater knowledge of people's savings portfolios could allow for the design of more fit-for-purpose defaults, but this all needs to be in a world of consumers' consent and interest being put first.

A dashboard can make pensions guidance more effective as individuals would have greater knowledge which would improve that guidance conversation with less time spent on working out what people have and more on giving the quality guidance that people need. The quality of data and record-keeping across providers is not always good. A person moving jobs may have up to 11 small pension pots, but perhaps only one provider has up-to-date details about them. Government policy need to be clear on if and how use of the dashboard can measurably reduce the small pots problem and improve the position of savers whose funds are sitting in poor-value legacy products.

All these issues reinforce the case for a non-commercial single public service dashboard that will engender trust and confidence from the public. Consumers need a safe space to view their savings and pensions where they will not be aggressively marketed to and are safe from scams and being lured into poor decisions. Unless people believe the dashboard is a trusted and protected space, they will not use it. Consumer research reveals an anticipation or implicit assumption that the dashboard will be run by a government-backed service which people can trust because of the expectation that the Government would not use personal data for commercial gain. The research evidence in the ABI's report confirms that consumers want a centrally accessible dashboard that is free from commercial pressures and is sponsored by the Government. There are real risks for the Government if they compel providers and administrators to release data to other than a public service dashboard. The oversight and hosting of a public-good dashboard, its implementation and the responsibility for provisioning and governing the pension-finder service needs to be rooted in a public service body that is not trying to sell products and services. There needs to be a clear demarcation between information and sales.

In Committee, the Minister confirmed that such a public service role, if agreed by the Government, falls within the objectives set for the single financial guidance body in the Bill. The public governing entity would work alongside the regulators, government and industry to ensure that all the necessary controls and protections were in place. I beg to move.

Baroness Kramer: My Lords, I congratulate the noble Baroness, Lady Drake, on such an extraordinarily comprehensive but succinct speech framing the future structure of the kind of pensions dashboard that I think everybody in this House feels consumers deserve. I also congratulate the Government on their willingness now to step forward and take ownership of this process. As the noble Baroness, Lady Drake, said, the two key underlying issues that will be crucial to the public are protection of data—the whole issue of access to data—and quality guidance to enable them to make use of the information that comes to them through that dashboard as they try and structure their future financial circumstances.

I assure the House that although very often we on this side will try to write an amendment that we think is comprehensive and will basically create the legal framework we want the Government to follow, there are times—this is one of them—when we recognise that the need for development and the underlying complexity of the issue mean that the far better route is government ownership of the policy and the project to take it forward. The Minister will know from having listened to the noble Baroness, Lady Drake, and others in the House that we will always be here with scrutiny and with recommendations to the Government, but it will be exciting to see the process that they now put in place to make sure that this goes from merely a possibility enabled by technology to a very real service for consumers in this country.

Baroness Altmann (Con): My Lords, I too congratulate the Government on their decision to host the pensions dashboard and to put in place the necessary measures for the dashboard to be held in one place. I congratulate

[Baroness Altmann]
the noble Baroness, Lady Drake, on her persistence and her excellent description of why it is so important that this measure is implemented in the manner she set out.

The public need a single dashboard. If individual private sector organisations each released their own dashboard, it would be too confusing for the public. One thing that will certainly assist in any dashboard is standardised statements, required perhaps by the FCA and the Pensions Regulator, whereby anyone who receives a statement about what pension they have—what terms it has and so on—has to be given a piece of paper. Sometimes called a pensions passport—although it does not matter what it is called—this will be a standardised, simple statement that tells people in one place what they have and clearly explains the kind of terms that the pension has, its value and any special features. Sadly, too often, the private sector has not been able to achieve that. Very often the statements that people get are almost unintelligible. They are sometimes far too long and use different language for the same type of pension, so that people struggle. I support this amendment and congratulate the Government and the noble Baroness.

Lord McKenzie of Luton: My Lords, I too thank the Government for the announcement that the dashboard is to be taken forward and acknowledge the role that has been played by several Members of your Lordships' House, particularly my noble friend Lady Drake, who with her impeccable logic and powers of persuasion has really led the charge on this. I also acknowledge the noble Baroness, Lady Altmann, who has long campaigned on this issue.

We know that the delivery of the dashboard will be a huge challenge, but it is an opportunity for individuals to see all their savings and pensions in one place, including the state pension. As my noble friend Lady Drake said, the key fact is that it is a single, public service dashboard, so that individuals who use it can have confidence that there will not be a conflict of interest between those seeking to use information and data to sell products and those who are genuinely attempting to help people to understand the pension pots that they have. The data shows that over their lifetime people could change their jobs 11 times. I am not sure how current that is, but 11 changes of jobs could mean as many as 11 pension pots. We know the challenges of small pension pots and how difficult it is for people to access those—they forget where they are. It is particularly an issue for women.

Hearing that the dashboard is to be taken forward makes this a good day. There is lots of hard work to do, and there are many governance issues for your Lordships' House and others to keep an eye on as it gets developed.

Baroness Buscombe: My Lords, this amendment, tabled by the noble Baroness, Lady Drake, is identical to the one tabled on 17 July 2017, which I have to say sounds an awful long time ago and feels it too. It would require the body to provide a pensions dashboard as part of its pensions guidance function. The purpose of pensions dashboards is to provide a clear picture of all an individual's pension savings in one place, accessible online. Pensions dashboards are potentially an important tool to help people to take control of their retirement planning. With automatic enrolment, more people than ever before are saving into workplace pensions, and we know that the nature of work is changing, with more people taking a number of jobs in their lifetime—the noble Lord, Lord McKenzie, has just talked about 11 times possibly becoming an average. The ability of people to view their pension savings in one place could make a real difference in assisting them to plan and save for their retirement, including making better-informed choices on the financial impact on their pension provision of working longer if they chose to do so.

I promised to come back on Report with a full statement on the Government's position on the dashboard project. The Government are firmly committed to the delivery of pensions dashboards and have restated our commitment, as announced last week at the Pensions and Lifetime Savings Association conference in Manchester by the Parliamentary Under-Secretary of State for Pensions and Financial Inclusion in another place. It was announced that, to take forward this work, the Department for Work and Pensions will take lead responsibility for the policy within the Government and manage the next phase of the project. Working with industry, consumer organisations and regulators, the department will conduct a feasibility study to examine the complex issues that still need to be addressed, such as those highlighted by noble Lords today, particularly the noble Baroness, Lady Drake. We will share an update on this work by spring next year.

The very helpful report published on 12 October by the ABI-led pensions dashboard project sets out many of the key questions to be explored, and we will look at its research findings and recommendations in detail as part of the feasibility work. We are grateful to all those organisations involved in the project so far. The aims of the feasibility study will include the following: exploring in more detail what will be of the most use to individuals to help them plan effectively for their retirement, as consumers' needs must be at the heart of our approach; the viability and implications of different delivery models; determining a suitable framework of governance for pensions dashboards; ensuring that consumer interests are safeguarded and their personal information is protected—as the noble Baroness, Lady Drake, has said several times today, we are talking about providing a safe space for public good so it is incredibly important to get this right—and thinking through issues of regulation, standards, data security and identity verification; establishing how to ensure the widest possible contribution of data from pension providers, bearing in mind that effectiveness will be linked to how much information individuals can see in one place, while also taking account of the potential impact on industry; determining the indicative costs of potential models and how they might be funded sustainably; and setting out a pathway for delivery with provisional milestones and recommendations around communications and publicity.

5.30 pm

I feel it is important to emphasise again that the needs of the consumer will be at the heart of any design. We want to maximise people's engagement in their pensions,

while maintaining their trust. We will ensure that consumers' interests are properly safeguarded and their information protected. I also emphasise that our intention is to work very closely with industry and other stakeholders—consumer organisations, regulators and others—in order to take this forward.

As I said in Committee, we believe that the current pensions function of the new body is wide enough to cover a number of the delivery options, including hosting a potential future dashboard. Therefore, specifying this in legislation is not necessary or desirable, as we do not want to stifle innovation nor pre-empt the outcome of the feasibility work. To legislate now would be premature, as we still need to do a lot of work to make pensions dashboards a reality. Indeed, as the noble Baroness, Lady Drake, said, this is a very real challenge and governance issues are critical. We have to have proof of concept before we can deliver.

I am grateful to all noble Lords who have taken part in this debate. I am very pleased that I could say what I have already said this evening—so on that basis, given that I was able to set out the proposals to which the Government are committed for taking this work forward, I hope that the noble Baroness will be willing to withdraw her amendment.

Baroness Drake: My Lords, I am grateful to the Minister for her reply. I tabled my amendment for two reasons: the first from conviction, and the second to ensure that I could secure the fullest possible statement from the Government on Report. I recognise that ownership is being transferred to the DWP. I consider that to be very positive, first, because of its remit and experience; and secondly, because it has an alignment of interest over its own database, which is the state database. The Minister has already confirmed that the Bill would not preclude having a public governor of the dashboard in the single financial guidance body if that was the policy decision. In her statement, she has quite clearly said that the Government accept that the dashboard must be of use to individuals; that consumers must be at the heart of the design; that it has to be viable, and that the framework of governance must hold public confidence. The Minister referred to a report being produced in spring next year, and I recognise that there is a lot of work to be done, but I think she can assume that there will certainly be several Members of this House who will be looking to scrutinise what the Government say in the report. On that basis, I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

Amendments 5 and 6

Moved by ***Baroness Buscombe***

5: Clause 2, page 2, line 22, after "England," insert "free and impartial"

6: Clause 2, page 2, line 24, after "public," insert "free and impartial"

Amendments 5 and 6 agreed.

Amendment 7

Moved by ***Lord Sharkey***

7: Clause 2, page 2, line 27, at end insert—

"( ) The consumer protection function includes the obligation for the single financial guidance body to pass on casework from consumers to the FCA relating to—

(a) suspected inappropriate, misleading or harassing approaches with regard to debt advice, debt management, pension access and claims management services; and

(b) suspected dishonest, unfair or unprofessional conduct by those supplying financial services relating to the areas of activity of the single financial guidance body."

Amendment 7 agreed.

Amendment 8

Moved by ***Lord McKenzie of Luton***

8: Clause 2, page 2, line 28, after "support" insert "financial inclusion and to support"

Lord McKenzie of Luton: My Lords, I will also speak to Amendment 17. Together, these amendments revisit the issue that we raised in Committee concerning the SFGB's role in financial inclusion and add as a specific objective of the body contributing,

"to the reduction and elimination of financial exclusion",

particularly for vulnerable people. Our amendments spring in particular, as will be recognised, from the House of Lords Select Committee report on financial exclusion, which regrettably has still to receive the Government's response. I would press the Minister on when this might be forthcoming, but can anticipate that the answer will be some variation of "soon", "in the near future", "imminently", or perhaps even "before Christmas".

The amendments raise two particular issues: where are we as a country on financial inclusion and financial exclusion; and what, if any, should be the role of the SFGB in addressing these challenges? Dealing with the latter first, we argue that it should be included in the strategic function of the new body and that it should have as one of its objectives contributing to the reduction—or elimination, although we accept that that is perhaps overly ambitious at the moment—of financial exclusion, especially for vulnerable persons. We should stress that this does not seek to have the SFGB usurp the role of the FCA or the Treasury in these matters—a point made by the Minister on our original amendments—but to support financial inclusion and help reduce financial exclusion.

As defined by the Minister, the noble Lord, Lord Young, financial inclusion is about individuals and businesses having access to useful and affordable financial products and services that meet their needs. If the single financial guidance body does not have a role in addressing these matters through its money guidance function or improving the financial capability of members of the public, then what is its purpose? Will the Government be clear on this issue and say precisely what role they believe the single body should play in promoting financial inclusion and combatting financial exclusion? What is the Government's view on that?

The need for a strategy to improve financial inclusion in the UK was a key recommendation of the Select Committee. We have already acknowledged the importance of appointing a Minister for financial inclusion and the need to engage across government to lead, co-ordinate and monitor a strategy. We accept

[LORD MCKENZIE OF LUTON]
that leadership on this might reside primarily outside the SFGB, but to suggest that it does not have a role seems perverse. If financial inclusion is about access to financial services, capacity to manage financial transactions and avoiding problem debt, then financial exclusion would clearly cover circumstances when this is not the case. That more should be done to advance financial inclusion can hardly be in doubt. Promoting financial inclusion was a key recommendation of the Financial Inclusion Taskforce, whose mission was to increase access to banking, improve access to affordable credit, savings and insurance, and improve access to appropriate money advice. It undertook monitoring of financial inclusion initiatives as well as regular research. Unfortunately, the taskforce fell by the wayside when abolished under the coalition Government and thus left a gap. We hope that that gap can be filled with the help of the single financial guidance body.

There are a raft of statistics that identify the levels of financial exclusion in the UK, those at risk of being financially excluded and those at risk of facing significant barriers to engagement in modern society. Some 13.5 million people live in low-income households or in poverty, and 1.7 million adults do not have a bank account. One-third of people over the age of 80 have never used a cash machine or prefer to avoid them; 3.8 million UK households do not have any internet; and 40% of the working-age population have less than £100 in savings. The vulnerable or potentially vulnerable are not a fixed or homogeneous group, but a common characteristic is often poverty—simply not having enough money—and having to transact on the most expensive terms.

The Select Committee outlined some of the particular circumstances that made various groups vulnerable: those with identity verification issues, such as ex-offenders; those with mental health challenges, where financial exclusion can have a variety of negative consequences; and the disabled, where often reasonable adjustments are inadequate. We have very serious issues to confront.

We could debate these important issues all day, but I am aware that we have a further amendment coming up in the name of the noble Baroness, Lady Finlay, which might be a formulation on which the Government can offer a measure of support. It certainly has our support. In the meantime, I beg to move.

Baroness Kramer: My Lords, I was glad to add my name to Amendment 8, moved by the noble Lord, Lord McKenzie of Luton. Amendment 17 is almost the other side of the coin.

I think that most Members of this House, including those in the Government, feel that financial inclusion is sufficiently important that it should be expressed through most of the financial bodies that we create. The noble Lord laid out very well the depth of the problem; others on the committee may speak to that in a moment.

It would be helpful to have clarification under the Bill, in part because we have genuine confusion. I am pretty sure that Ministers have all been under the impression that this matter is wrapped up and dealt with in the context of the powers, responsibilities and objectives of the FCA but, having talked to the FCA, they will now be aware that it has a very constrained role in this area and does not provide capacity to deal with the problem—for example, filling in gaps—that most people assume that it has.

Part of our problem, of course, is that we never consolidate financial legislation, so there is genuine confusion over who does what and assumptions that particular issues are taken care of when they are not. Financial inclusion is one of those that has fallen right through the holes, due to the mismatch of a whole variety of different pieces of legislation. This is an opportunity to provide for a body to consider these issues centrally to everything that it does. What it does is very relevant to that process. That is obviously not a complete answer to the problem of financial inclusion—that involves many others—but we have to make a start somewhere. It should now become a regular habit for financial inclusion to be addressed in each piece of financial legislation.

Viscount Trenchard: My Lords, nobody in this House would disagree with the idea that we must do as much as possible to reduce financial exclusion and promote financial inclusion, but, again, I am not sure that the amendments are practical. Normally, anything proposed by the noble Lord, Lord McKenzie, and the noble Baroness, Lady Kramer, is of the very greatest sense; I know that from experience going back many years.

However, I worry that to amend the strategic function as proposed to strengthen further the obligation on the new body may be just a bit too much of a burden, too onerous, too open-ended and not properly defined. It is very hard to define exactly what is financial inclusion and what is financial exclusion. Obviously, the former is a good thing and the latter a bad thing, but if the strategic function is already there to support improvement in financial capability, the ability of the public to manage debt and the provision of financial education to children and young people—although I think that should probably be to everybody—the amendment duplicates that, makes it too vague, too hard to define and, potentially, too onerous.

Furthermore, I also worry about enshrining in statute the terms,

"vulnerable individuals, families and communities",

because there is nobody in your Lordships' House who does not recognise that vulnerable individuals need more help and support than those who are not so vulnerable. Nevertheless, it is very hard to define, and to create a different obligation for an ill-defined set of individuals and communities from the general obligation to all members of the public may be confusing and make the legislation less clear and less effective. For those reasons, although I understand the noble Lords' objectives, I cannot support their amendments.

5.45 pm

Baroness Tyler of Enfield (LD): My Lords, I rise briefly to add my strong support for the amendments. In so doing, I apologise to the House that I have been unable, for reasons of ill-health, to participate in earlier discussion of the Bill.

As chair of the former Lords Select Committee on Financial Exclusion, I was very pleased when I read the amendments. The noble Lord, Lord McKenzie,

and my noble friend Lady Kramer have set out their rationale very well, and I shall not go over that ground again, but if we are setting up a new single financial guidance body, promoting financial inclusion must be clearly set out as one of its key objectives.

On the point referred to by the noble Lord, Lord McKenzie, it would be nice to know when we will receive the government response to the Select Committee report. Correct me if I am wrong, but I think I recall that the noble Baroness, when asked back in July, said that the government response would be available "very soon". We are now some way off the tail end of July. If the Minister could give any clarification of when the government response will be available, that would be extremely helpful.

Lord Young of Cookham (Con): My Lords, the co-pilot is in charge for this leg of the journey. I take this opportunity to address the amendments tabled by the noble Lord, Lord McKenzie, and the noble Baroness, Lady Kramer, on the common theme of financial inclusion, and welcome the contributions from the noble Baroness, Lady Tyler, and my noble friend Lord Trenchard, who anticipated in part some of my response.

Having listened to the noble Lord, Lord McKenzie, I would not disagree with what he said about the challenges that confront the Government in this area: the problems of financial numeracy and the serious issues, to use his words, that he identified as needing to be addressed. I will come to that in a moment.

As I said in Committee, we take the issue of financial exclusion very seriously and are grateful for the important work of the Financial Exclusion Select Committee in highlighting this important issue. We have considered the committee's wide-reaching report, including its recommendations concerning government leadership and the welfare system.

In answer to the two questions about timing, the Government aim to respond to the committee's report—here I use an option not mentioned by the noble Lord, Lord McKenzie—before Third Reading. I understand noble Lords' impatience that we did not have our response to the report available for Report, but I hope that there will be adequate time to consider it before Third Reading. I reassure noble Lords that the Government's response will address the committee's recommendations and will bring forward new proposals on how better to co-ordinate across government, the regulators and the wider sector on the key issue of tackling the significant issue of financial exclusion.

As was mentioned in our debate, this area has been given new prominence within the DWP ministerial team by the appointment of my honourable friend Guy Opperman. At the same time, it is important that this change is seen in the context of HM Treasury's ongoing, government-wide policy responsibility for financial inclusion and exclusion. A key part of the Government's approach to tackling these issues will be to require the relevant departments to work collaboratively, and the response may say something about that.

I stressed in Committee the Government's understanding of the terms "financial inclusion" and "capability", and I thought that we had established an element of agreement on this point. At the risk of reopening a theological discussion, financial inclusion refers to ensuring that members of the public have access to financial services. Financial capability is ensuring that the public are best able to make use of the financial services to which they have access. These terms are widely accepted by, for example, the World Bank. It is important that we build on this shared understanding of the terms so that there is clarity about the intentions for the body, which is to build financial capability among members of the public. To put this another way, the new body should not have a role to regulate the supply of financial services and products by the industry. It should, however, play a key role in helping people engage with or consume these products and services.

This does not mean that the supply of these products is not important. The point is that it is the role of the Financial Conduct Authority—not the SFGB—to ensure that appropriate action is taken when the market fails to supply useful and affordable services and products. So the omission of financial inclusion in the Bill is not an oversight; it is deliberately omitted from the body's functions and objectives which refer to the supply of useful services such as savings, credit and insurance products. The proposed amendments would greatly expand the body's statutory remit and are also likely to create confusion over the roles of the Treasury and the FCA, both of which have the relevant responsibilities and powers and are better placed to influence the supply of financial services and products.

In terms of financial exclusion, as the noble Lord, Lord McKenzie, rightly observed in Committee, even more important than these definitions is the question: what will the Government do to act in a more co-ordinated way to tackle financial exclusion? I want to assure noble Lords that, following the Select Committee's work in this area, the Government will propose, in their response, more appropriate and effective ways to address this issue than through the functions and objectives of the SFGB.

With regards to the particular issue of improving access to financial services for vulnerable people—which comes under Amendment 17—we consider that the FCA, and not the SFGB, is more appropriate to deliver that role. The FCA has already carried out a great deal of work in this area. Many Peers had a helpful meeting with the FCA last week. I hope it reassured noble Lords that the FCA takes its responsibility on consumer protection very seriously. The FCA published two pieces of in-depth research, carried out in 2015 and 2016, which supported the development of current initiatives to address access issues for vulnerable people. I came away from that meeting with a slightly different impression from that of the noble Baroness, Lady Kramer.

As discussed in the meeting, issues regarding access and vulnerability are at the core of the FCA's mission and business plan, published in April this year. To quote from the mission:

> "Understanding vulnerability is central to how we make decisions. Consumers in vulnerable circumstances are more susceptible to harm and generally less able to advance their own interests".

The FCA is due to undertake a number of further projects to understand better the concerns of vulnerable groups, not least through its forthcoming work to

[LORD YOUNG OF COOKHAM]
develop a consumer strategy by means of its consumer approach paper to be published in the next few weeks. This will provide a means for the FCA to measure outcomes for vulnerable consumers. It will work to develop vulnerability mapping so as to ensure that it has captured the needs of vulnerable consumers when finalising its business priorities.

In Committee, I mentioned the FCA's TechSprints, so I do not need to do so again. It is also exploring issues for those living with cancer and the problems they face in gaining affordable access to travel insurance. In due course, the FCA will publish a feedback statement with its findings and the next steps in the light of responses to its call for input.

More recently, in September, the FCA published an occasional paper outlining the findings of its ageing population project. This paper reviews the policy implications of an ageing population and the resulting impact on financial services. The FCA highlights risks to older consumers who are more likely than other groups to be vulnerable—an issue raised by the noble Lord, Lord McKenzie. To try and minimise harm, it has suggested areas where financial services firms could give greater consideration to how they treat older consumers.

Finally, even more recently, the FCA published its inaugural, annual financial lives survey—its largest tracking survey of consumers and their use of financial services. This is a huge undertaking, drawing on responses from just under 13,000 UK consumers aged 18 and over. The report tells the financial story of six different age groups to show key themes at each life stage, from those aged 18 to 24 to those aged 60 and over. The survey shows that 50% of UK adults—25 million—display one or more characteristics that signal their potential vulnerability. The FCA will use the results of the survey to prioritise its work. I hope the description of some of what the FCA is doing reassures noble Lords that it takes seriously its responsibility towards those who are vulnerable.

As a result of the FCA's work and its engagement with firms, there have been tangible developments from the industry in this area. This includes work led by the Financial Services Vulnerability Taskforce. In addition, the FCA has also seen increasing evidence that firms identify and then improve outcomes for vulnerable consumers.

To reiterate, as my noble friend Lord Trenchard said, the current amendments would greatly expand the remit of the body and could cause confusion over the role of different public institutions. I hope that, having heard this explanation, the noble Lord might be willing to withdraw his amendment.

Lord McKenzie of Luton: My Lords, I thank the Minister for his reply which does not surprise me in great detail. May I start by saying to the noble Baroness, Lady Tyler, what a great pleasure it is to see you with us this afternoon? I hope we will have another occasion—perhaps before Third Reading—to acknowledge the role that she played in producing this important tome on financial exclusion.

The noble Viscount, Lord Trenchard, said it would be too much of a burden. Throughout our discussions, we have been told that this is a framework Bill. What use is made of this framework will depend on who ends up as the chief executive and the role that they have. From this point of view, these amendments are deliberately non-prescriptive. Are we seriously saying that this body would have no role in relation to a strategy to improve financial inclusion or combat financial exclusion; that this would be off limits and nothing to do with it? I accept entirely what was said about the role of the FCA and the importance of its remit in these circumstances. We may not agree with it in its entirety but are we to say that this new body, which has a range of functions relating to information guidance and the obligation to develop a strategy—particularly on this important issue of financial exclusion—must be silent on these matters; that it has no role at all? This does not seem right.

I have taken on board the debate we had in Committee about it being the role of the FCA to lead on this; or the FCA now and the new Minister across government. I accept that. Perhaps before we had formulated a lead role for the single body; I think we have moved back from that and accepted the points that were made. However, I have difficulty in accepting that it would have no role in the future. The Minister looks as though he is about to spring to his feet.

Lord Young of Cookham: Perhaps I can reassure the noble Lord, Lord McKenzie. Of course, the SFGB is going to work closely with the FCA and the Treasury on issues regarding financial inclusion. As I said, we envisage a partnership, with the FCA promoting access and the SFGB promoting capability; this is where the two meet. We do not see the SFGB leading on inclusion in the way in which it will be leading on financial capability. This is why we have difficulty with the particular amendment that the noble Lord has put forward.

Lord McKenzie of Luton: I thank the noble Lord for that clarification. The amendment does not suggest that the single body would be leading on it. This is the change between the debate we had in Committee and the debate tonight. We recognise that it has a role to play in supporting but not in running the show. Perhaps we had better move on because I am not sure that we are going to reach agreement on this. The Minister's notes may reflect our original position, but he seems to have acknowledged that there is a role for the SFGB in supporting the activities around financial inclusion and exclusion. At this late stage, I am not sure if there is anything that can be done to reflect this. If we are to get a report, feedback or the Government's response to the report of the House of Lords Select Committee before Third Reading, I hope that the Minister will acknowledge that this issue will not necessarily be off bounds when we come to Third Reading, as that potential new information runs through a lot of the debate that we have had. I hope that before we conclude on this the Minister will give an assurance that we can raise these issues at Third Reading. If he wants to give that assurance now, that would be good.

6 pm

Lord Young of Cookham: The noble Lord may be tempting me to say something beyond my pay grade about what is in order at Third Reading and what

is not. However, I will reflect on what he said and about the impact of publishing the response. I would be rash to give a commitment at the Dispatch Box that this issue will definitely be addressed at Third Reading but I will do my best.

Lord McKenzie of Luton: Clearly, the Minister is a safe pair of hands in the cockpit. I thank him for that. I am grateful to the noble Baroness, Lady Kramer, for her support. Her remarks mirrored our position. We are not saying that the FCA should not lead on some of this, but it cannot and will not do everything and there is a role for the body we are discussing. Having said that, I look forward to the amendment that will come up soon. I beg leave to withdraw Amendment 8.

Amendment 8 withdrawn.

Amendment 9

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

9: Clause 2, page 2, line 32, after "children" insert ", care leavers"

Lord Stevenson of Balmacara: My Lords, I will speak also to Amendment 10 in this group. We may repeat some of the ground that has just been covered. Perhaps we can move at the speed of a jet engine rather than that of a turbo prop to expedite things, if I can extend the metaphor a little, as this issue is broadly similar and was raised in Committee.

I make two points. When we raised what is now Amendment 9 in the form of the then Amendment 16A, which I think was in the names of the noble Earls, Lord Kinnoull and Lord Listowel, and the then Amendment 18, which was in the name of the noble Baroness, Lady Kramer, we thought that there was room to explore further the detail that we wanted to see in the wording of the Bill itself. However, we were reassured by many of the Ministers' remarks in both these debates, so to that extent did not push it. It is interesting to reflect on what might be contained in the Government's response to the report from the Lords Select Committee which deals with these two important issues. We are talking here not so much about the broader strategic and other issues but particularities about the way in which some of the detailed work that is expected of this body might take place. That work should include care leavers. We had a rich discussion about what care leavers needed in terms of financial strategy and support. The Minister picked that up in her response and we had a sense that there was a government push behind this in view of the recognition that people leaving care who had not been given proper financial support or financial education would need additional help. The hope was that the SFGB would be able to provide that in whatever form seemed appropriate.

As regards Amendment 10, there have been a number of discussions around the question of whether or not one can segment the people who need financial education into groups, perhaps by age or lifestyle. The noble Lord mentioned the report from the FCA on the lifestyles of those who experience difficulties with finance, which I read with great interest and found very interesting. It is a wonderful piece of work which tries to cover the whole United Kingdom. It examines how people live their lives, how difficult and chaotic those lives can be in some cases and how well planned and organised in others—not mine, I should say. It is interesting to reflect on some of the figures mentioned by my noble friend Lord McKenzie. We are talking about a lot of people—4 million people who regularly are at a point where their lives could collapse because of a small incident. That is a terrifying thought. If we cannot provide the education and support necessary for them, we fail as a society.

Amendment 10 attempts to move away from that slightly broad segmented picture to consider the various stages of people's financial lives when they make major decisions on the purchase of houses, cars or whatever it is we do with our lives. We have learned from those who have spoken in these debates that the educational process that goes on in people's minds is accelerated and assisted when it is either going through a period of stress or when a particular event is happening. For example, when you buy a house you have to know about mortgage rates, the issues that are going forward and the prospects you have for insuring it, reinsuring it, and all the stuff that goes with that. That tends to fall back once you have done it and you are not thinking of moving again but the point at which the education can take place is tied into an event, not to an age group or particular activity in life. These amendments try to get a sense from the Government of how the SFGB would operate.

The general response which we have already covered, was encapsulated in a previous debate where the noble Baroness said:

"We believe that it is unwise to give the new body a requirement to advise the Secretary of State on explicit issues, as worthy as those issues are. There are several topics that the body may wish to look into as part of its strategic function. Choosing a few could risk limiting the body's ability to look widely at the sector and have regard to emerging issues in future.—[*Official Report*, 19/7/17; col. 1726.]

You can agree or disagree with that. I think there is a case for flagging up and embedding certain policies in the Bill. However, sufficient account may be taken of the comments made in the debates in Committee and on Report to allow that to flow naturally into the work that the SFGB will do.

The point about repositioning these amendments for discussion tonight is that time has moved on since July. The Bill itself has changed a bit and some of the thinking around it has benefited from the wider discussions which have taken place, not least the visit by the consumer affairs director at the FCA, who, as the noble Lord said, spoke at a meeting last week and made some very interesting remarks about what the work entailed and what approach would be taken to it. That will complement the knowledge and understanding we have about the SFGB when it comes forward. In that sense it is important that we revisit these areas not because they are important in themselves, although they are, but because of the way in which they tell us more about how the SFGB will operate. If some material on this emerges in the Government's response to the Select Committee's report, it would be helpful to take up the issue again at Third Reading, if it should prove necessary. I beg to move.

Baroness Kramer: Obviously, we support these amendments. The Government's argument has always been that this issue will act as a constraint. However, we think it draws attention to the problem and empowers people. One of our great dissatisfactions historically with the provision of financial education and financial capability is that it does not seem to create people who are more financially capable when they need to be. Amendment 10 raises once again the issue of timing and relevance. We are all human beings and we can go through various forms of training but if we then never use those skills or that information but require it 10, 15 or 20 years later, that is the point at which it needs to be recalled rather than having a tick-box exercise to show that at the age of 16 we took a class on those issues. We want this education to be relevant and to underscore the direction that I hope very much the single financial guidance body will want to take, but is by no means required to take, of looking for relevance and at situations where there is critical need, care leavers being one of the most obvious examples of that. We have known for years that care leavers get themselves into enormous trouble because of their lack of awareness of these issues but no body has felt it necessary to step into the breach. Here we have the perfect body to step into the breach. That would be entirely consistent with what it is doing. That is the mood and spirit of these amendments. I hope very much that the Government take the issues on board because were we not to see results that responded to the spirit and meaning behind these amendments, we would have a body that was very suboptimal. I think the House would agree with that.

Baroness Finlay of Llandaff (CB): My Lords, I thank the noble Lord, Lord Stevenson, for his very important comments in introducing these amendments. He has covered some issues that I was going to cover in relation to my amendment, which is next. I wonder whether he feels my amendment covers some of the things he is concerned about, because care leavers are just one group in vulnerable circumstances—we all know that—but there are other groups as well. I have a slight concern that once we start to put lots of different lists in the Bill, somebody will be left out. I will explain why our amendment is worded as it is and I am very grateful for the support from his Benches, but I raise that as a question.

Lord Young of Cookham: My Lords, in response to the comments of the noble Lord, Lord Stevenson, about the propulsion available to the co-pilot, it remains the same: the journey may be a little shorter and therefore the destination may be reached more quickly.

Amendments 9 and 10 tabled by the noble Lord, Lord Stevenson, would alter the strategic functional matters relating to financial education. I thank all those who have contributed to this debate for highlighting once again the important issue of financial education. We had a good debate on this issue in Committee and I believe we agreed on both sides that financial education is extremely important at all stages of life—a point made by the noble Baroness, Lady Kramer. A key role of the new body will be to improve people's financial capability and help them make better financial decisions, and to identify any gaps that there may be at the moment in the provision of such advice and guidance.

The financial education element of the strategic function is targeting a specific area of need, which is to ensure that children and young people are supported at an early age on how to manage their finances, for example, by learning the benefits of budgeting and saving. More specifically, the new body will have a co-ordinating role to match funders with providers of financial education projects and initiatives aimed at children, and will ensure that these are targeted where evidence has shown them to be more effective. This falls within the wider strategic financial capability work of the body and should form part of the national strategy, which we expect it to deliver.

As I explained in Committee, the Money Advice Service has been undertaking that role. It is one aspect that respondents to the Government's consultations have overwhelmingly agreed it is important for the new body to continue working on. MAS's work under the financial capability strategy focuses specifically on improving people's capability, which they need to make key decisions, such as those presented in this amendment. We expect the new body will carry forward and improve the work under the umbrella of the new SFGB. I stress that this does not mean that the new body will not be providing financial education for adults. As I have explained, this is a key role of the body in improving financial capability, as it is for MAS now. For example, MAS currently runs a pilot on adult numeracy with National Numeracy through the What Works Fund. Also, through the work with the Financial Advice Working Group, it is creating a simple portal for employers linking to the MAS website and exploring partnerships for helping employees with money management. Finally, through the financial capability strategy, MAS works with the National Association of Student Money Advisers to test and improve the model for financial education for younger adults. We expect the body to continue and build on work in this space.

Moving to the specific amendments, Amendment 9 would alter this function so that a strategy for the provision of financial education is extended to care leavers. I thank the noble Lord for raising this point. It was also an issue raised by the noble Earl, Lord Listowel, in Committee. As I highlighted to the noble Earl at that point, the Government agree and we expect the new body to consider further initiatives to support care leavers as well as other young people from marginalised backgrounds—for example, those leaving youth detention or those with learning difficulties.

As we heard from the noble Baroness, Lady Finlay, Amendment 11 refers to vulnerable people and I absolutely agree with her: care leavers are vulnerable people. I hope my noble friend will say a little more about how we plan to help vulnerable people, including care leavers, when we debate Amendment 11.

Amendment 10 would make provision specifically for adults contemplating difficult financial decisions, such as mortgages, pensions and vehicle finance plans. As I said in Committee in response to the amendment tabled by the noble Baroness, Lady Kramer, and the noble Lord, Lord Sharkey, this is the role of the SFGB as a whole as it delivers money and pension guidance and debt advice. Also, the strategic function under

Clause 2(7)(a) already gives the body a specific responsibility to work to improve the,

"financial capability of members of the public",

including in these areas. To give the new body a requirement to advise the Secretary of State on explicit issues, worthy as these may be, is unwise. The noble Lord, Lord Stevenson, said that one could either agree or disagree with the point I have just made. I happen to agree with it—he may disagree with it—but there are problems in focusing on specific issues. There are several topics that the body may wish to look into as part of its strategic function and choosing a few could risk limiting its ability to look more widely at the sector and have regard to emerging issues in the future. For those reasons, I hope the noble Lord will withdraw their amendment.

6.15 pm

Lord Stevenson of Balmacara: My Lords, I am very grateful to the noble Lord for his comments and for dealing with such speed with the issues concerned. One always has to be a bit suspicious about a pilot who is very determined to be right about what he is doing. We hope they receive messages from outside when they have gone off course to get them back on course.

I think we have given this a fair knock. The issue between us is whether care leavers and others in vulnerable situations should be mentioned explicitly or whether there is another way. I suspect that will be raised in the next amendment—I await that. I broadly agree that the framework and nature of the Bill suggests that we should not be looking at particular details which will just cause difficulty, but I also hope that the words mentioned in these debates are read by those who will take on this position and that they will use them to inform and enhance their understanding of what Parliament wanted out of this process. I beg leave to withdraw my amendment.

Amendment 9 withdrawn.

Amendment 10 not moved.

Amendment 11

Moved by ***Baroness Finlay of Llandaff***

11: Clause 2, page 2, line 32, at end insert—

"( ) access to financial services for people in vulnerable circumstances,"

Baroness Finlay of Llandaff: My Lords, I am grateful to those who have put their names to Amendment 11: my noble friends Lady Coussins and Lady Hollins, as well as the noble Lord, Lord McKenzie, who addressed these issues in Committee and has been trying to move things forward. I also thank the Minister for meeting me and my noble friend Lady Coussins, for giving so much of her time and paying so much attention to every detail of the arguments that we put to her in that meeting, and for making great efforts to address the points we were making.

I turn specifically to this amendment and the way it is worded. We have used the wording "people in vulnerable circumstances" because people may be permanently deemed vulnerable—such as people with learning difficulties, people who have a permanent speech disorder or those who have difficulty communicating. There are, however, an awful lot more people who have a fluctuating impairment of capacity, either through illness or medication. There are also people who have been coping really well but have something happen to them, such as an acquired brain injury. All find themselves in vulnerable circumstances. To comment again on care leavers' situation, there is powerful, researched evidence that children who have had four or more adverse childhood experiences are extremely vulnerable to lots of other factors in life, but they, having been in care, are not the only children who are vulnerable. There are a whole lot who were not in care but have had similar adverse childhood experiences and then have a great deal of difficulty handling their adult life and independence, and in responding to things.

Another difficulty now being faced is the closure of some bank branches and the rise of internet banking. People who have a tremor, for example, need assistance, and they may then find that they do not have the privacy they want. The list could go on and on but, one way or another, we would end up including over half the population, to whom things can happen at different times. Everyone in this Chamber must have found that when they are acutely bereaved they are vulnerable for a time. Their thinking is impaired and they cannot cope with some of the decisions they make but they come out of it, and I do not think anyone would label any of your Lordships as having impaired capacity during this debate.

Therefore, our thinking was that improving access to and awareness of financial services for people who find themselves in vulnerable circumstances, whatever those might be, should run right through the core functions. A little like the lettering in Brighton rock, it should go right the way through.

I must declare an interest as chair of the National Mental Capacity Forum. I have been working with banks, building societies and the Equity Release Council, and some of them—I should like to single out the Nationwide Building Society—have done fantastically good work, but there is a need for the whole sector to be taken along. Laws send social messages too. Therefore, I hope the Government will be able to look favourably on the amendment, which is worded to create not a list but a whole philosophy compatible with other legislation, particularly the provisions of the Mental Capacity Act. I beg to move.

Baroness Coussins (CB): My Lords, I have added my name to Amendment 11. I remind noble Lords of my interest as president of the Money Advice Trust, the charity that runs National Debtline and Business Debtline. I echo my noble friend's thanks to the Minister for meeting us yesterday to discuss the intentions behind the amendment.

My noble friend has laid out the need to address access to financial services for people in vulnerable circumstances. It is also important to acknowledge the work that is already under way in this area—in particular

[BARONESS COUSSINS]
since the FCA's paper on vulnerability in 2015. Since then, the British Bankers' Association's Vulnerability Taskforce has produced a report challenging the industry to improve, and the issue of vulnerability has remained high on the agenda.

All that is of course very welcome but, as my noble friend indicated, the term "vulnerable people" does not necessarily mean the same as "people in vulnerable circumstances". Very often in the past, "vulnerability" was used interchangeably with mental health issues, yet there is a growing recognition of the need for financial services and other organisations to consider a much wider range of vulnerable circumstances.

As an illustration of that need, the Money Advice Trust provides training for the sector in supporting customers in vulnerable circumstances, and demand has been growing significantly over recent years. The charity has now trained more than 11,000 staff working in more than 160 firms. Increasingly, this training covers areas way beyond mental health, such as supporting customers with addictions or a serious illness, those suffering a bereavement or redundancy, and people contemplating suicide, to give a few examples. Yet many people in vulnerable circumstances are still excluded from financial services and are unable to access the support they need.

The SFGB provides an ideal opportunity to increase the focus on vulnerability through its national strategy. As I said in Committee, the Department for Work and Pensions, as the sponsoring department, could also provide a very useful link between the body's work and the broader financial inclusion policy agenda.

This amendment seeks to take the good work on vulnerability that is being done by the industry and the voluntary sector and give it an explicit focus on the face of the Bill. I hope that it will receive careful consideration by the Minister or that something very similar that captures the intention of the amendment but is perhaps better worded can be brought forward by the Government at Third Reading.

Baroness Hollins (CB): My Lords, I am pleased to add my support for this amendment. My own particular interest relates to people with learning disabilities, who can be presented with significant challenges when it comes to managing money on a daily basis, even where local financial services are readily available to them.

The move to digital banking and even past innovations such as chip and pin present a real risk for people with limited capacity—a risk of exploitation. When bank branches close, the financial services available at the Post Office are often held up as an answer. However, for people with limited mental capacity—not just people with learning disabilities—they are not the answer. For instance, the Post Office no longer provides a paying-in book, and the only way of obtaining cash is through chip and pin. There are hundreds of similar examples, relating not just to people with learning disabilities but to those who are in vulnerable circumstances at different times, as we have heard from my noble friends.

This welcome Bill is creating a single financial guidance body that could make a significant difference in improving financial capability, reducing debt problems and helping more people to engage with their pensions. Perhaps providing easier-to-read or pictorial guides to finances would be a useful starting point for the new organisation to consider—for example, covering banking and managing personal budgets—with the aim of helping people with learning difficulties take more control of their finances. It could consider appropriate training so that people with a learning disability and their families can be better supported, as online guides are unlikely to be adequate for these groups.

I must declare my interest here as the chair of Beyond Words, a community interest company which works to empower people with learning disabilities by developing pictorial narratives to help them when circumstances are too challenging.

I hope that the Minister will support the amendment to ensure that the new body keeps in mind the needs of people in more financially vulnerable situations.

Baroness Kramer: My Lords, we on these Benches would gladly have added our names to this amendment but the list was full, which is always good news, particularly when the inspiration and leadership come from the Cross Benches. I just want to make it clear that we are very supportive of the amendment.

I also want to add one comment. I know that sometimes the use of the term "vulnerable" is challenged but, as I know from dealing with legislation in the other place, although that was quite some time ago, there is a long and very established history of using the term "vulnerable", certainly at least—although, I am sure, not limited to—among the utilities, which obviously have to recognise and identify all kinds of vulnerable customers for a whole range of purposes. It allows what I would call reasonable common sense to apply in identifying the full scope of people who are vulnerable. Some of the examples that we have had today have been around mental capacity issues and learning difficulties, but it seems to me that nothing in the many historical ways in which this term has been used in legislation previously would limit it or prevent it, for example, applying to care leavers or, in terms of financial education, to younger children and to the broader group that we are discussing.

Therefore, I hope that the Minister will accept that there is a well-tried, true and well-trodden path setting out how we identify vulnerable people. The term is frequently used to tackle a variety of needs and there is plenty of legislative precedent that makes this a very effective amendment.

Baroness Altmann: My Lords, I add my support for the amendment and congratulate the Cross Benches and the noble Lord, Lord McKenzie, on tabling it. In a way, it is very sad that the financial services industry is not making more effort to look after vulnerable customers or indeed to present materials in the ways that the noble Baroness described. I think that doing so pictorially could help everybody. So far, financial services are all about dense words and jargon that people struggle to understand.

This body is due to be financed by the industry and the industry has perhaps not always taken enough care. One hears stories from cancer charities where somebody would call up their bank and say, "Look, I am going through some treatment. Is there any chance

I could either have a loan or some respite from repayments?" It simply is not on their agenda to help people in that way, even when people approach them and explain their vulnerability and their circumstances. So it is right that this body should introduce some measures that are designed particularly for vulnerable customers and, indeed, change the narrative and the language used to explain finance, educate people and inform them about finance, in ways that the industry seems not yet to have been able to do.

6.30 pm

Lord Kirkwood of Kirkhope: My Lords, following that speech from the noble Baroness, Lady Altmann, I support these amendments. I want to reinforce something that my noble friend Lady Kramer said earlier. Language is very important in this context and the amendment addresses that perfectly. We have to be careful how we use language in terms of social security and social protection, above and beyond some of the specialisms familiar to some of the noble Lords who made powerful speeches on this amendment.

I want to add something to the definition of people in vulnerable circumstances. A couple of weeks ago, I was interested to read some remarks from Mr Frank Field, who as noble Lords will know is the chair of the departmental Select Committee covering the DWP. He said something that I recognised, which is new to me and him, about what we as a country are facing immediately and over the next two or three years, with the conjunction of interest rates, a freeze in benefits and other things, together with the administration of the ultimate safety net that now resides in some but not all local authorities after the abolition some years back of the Social Fund and community care grants. Frank Field characterised that as families falling out of stable situations into destitution, particularly in relation to three very normal things. Their electricity is being cut off; they are being evicted, because their rent is not being kept up, and there is the dimension of universal credit implementation in relation to that in the short term; and there is food poverty. In these three circumstances we are seeing for the first time in this country, certainly in my experience, these things coming together and ordinary families suddenly finding themselves falling out of financial security and stability.

We have nothing. The previous set of social security provisions always had a residual safety net. I am concerned now that that is absent, particularly in certain local authority areas. I hope that we can find some way to capture this, if not by this amendment then with something that captures the sense behind it. There is a timing issue here. Over the next two or three years, we need the Bill to pick up people who have faced the conjunction of circumstances that Frank Field described and embrace them. If it is not done by this amendment, it should be done by something else.

Viscount Brookeborough: My Lords, could I just look at one other aspect of vulnerability? It is looked on as being a disability of some kind, but vulnerability is also down to isolation, where one might live and being on the periphery. Look at banking in particular—the most basic place that somebody goes or would like to go for financial advice or help at first if they live out in the country. Look at the number of banks that are closing branches left, right and centre. Of course it is business, but we have to realise what is really going on there. They say that they have consulted and we had various banks, without naming them, which came in front of our committee and said, "We consulted before we closed". But we did not find one instance where a bank had changed its mind because it had consulted. It is as simple as that. We have to look at it on those terms.

Actually, we had Nationwide. I must forgive it for a minute, because I rather liked it. Nationwide said, "We are opening some branches"—and it is being novel about it. It could be opening a branch with one man, who will sit in what could be an office or a caravan. He could be visiting a village or whatever. When the customer says to somebody he probably knows, "Bill, listen. What can you do? I need a loan or a mortgage", he says, "Hold on", and presses a button. Up comes Peter from the loans office who says, "Just sit down and we'll have a chat about this". He says, "Would you like some coffee?" and the guy says, "Yes please"—because he likes getting anything free that he can. He presses a button and the coffee arrives from next door. The whole thing is very homely. He says, "When I have this loan, what about a mortgage?" He says, "I'll bring in Charles on that and the three of us can talk about how it will work".

Ultimately that is no different from what always used to happen—you went into your bank to the man you knew and he then took you into an office to see somebody else—but this is novel thinking. Banks will always worry about their business, but they should not necessarily be closing branches and we have to encourage them to be novel. The internet is there and the banks must watch out. I heard a comment the other day or saw it in the *Financial Times*. It was something about banks becoming vulnerable, because people might not keep their money there. The sooner the banks catch on to what is going on and come up with novel ideas, the sooner the vulnerable will not be as vulnerable as they appear at the moment.

I live on the border with the Republic, and we will talk about Brexit another time. The banks have literally all come back from the border. Societies in those villages are increasingly vulnerable. They are beginning to be scared. They have to drive 20 miles, so they had better have something good to talk to the bank about. They had better know exactly what they are doing before they go. A lot of them may be older people without the internet. Something like the Nationwide's idea is the way we should be going. We must treat vulnerability not only as those who may be medically vulnerable but as vulnerable members of our society.

Baroness Drake: I will carry on the spirit of the contribution of the noble Lord, Lord Kirkwood. In Committee, several Peers ran several amendments trying to capture this issue of vulnerability—whether it was vulnerability because of a health shock or because of some standing reason. As the noble Baroness, Lady Finlay, explained in moving her amendment, the attraction of Amendment 11 is that it does not seek to list or define. It just tries to capture the principle that there is a category of people who become or who are vulnerable for a series of reasons, and they need to be addressed.

[Baroness Drake]

The purpose of the single financial guidance body is to achieve a series of improved public and individual outcomes by improving a person's financial capability, but a person's capability cannot be improved—it just cannot happen—if they are excluded from the market for financial services or denied the access or the means to make good decisions. As my noble friend Lord McKenzie and I frequently say, the fundamental, immutable requirement of financial capability is that you are included and have access. You cannot begin to become capable without it. One feels the sense around the Chamber, which I hope the Minister is able to find a way of recognising, of a wide concern and a very constructive amendment. It is not overprescriptive but allows the financial guidance body to recognise that it needs to address this problem.

Lord McKenzie of Luton: My Lords, this has been a good debate. I emphasise that we support the amendment, which is no surprise given that I put my name to it. I am sorry that we pre-empted someone: I am happy to step back.

This is a very elegant formulation, which stops a whole list being produced. It instinctively recognises that people might be vulnerable for reasons to do with their circumstances but that this is not necessarily something endemic to them. There are fluctuating circumstances which particularly fit that description: in our short debate we have had discussion of learning disabilities, mental capacity and addictions. A broader issue, but still within the key definition of vulnerability, is isolation. The noble Viscount, Lord Brookeborough, made a very telling point on that. The noble Lord, Lord Kirkwood—I keep calling him my noble friend; we have debated too often over the years—spoke about the impact of vulnerability because of destitution. We should recognise that people may be perfectly fit and able-bodied and have all their mental capacity but if they are broke and have no money then they are potentially vulnerable or in vulnerable circumstances.

The formulation is powerful and succinct and we support it. I hope the Minister will find some way of incorporating it into the Bill—even if not in the precise wording, although it seems excellent to me—so that we can support it.

Baroness Buscombe: I thank all noble Lords who have taken part in this extremely helpful debate. A number of issues have been raised about the scope of the term "vulnerability". This is incredibly helpful to us and to our overall approach to the Bill. The noble Lord, Lord Stevenson, made reference to his hope that the report of our debate in *Hansard* will be seen and our words read by those who are charged with taking forward the delivery of this body. I assure the noble Lord that, thus far, everyone I have spoken to who is involved in this world, in the three current bodies, is very aware of our debates and I trust that they will be taking on board what is said.

Amendment 11, tabled by the noble Baronesses, Lady Finlay, Lady Coussins and Lady Hollins, and the noble Lord, Lord McKenzie, would add an element to the body's strategic function, so it could include issues of access to financial services for vulnerable people in the national strategy. I hope that noble Lords will forgive me for being a bit repetitive, following my noble friend's remarks in previous debates, but it is important to have this on the record. As I mentioned in Committee, the Government take the issue of financial exclusion very seriously. As my noble friend Lord Young mentioned earlier, the Government are grateful for the important work of the Financial Exclusion Select Committee in highlighting this important issue and will aim to publish their response to the committee's wide-reaching report ahead of Third Reading.

The Government's response will address all the committee's recommendations and bring forward new proposals on how to better co-ordinate across government, regulators and the wider sector to tackle the significant issue of financial exclusion. I see that my honourable friend from another place, Guy Opperman, the Minister for Financial Inclusion at the Department for Work and Pensions, is here. We have been working extremely closely on this Bill and on developing our response to the report.

My noble friend Lord Young earlier highlighted the difference between financial inclusion and capability and the Government's intention that this body will be designed to build financial capability among the public. The Government have therefore deliberately omitted from the Bill references to financial inclusion and individuals' access to financial services. An appropriate supply to people of useful and affordable financial services and products is very important, and the Government therefore work closely with the industry regulator, the Financial Conduct Authority, to ensure that appropriate action is taken when the market fails to supply services and products. The amendment would greatly expand the body's statutory remit and we fear it is likely to create confusion over the roles of Her Majesty's Treasury and the Financial Conduct Authority, both of which have the relevant responsibilities and powers to influence the supply of financial services products.

6.45 pm

When looking specifically at improving access to financial services and products for people who are vulnerable, the FCA—not the SFGB—is more appropriate to deliver that role. My noble friend Lord Young has referred in depth to the work that the FCA is doing on consumer vulnerability, and many noble Lords attended the useful meeting with the FCA last week. I hope that noble Lords will agree that this demonstrated its commitment to this issue. The FCA has done a lot of work in this area, publishing two pieces of in-depth research, carried out in 2015 and 2016, and having issues of access and vulnerability at the core of its mission and business plan. We are awaiting the FCA's forthcoming work to develop a consumer strategy through its consumer approach paper, which will be published in the next few weeks. As my noble friend Lord Young has said, this will provide a means for it to measure outcomes for vulnerable consumers and ensure that it has captured their needs when finalising its business priorities.

The successful launches of the FCA's TechSprint events have identified innovative solutions that can improve access for vulnerable groups. In March 2017,

with the Money and Mental Health Policy Institute, it brought together over 100 developers and experts from 31 firms to take part in a TechSprint event to explore solutions for those suffering from poor mental health. It has also carried out further work to explore the issues which those living with cancer can face in gaining affordable access, for example to travel insurance. In due course, it will publish a feedback statement with its findings and next steps in light of responses to its call for input.

More recently, in September 2017, the FCA published an occasional paper outlining findings of its ageing population project. The paper reviews the policy implications of an ageing population and the resulting impact on financial services. It highlights risks to older consumers, who are more likely to be vulnerable than other groups. To try and minimise harm, it has suggested areas for financial services firms to give greater consideration to, as part of how they treat older consumers.

Finally, last week, as noble Lords will know, the FCA published its inaugural annual financial lives survey: its largest tracking survey of consumers and their use of financial services. This was a huge undertaking and, as my noble friend mentioned, it showed that 50% of UK adults—25.6 million—display one or more characteristics that signal their potential vulnerability. That speaks to what a number of noble Lords have said this evening about the kinds of situations, circumstances and things that happen in people's lives that can bring them within the scope of the term "vulnerability". The FCA will use the results of the survey to prioritise its work.

As a result of the FCA's work and its engagement with firms, there have been tangible developments from the industry in this area. This includes work led by the Financial Services Vulnerability Taskforce. In addition, the FCA has also seen increasing evidence that firms identify and improve outcomes for vulnerable consumers.

To reiterate, the clause outlining the body's strategic function is designed to ensure that the new body helps consumers to manage their money well and to make the most of services and products made available by the industry. The current amendment would greatly expand that function and may cause confusion over the role of different public institutions.

However, we understand the point made by all noble Lords and the intention of the amendment, which is that the body needs to be clear about supporting vulnerable people. The body already has an objective to prioritise people most in need. In a sense, I am attracted to the term "vulnerable" as opposed to, in the previous amendment, having lists including those such as "care leavers", which could, as suggested by the noble Baroness, Lady Finlay, lead to exclusion of certain individuals. As noble Lords have demonstrated through debate, it is very hard to encapsulate how one can identify people who might fit into that category; therefore, a more generic term, such as "vulnerable", which encapsulates people with fluctuating or impaired capacity, might work. In a sense, it would be a whole-philosophy approach, as the noble Baroness, Lady Finlay, said.

The noble Baroness, Lady Kramer, referred to looking at how utilities manage that issue. As an ex-board member of a utility and water company, I know that a lot of emphasis is placed on utilities working in certain categories to ensure people are not beyond the possibility of being respected when they find themselves in a difficult situation. That situation may be one event in their life, not necessarily a condition, although it would include certain conditions as well.

This has been an extremely helpful debate. There is much to attract in what noble Lords have said. The noble Viscount, Lord Brookeborough, referred to bank branch closures, which are an important aspect of the debate. While the Government do not intervene in such decisions, as noble Lords will know, they want to ensure the industry responds to changes in the way we bank, while making sure it caters for customers who still need access to a bank branch. We believe the impact on communities must be understood by the financial services industry, and considered and mitigated where possible. As the noble Viscount said, "isolation" brings another meaning of the word "vulnerable" into the overall term.

I have listened to noble Lords but I want to review, because I do not believe in any event the wording is quite right, nor the way in which it has been placed in the Bill. The body already has an objective to prioritise people most in need. Let us take this issue away, and review and consider it further. On that basis, I very much hope the noble Baroness will feel able to withdraw her amendment.

Baroness Finlay of Llandaff: I am most grateful to the Minister, particularly for those final phrases in her speech, and to all noble Lords who have spoken and contributed to an extremely rich debate. It has become evident that this is not just about vulnerable people, but about everybody who can find themselves in a vulnerable circumstance. There should be no stigmatisation of any sort; this could happen to anybody.

The Bill seems to be a good one, aiming to look after the whole population. Of course, it needs to look after people in bad times as well as good. That is the purpose of the amendment: to have better public outcomes, not just when capability can be increased, but when it cannot be, with services then adapting to meet the needs of the people they are there for. That is what a community is all about.

We can go away and look at the wording again, to think about whether it can go somewhere else or be adjusted slightly in the Bill, then come back at Third Reading.

Lord McKenzie of Luton: I just want to press the point made by the noble Baroness about Third Reading. If we could come back to it at Third Reading, that would be good.

Baroness Finlay of Llandaff: Through being able to come back at Third Reading, we have the assurance that we can tailor the Bill to try to get it absolutely right and to meet all the needs that have been outlined during this rich debate. Because of that, I beg leave to withdraw the amendment.

Amendment 11 withdrawn.

Amendment 12

Moved by ***Lord McKenzie of Luton***

12: Clause 2, page 2, line 32, at end insert—

"( ) the awareness of scams and frauds relating to financial products,"

Lord McKenzie of Luton: My Lords, the amendment revisits the now familiar theme of creating awareness of scams and fraud relating to financial products as part of the strategic function of the single financial guidance body.

Unfortunately, financial scams are many and varied. We have already heard about that matter, so I will be brief. People who perpetrate such scams are inventive and merciless. According to the Economic Crime Directorate of the City of London Police, financial crime has cost the UK a staggering £50 billion-plus. Techniques encompass scams such as phishing, bogus investment opportunities—particularly for pensioners—intercepting home deposits, freebie scams, fake websites and many more. They can devastate people's lives, and, as we have heard, destroy a person's retirement.

Given the so-called pensions freedom, people around the age of 55 are being bombarded with investment opportunities. Citizens Advice calculates that nearly 11 million consumers have received calls about their provision since 2015. The FCA Financial Lives Survey 2017, already referred to by some, gives a fascinating insight into behaviours and the potential harm associated with some of them: 5.3 million UK adults have given a debit or credit card to someone else to use, shared account PIN numbers with another person or provided current account details by email or over the phone following an unsolicited approach; 23% of all UK adults have received unsolicited calls which could potentially be a scam; 8% of them received one or more requests to access a pension scheme before the age of 55 or the chance to unlock a pension early; and 6% were offered a chance to make a high-return investment or buy shares in a company. The survey shows that a smaller proportion of people responded to such offers, but we should be mindful that a small percentage of a big number means many individuals affected.

Citizens Advice report that last year, it helped consumers with a scam or fraud every 17 minutes, with pension scams moving up the table. It recites that pension scams are most frequently initiated by unsolicited telephone calls. The detriment is not only to individuals but to the level of trust that exists in the wider pension scheme. The Government have previously pointed out that the SFGB would have the power, as currently proposed, to focus on awareness of scams and fraud under its money guidance function and the financial capability element of the strategic function. However, we would urge the Government to be more specific. We know from our earlier debate that the SFGB will not be operational for a while. Perhaps the Minister can say what is proposed for and will happen in the interim.

We have heard that the Government have committed to ban cold calling over a wide scope of pension issues, but have been reluctant, notwithstanding the earlier vote, to clarify the legislative programme. In the meantime, the scams and fraud will go on. What is to be done? I beg to move.

Baroness Buscombe: My Lords, I thank the noble Lord, Lord McKenzie, for tabling the amendment. I think we can all agree that raising people's awareness of fraud and scams relating to financial products is an important matter, and one where the single financial body can, and should, play a role.

All the existing services—the Money Advice Service, the Pensions Advisory Service and Pension Wise—provide information and guidance about fraud and scams and take their role in that seriously. The Pensions Advisory Service—TPAS—has several regularly updated webpages dedicated to pension scams awareness. These provide clear and simple messages warning people to be vigilant and include more detailed information and guidance on, for example, how to spot a scam, how to protect your pension from scams and what to do if you think you have been, or are being, scammed. In addition, TPAS supports a dedicated "identifying a pension scam" tool on its website. It also suggests that people check with it first before proceeding, including by telephone.

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Similarly, Pension Wise provides information on its webpages and guidance as part of its telephone and face-to-face sessions on how to avoid a pension scam. This includes information on language commonly used by scammers, copycat websites, bank details scams and how to protect yourself.

The Money Advice Service—MAS—provides broader information on scams that try to make people part with their money. Its website contains information covering not only pensions but identity fraud, computer software service frauds, phishing, telephone fraud and vishing, boiler rooms and advance fee fraud. MAS updates this information as new scams come to light.

All the existing services signpost to organisations—for example, Action Fraud, the Financial Services Register and the Financial Conduct Authority—that can help people who think they may have been a victim of a scam.

The messages given out by the existing services are straightforward: scammers can contact people over the phone, by email or by text, or might even show up on their doorstep. Scammers are clever, using flashy websites and marketing materials to lure people in. One should never be rushed into making a decision about pensions or savings; if an offer sounds too good to be true, it probably is.

We fully expect the new body to continue this important role and to raise awareness of fraud and scams as part of both its money guidance and pensions guidance functions, and through observing its objectives. The amendment tabled by the noble Lord, Lord McKenzie, would add the requirement to the body's strategic function. It is an important point to make that the single financial guidance body cannot effectively raise awareness of fraud and scams on its own. Instead, raising awareness of fraud and scams should be one issue that the body develops and progresses through its national strategy in co-operation with others in the financial services industry—including pension providers—the devolved authorities and the public and voluntary sectors.

Scams affect people no matter their age, location or levels of saving, and scammers are becoming ever more sophisticated, so people need to know what to look out for. The body and its strategic partners need to work together to find ways to improve people's awareness of scams and how together they can address them. However, this matter can already be addressed by the strategic function. It is unnecessary to add to the existing elements of the national strategy, as it cuts across all three and in particular forms part of improving the financial capability of members of the public.

The noble Lord, Lord McKenzie, asked what is happening now given that it will take time for the body to come to fruition. I hope that I laid out in responding to the amendment all that is being done at the moment. One reason for our not even naming the body yet is that we want to avoid it being scammed and copied by somebody else. I trust that the noble Lord is reassured that all is being done that can be done and that the body with its strategic partners will take seriously the matter of raising awareness of fraud and scams. I urge him to withdraw his amendment.

Lord McKenzie of Luton: My Lords, I am grateful for the very full explanation that the Minister has given to the point that I raised. It is a very serious issue that is accelerating in its importance. Notwithstanding the work that is going on and is planned, which I acknowledge, I think that the matter is of such significance that it should be specifically mentioned in the Bill. It may seem a little churlish, but I would like to test the opinion of the House.

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7.15 pm

Consideration on Report adjourned until not before 8 pm.

Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2017

Motion to Approve

7.16 pm

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

That the draft Order laid before the House on 17 July be approved.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank the Advisory Council on the Misuse of Drugs for its advice, which has formed the basis for the order.

The order relates to methiopropamine, commonly known as MPA. The effect of the order is to permanently control MPA as a class B drug under Part 2 of Schedule 2 to the 1971 Act. This will make it an offence to possess, produce, import, export, supply or offer to supply this drug without a Home Office licence.

MPA is a stimulant psychoactive substance similar in structure to methamphetamine. It has similar effects to other stimulants such as MDMA, amphetamine and cocaine. These effects include stimulation, alertness and an increase of energy and focus. Side-effects reported include abnormally fast heart rates, anxiety, panic attacks, perspiration, headaches, nausea, difficulty breathing, vomiting, difficulty urinating and sexual dysfunction.

The National Programme of Substance Abuse Deaths reported 46 cases where MPA was found in post-mortem toxicology between 2012 and April 2017. In 33 of these, MPA was implicated in the cause of death. In November 2015, the ACMD recommended that MPA be subject to a temporary class drug order. This followed reports that MPA had emerged as a replacement drug for the methylphenidate-based compounds which were subjected to a temporary class drug order at the time. The increasing number in use and the number of associated deaths and harms, together with the potential intravenous use, led to urgent advice from the ACMD to control MPA by way of a temporary class drug order.

In September 2016 the desired effect of the temporary class drug order appeared to have been successful, as the prevalence and problematic use had declined. However, the ACMD recommended that MPA be subject to another temporary class drug order to allow sufficient time to gather further evidence to recommend full control under the Misuse of Drugs Act 1971.

On 16 June this year, the ACMD reported that MPA is a drug which is being, or is likely to be, misused and that misuse is having, or is capable of having, harmful effects. As such, the ACMD recommended that MPA be permanently controlled under the Misuse of Drugs Act 1971 as a class B drug. The ACMD also found no evidence that MPA has any recognised medicinal use beyond potential research.

This order, if approved, will provide enforcement agencies the requisite powers to restrict the supply and use of MPA in this country. It will also provide a clear message to the public that the Government consider these substances to be a danger to society. We expect that the permanent control of MPA will continue to offer the notable impact it has provided following its temporary control under a TCDO. It is for these reasons that my honourable friend the Minister for Crime, Safeguarding and Vulnerability accepted the ACMD's advice that MPA should be subject to the order.

It is intended to make two further related statutory instruments to come into force at the same time as the order, to add these substances to the appropriate schedule to the Misuse of Drugs Regulations 2001 and to the Misuse of Drugs (Designation) Order 2001. I commend the order to the Committee.

Baroness Meacher (CB): My Lords, I apologise to the Minister—I had not anticipated this debate starting quite so early. I well understand the need to control the supply of methiopropamine, or MPA, and I applaud the Government for seeking the professional opinion of the Advisory Committee on the Misuse of Drugs and for following its recommendations. As we know, Governments have not always consulted the ACMD, nor have they always followed its recommendations, so that is to be commended. It is unfortunate that the ACMD and the Government have decided that the most appropriate instrument for the control of this drug is the outdated Misuse of Drugs Act 1971, rather than the Psychoactive Substances Act. The main consequence of this decision is that the users of MPA will be subject to a criminal record and criminal penalty if found in possession of this drug. Users are likely to be people with severe health problems and in need of help and support.

The Minister will be aware that I and about 100 other MPs and Peers who are members of the APPG for Drug Policy Reform would be grateful for an indication from her, if at all possible, of when the Government will invite the ACMD or another independent body to review the operation of the 1971 Act and, indeed, the Psychoactive Substances Act 2016 and analyse the consequences of these Acts on: the level of addiction to the many banned substances; the substitution of

new and perhaps even more dangerous substances for a banned substance immediately following a ban; and the level of use of alcohol and tobacco in response to the bans on these alternative drugs. I would be grateful if the Minister could inform the House whether the Government have any plans to evaluate the efficacy of the 1971 and 2016 drugs laws, particularly in the light of the UN Office on Drugs and Crime proposition at the UNGASS in 2016 that evidence-based public health policies are here to stay.

Does the Minister agree that neither of our drugs laws—neither the 1971 Act nor the 2016 Act—were in any way based on evidence that those legislative propositions would actually achieve the objectives that any Government want? For example, we know that the experience in Ireland of an almost identical law to our Psychoactive Substances Act 2016 was an increase in psychoactive substance misuse and drug deaths—anything but the result that the Government would hope, and that we would all hope, would be achieved by a new drugs law.

The Government refer to monitoring the control measures through the regulatory framework at paragraph 12.1 of the Explanatory Memorandum. I would be grateful if the Minister would indicate whether any analysis of the impact of the ban on this drug, and of the bans on other drugs, will be undertaken. I look forward to the Minister's comments.

Lord Patten (Con): In strongly supporting this statutory instrument I have three points. First, the Government have acted with commendable speed to implement the recommendations on MPA given by the advisory committee about four months ago, as the Minister said. However, I seek confirmation that they will always be as swift as possible in the implementation of such future recommendations of these experts. That is provided, of course, that they agree with them—the noble Baroness, Lady Meacher, has pointed out that from time to time they have not necessarily agreed with the experts in their recommendations.

I like, respect and need the views of experts, particularly those of my doctor and my dentist. I value expert advice all the way down the line, but in the end, even they may not always be right, whatever "right" turns out to be. In the end, yet again, Ministers have to decide. It is sometimes difficult for Ministers to turn down expert recommendations, but they have to make their decisions not as experts but in the public interest as members of the Government. I support them also in making those difficult decisions.

Secondly, we have many other experts around to help us, such as those in the World Health Organization's Expert Committee on Drug Dependence. That committee gave its views on this very matter last November. It advised, just like the advisory committee, that there is no known medical, research or therapeutic use for MPA; it is just used to abuse and there is no get-out in saying that it can be medically helpful in any way. It has all the side-effects that the Minister pointed out, as well as one that I think she missed—talkativeness, something that some would claim sometimes affects Members at both ends of the Palace of Westminster. I would not suggest, of course, that this is due to substance abuse; it is just due to genetic problems or lack of self-control.

Of course, the World Health Organization has its own problem with experts. Having given expert and excellent advice on this issue, its experts then concluded that the elected dictator President Mugabe should be hallowed for a while as its goodwill ambassador, rapidly backtracking when it spotted that on that occasion they had made a major mistake.

Thirdly, the noble Baroness, Lady Meacher, who knows much more about this stuff than I ever will, pointed out that you sometimes get substitution. I worry that there are harder substitutes coming in, particularly the ever-stronger strains of cannabis such as Nova OG, produced by cultivation companies in the United States, and described by one marketing organisation in the United States—hard to resist—as,

"extremely potent, top-shelf, designer bud".

"Queue up and have this" if you cannot get the other stuff that we are trying to make impossible to get. I apologise, because I am a latecomer to this subject and to this debate, that I did not give the Minister earlier notice, but will she be ready and prepared to ask for the advice of the advisory committee on these much stronger strains of cannabis and to act just as quickly if it is thought to be a danger in the United Kingdom? Of course, a letter in the Library of the House would be a very adequate response to that point.

Lord Rosser (Lab): Since I, too, was caught out by the earlier than anticipated start of this debate, I can thank the Minister for only that part of her explanation of the reasons for and purpose of the draft order that I actually heard. The purpose of the draft order, as has been said, is to make it an offence to possess, import, export, produce, supply or offer to supply the drug methiopropamine, or MPA, without a Home Office licence. MPA is a stimulant, psychoactive substance that has been subject to temporary control orders, the latest of which is about to expire—at the end of next month, if memory serves me right. There is evidence of MPA having adverse effects when taken, including abnormally fast heart rate, anxiety, nausea and breathing difficulties. I have to say that my list is more abbreviated than that given by the Minister when she introduced the order.

MPA has been associated with a number of deaths in the last five years and, as the Minister said, there were 46 cases where MPA was found in post-mortem toxicology, with MPA being implicated in the actual cause of death in 33 of those cases between 2012 and 2017.

MPA has not infrequently been marketed as a legal alternative to cocaine. In June of this year the Advisory Council on the Misuse of Drugs, the ACMD, indicated that MPA continued to be misused and, as a result, was having harmful effects that could constitute a social problem. The ACMD recommended that MPA should now be permanently controlled as a class B drug under the Misuse of Drugs Act 1971—which means, as I understand it, that among other things, including higher maximum sentences, possession of MPA also becomes an offence, which is not the case for substances controlled under the Psychoactive Substances Act 2016.

The ACMD also found that MPA had no recognised medicinal use, or industrial or commercial benefits other than potentially for research. I simply conclude

[LORD ROSSER]
by saying that we support the decision to accept the ACMD's recommendation, and hence we support this order.

Lord Paddick (LD): My Lords, my noble friend Lord Newby made the point last week, when the Leader of the House asked for this House to suspend its Standing Orders in order to consider this matter today, that this legislation has not been scrutinised by the Joint Committee on Statutory Instruments because of the Government's failure to appoint its Commons members of that committee. This is clearly unacceptable and must be resolved as soon as possible.

In this particular case, the order is the result of a recommendation, as we have heard; by the Advisory Council on the Misuse of Drugs to permanently classify the drug MPA as a class B drug. I am therefore confident in supporting this order as the recommendations of the ACMD are evidence based.

However, the comments of the parliamentary Under-Secretary of State for the Home Office to the first Delegated Legislation Committee in the other place yesterday, which presumably were a repetition of what the Minister said this evening to the House—again, I apologise for being slightly caught out by the early start of this particular debate—draw questions around bigger issues about the Government's approach to controlling drug misuse.

MPA is a synthetic drug designed to replicate the effects of cocaine or MDMA. MPA started off life as a legal replacement for these class A controlled drugs. Prior to the Psychoactive Substances Act and the temporary class drug order, MPA would have been legal to both supply and possess. As we have heard, the Psychoactive Substances Act permanently made manufacture and supply of the drug illegal, but not possession, while the TCDO and this measure make possession as well as manufacture and supply illegal. Whether it sends a message to users about how dangerous the drug is is questionable.

The development of synthetic alternatives to existing controlled drugs—and in this case I am thinking in particular of things such as spice, the synthetic alternative to cannabis—runs the risk of creating even more toxic, and far more dangerous, drugs than the drugs they are designed to replace. The risk of continuing with a prohibition-based strategy of controlling the misuse of drugs is likely to increase the number of drug-related deaths.

Can the Minister tell the House, or write to me subsequently to tell me, how many deaths have resulted from the misuse of cocaine and MDMA between 2012 and 2017, compared with the 46 cases where post-mortem toxicology showed traces of MPA, and the 33 cases where MPA was implicated in the actual cause of death, as a proportion of arrests for possession of each type of drug—which we can assume is a proxy for how much cocaine, MDMA and MPA is being used? Can the Minister also tell the House how many deaths have resulted from the misuse of cannabis between 2012 and 2017?

If MPA is as dangerous, or more dangerous, than cocaine or MDMA, the question must be: why is it being classified as a class B drug while the others are classified as class A drugs? If MPA is, as I suspect, more dangerous than cannabis, at least in terms of fatalities, why is it in the same class of drugs as cannabis? Assuming, as I do, that the ACMD has made the right evidence-based decision in terms of its recommendations as to which class MPA should be placed in, what does this say about the classification of cocaine, MDMA and cannabis?

The point I am trying to make is that the current classification of drugs under the Misuse of Drugs Act lacks credibility, certainly with users. No one I know who misuses drugs starts from a point of asking, "What class is it in?" when deciding which drug to take.

We should be taking a harm reduction-based approach to the misuse of drugs, which should be treated as a health issue and not a criminal justice issue. That having been said, just because the classification of drugs under the Misuse of Drugs Act lacks credibility and other drugs may be wrongly classified, this does not mean that this evidence-based recommendation from the ACMD is wrong. On that basis, we support the order.

Lord Lexden (Con): The noble Lord, Lord Paddick, made reference to the unusual circumstances in which this order comes to the House this evening. It has not been scrutinised by the Joint Committee on Statutory Instruments because that committee has not been re-established because of the failure of the other place to provide its members to the committee. I was a member of the Joint Committee in the last Parliament, and I am looking forward to resuming work, I hope, at an early point in this Parliament.

The committee receives advice from a formidable array of legal experts. They invariably find points that need correction—sometimes smaller, sometimes larger. I have just one question for my noble friend. In the absence of the committee, is she satisfied that this order has been subjected to sufficiently rigorous scrutiny by legal experts?

Baroness Williams of Trafford: My Lords, I thank noble Lords for the contributions that they made to the debate, and the helpful points that have been raised. I trust that I made the case based on the available evidence and the advice provided by the ACMD that this order to permanently control MPA as a class B drug, under the Misuse of Drugs Act 1971, should be approved.

The noble Lord, Lord Paddick, rightly makes the point about the JCSI and the failure to appoint members to the committee. My noble friend the Lord Privy Seal apologised for that to this House this time last week. My noble friend Lord Lexden makes the same point and asks if we are satisfied that this order has been given the correct amount of scrutiny before it comes to your Lordships' House. It has gone to the other place. It has come here on the advice of the ACMD and I am satisfied that, in getting full airing from both Houses, we have given it correct scrutiny. I appreciate that many noble Lords almost did not get here tonight because events moved a lot more quickly than we thought. The timescales for achieving the full control of MPA under the 1971 Act, before the expiry of the

temporary class drug order, are very tight. Further delay in attending to JCSI clearance means that there is a significant risk that we would not be able to pass scrutiny and finish debate in time for the Privy Council to make the order at its meeting on 15 November. The noble Lord, Lord Newby, made the point that it is most important that this order is considered in good time. I must reiterate my noble friend the Lord Privy Seal's apology on this, but I am satisfied that scrutiny is being fully applied to it, particularly as the noble Baroness, Lady Meacher, is in her place.

The noble Baroness, Lady Meacher, talked about the outcome of the ban and asked whether we have done any analysis of it. We have seen a significant fall in the use of new psychoactive substances among 16 to 59 year-olds in the past year, from 0.7% in the 2015-16 Crime Survey for England and Wales to 0.4% in 2016-17.

I was asked why this was being done under the Misuse of Drugs Act, not the Psychoactive Substances Act 2016. Given the reported risks and known harms that this substance has already posed to public health, the ACMD has advised that the MDA is the preferred option for control. Permanent control of MPA under the MDA—this is a real tongue-twister—utilises the stricter offences of production and distribution under any circumstances without a licence. Permanent control of MPA also makes the act of possession an offence under the MDA and increases the maximum penalties for the other offences. The stricter offences and penalties will prove a stronger deterrent to the supply and possession of these substances.

The noble Baroness also asked about plans for the Home Office to review the 1971 Act. We have no plans to do so, but Section 58 of the Psychoactive Substances Act commits the Secretary of State to review the operation of the Act, prepare a report of the review and lay a copy of it before Parliament 30 months after commencement of the Act. This review will therefore report its findings in 2019.

The noble Lord, Lord Paddick, asks why MPA is classed as class B when it is believed to be more dangerous than MDMA and cocaine, and he gave some compelling examples of synthetic versions of traditional drugs, if you can call them that. In the past year, cocaine was related to 371 deaths. That confirms its status as class A drug-appropriate. I will write to him on the other points he raised on the comparisons between the synthetic versions of some of the more traditional drugs and the number of deaths associated with them, particularly cannabis, because I know the noble Baroness, Lady Meacher, is listening with intent.

On that note, I hope I have answered most of the questions. If I have not addressed all of them, I will of course write. I think there was a question from my noble friend Lord Patten about advice from the advisory committee on stronger forms of cannabis. I will write to him on that.

Motion agreed.

7.43 pm

Sitting suspended.

Financial Guidance and Claims Bill [HL]

Report (1st Day) (Continued)

8.01 pm

Amendment 13

Moved by ***Lord McKenzie of Luton***

13: Clause 2, page 2, line 34, at end insert—

"( ) In seeking to improve the provision of financial education to children and young people, the single financial guidance body may advise the Secretary of State that—

(a) Ofsted should take into account the financial education provided by schools when carrying out inspections; and

(b) financial education should be added to the primary school education curriculum."

Lord McKenzie of Luton (Lab): My Lords, Amendment 13 takes us back to issues of education. The amendment focuses on the narrow aspects of our prior debate, namely a route to having financial education added to the primary school curriculum and having the Ofsted process take into account the extent to which financial education is provided in schools. These proposals were recommendations of the House of Lords Financial Exclusion Select Committee, as so much of our debate has been. Our debates both in the Select Committee and in Committee went wider than this, and the noble Viscount, Lord Brookeborough, in particular was a strong proponent of the benefit of financial education. Given the limited ability to make financial education effectively compulsory in all schools, the recommendation of the Select Committee was viewed as a practical way of effecting this so far as possible.

Noble Lords may recall that we had a positive response from the Minister, the noble Baroness, Lady Buscombe. We were told that we would get a reply to the recommendations in due course and that discussions had already taken place with the Minister for Pensions and Financial Inclusion about joint working with the Minister for Education to take forward the recommendations of the report and to dismiss concerns, particularly those about primary school education. As that was more than three months ago, perhaps the Minister can update us on progress. I beg to move.

Viscount Brookeborough (CB): My Lords, as a member of that committee, I support this amendment. This is different from some of the other amendments that have come under Clause 2(7), because this is really already there as far as schools go, but it just falls short of doing what it should. For instance it talks about the "provision of financial education" and then says,

"working with others in the financial services".

Your Lordships might sympathise with what Martin Lewis says:

"We do not ask GlaxoSmithKline to pay for chemistry. This is on the national curriculum. Why are we asking banks to pay for it?".

Why are we asking financial institutions? I am perfectly happy that, as the Minister will say, "Yes, we do ask them and they do something", but it is really small and does not begin to touch.

[VISCOUNT BROOKEBOROUGH]

Here are just a few statistics to show why we are talking about education. I will not try to bore your Lordships with them all, but they put this into perspective: 40% of the working population have less than £100 in savings; one in six struggle to identify a single bank balance; around a third of the population, 17 million, cannot even manage a budget; and 26% of postgraduates —that is all—are confident in managing their money. The excellent FCA report which came out at the weekend also shows why it is important. I will come to education in schools in a minute, which is fairly horrifying, but the report says:

"Adults with postgraduate degrees are just as likely to feel uncertain about their abilities as those educated to GCSE level".

So, with all due respect, there is simply nothing going on. Many do not understand the excessive interest rates on unauthorised overdrafts, for example, or revolving credit card balances and the interest rates that are put on those. They do not understand payday loans very much—although it is interesting to note, since we were ready to condemn them, that payday loans are actually cheaper than some of the other loans available, which is quite surprising. That is not because payday loans are cheap but because interest rates on credit cards and unauthorised overdrafts are not only ridiculous but incredibly unfair, as they do not even notify you. At least when you take out a payday loan, you know that you have borrowed £1,000. With most banks, you would not have a clue until you got the bill. So the question is not straightforward. These statistics are all true; they come from evidence that we took and the survey that I just mentioned, showing how very poor the understanding of basic financial matters is in this country. We are way behind others, including, I believe, China.

This whole problem ultimately causes so much unhappiness and stress and will mean a higher cost than otherwise to the welfare state, purely because of the number of people who could have managed but do not because no one told them how. It is all due to a single cause: the lack of financial education in schools. The Bill talks about,

"the provision of financial education to children and young people".

Where are children and young people, and where are you going to educate them? Even I went to a school, and that is the only place where you have them all in one place. You do not honestly think that on a Saturday, instead of going to the cinema, they will go to a class on financial education. So there is only one place for it: the schoolroom. You have only to add "in school" to the wording and you almost have the amendment as it stands.

Financial education could be introduced into primary schools. However, although we are aware that there is some excellent work in primary schools—the Minister may come back and say, "There are good stories about primary schools because they teach people things", and they do—in answer to question 179 in our evidence transcript, Adrian Lyons of Ofsted, who was incredibly useful and very nice about it, said of ex-primary schoolchildren,

"but then the children go to secondary school and hit a brick wall".

That completely sums it up. What a condemnation that is from Ofsted itself.

What of the addition of financial education to the secondary school curriculum in 2014? The first point is that to most sane people a curriculum is what people have to learn. Believe it or not, though, there are actually two curriculums, one non-statutory and the other, the national one, statutory. You have got it in one: this is on the non-statutory curriculum, because it lies within the PSHE programme. It gets worse, as only 35% of state schools come under that so-called curriculum—all the free schools and academies are outside it. We need not say that financial education is being taught in schools as a curriculum subject; clearly it is not, as we would understand it, and it definitely does not go anywhere.

Financial education lies within PSHE subjects but they are not statutory. Guess what happens. Time devoted to PSHE has been reduced by 32% since 2011 because it is non-statutory and there is not enough time for it. Why? One reason for that was suggested by the PSHE representative, who said that schools,

"have so little time for it",

characterising the situation as follows:

"We only have 20 minutes, and if we don't do something on sexual exploitation or online safety we're going to be in trouble over safeguarding".

To all intents and purposes, that is the end of your secondary school financial education. Adrian Lyons said that Ofsted produces a state-of-the-nation education report. Our chairman, the noble Baroness, Lady Tyler, asked,

"how much was there on financial education in the last one?".

Mr Lyons's answer was:

"I do not know the answer to that, but I would be surprised if there was any, to be honest".

I think we know that it was zero.

Here we have something that is all about life skills. After all, school, at the end of the day, is concerned with life skills. You are not going to survive on geography alone; you are not going to survive on physics or other things alone. We are talking about very basic financial management; we are not talking about pensions. We are saying: if you save one sweet every day until the end of the week, you will get five sweets; and if you want to borrow five sweets from me, you can pay me 10 next week. As a foundation, it is as simple as that, but the inspectorate does not even look at it. This amendment could change all that.

Of course, Ofsted says that you cannot judge something—I seem to think that this is how it puts it—without having exam marks, and there are no exam marks here. Ofsted is about marking schools. It is also about encouraging schools to do the right thing and to teach life skills, so why not initially find a way of saying, "Do you teach financial education? How much do you teach? Okay, we'll give you 10 points for that". At least that would be an incentive to do what they should.

When we talked about education in schools, every reason under the sun was given for why they would not or could not do it. We did not have the teachers in front of us. I am terribly sympathetic about teachers' time, so I am not getting at them. There is no time. Teachers are not confident to teach this subject but,

as I have said, we are talking about the basics. Any teacher on a salary is going to know something about saving or spending or not having enough money or whatever. I just do not believe that that is the reason.

The FCA book shows a really poor record on everything, yet schools are the only place where we have young people's attention. What are we meant to be doing? If we say that schools should not be the place—we have already had several amendments turned down because they were too well defined or because they have added too many lines—where should it be? It is not going to be in church, so I suggest that it should be in schools and that we do something to make sure that it is done; otherwise, it will not be done. When we talk to people about where it might be done, why it is not done and the problems with that, it is somebody else's problem. No doubt we will be told that it is the education board's problem, or whatever there is. I am telling noble Lords that that is passing the buck. The sooner we get "schools" written in the Bill, the better.

Baroness Kramer (LD): My Lords, I will add just a brief comment in this area, as the noble Viscount, Lord Brookeborough, has really made the case. A few years ago, when I was dealing much more with banking institutions, one of them very proudly showed me its pack for schools. All that I came away with was that its logo and colours were all over everything. Had this been presented to an adult, they would have regarded it as a sales pitch rather than an educational tool. That was rather worrying. We are moving into an era where there is huge disruption of all the traditional players. On a personal basis, many of the people making decisions to save or borrow will be looking at many of the new disrupters—the challengers, the peer-to-peers, the digital bodies and whatever else. If we are looking towards the handful of major high-street players to be the providers of financial education, particularly to the young, they will not be introducing that world, which they very much regard as threatening. Yet that is the world of the future that our youngsters will have to deal with. The Government have to be very cautious about the how they use providers as a delivery instrument for this education.

Lord McKenzie of Luton: My Lords, I am grateful to the noble Viscount, Lord Brookeborough, for his contribution to this debate. It is a pity that there were not more people in the Chamber to hear the powerful case that he made.

Actually, I do not think that the Minister has responded yet—my apologies.

Baroness Altmann (Con): My Lords, I echo the wise words of the noble Viscount. It is absolutely clear that the level of financial education across the country is woefully low, and that stems from the absence of any financial education at the schooling stage. When I was looking at introducing some pension issues into the national curriculum, the main message that I received as to why it could not happen was that teachers themselves did not know enough about those issues to be able to teach even primary or secondary schoolchildren.

There is clearly a role for the single financial guidance body, which is set up to provide information and education for the public, to devise modules that schools could use—but not only schools. I would hope that, given that most people in the workplace did not get financial education in school, such modules would also be useful within the workplace. This is a big gap in our education system. Education needs to provide our students and young people with the tools that they need to manage their lives. If they cannot manage their finances, they will often get into difficulties that they do not need to be in.

I certainly echo the sentiments of the amendment, which would require the single financial guidance body, as the obvious body to do this, to provide education materials that could be used within schools, but even importing that into the workplace alongside auto-enrolment, because all workers will automatically be put into pensions and need to have some understanding of how finance works in order to make the best of that. I support the sentiments expressed.

Lord Young of Cookham (Con): My Lords, I was hoping for a moment that the noble Lord, Lord McKenzie, was going to wind up the debate and give some cogent reasons why his amendment should be resisted, but that falls to me.

Amendment 13, tabled by the noble Lord, Lord McKenzie, would alter the strategic function on matters relating to financial education. I am grateful to the noble Viscount, Lord Brookeborough, the noble Baroness, Lady Kramer, and my noble friend Lady Altmann for their contributions because, once again, we have highlighted the important issue of financial education, which has been one of the themes running through our debate today. We had a good debate on it in Committee, and there is no disagreement that financial education is extremely important at all stages of life.

In fact, a key role of the new body as a whole will be to improve people's financial capability and help them to make better financial decisions. Clause 2(7) states:

> "The strategic function is to support and co-ordinate the development of a national strategy to improve … the financial capability of members of public".

Then there is the paragraph quoted by the noble Viscount, Lord Brookeborough:

> "the provision of financial education to children and young people".

The noble Viscount outlined areas where the public need to be better informed, and I agree with all that he said.

The financial education element of the strategic function is targeting a specific area of need, which is to ensure that children and young people are supported at an early age on how to manage their finances—for example, by learning the benefits of budgeting and saving. As I think I said in response to an earlier debate, the new body will have a co-ordinating role to match funders with providers of financial education projects and initiatives aimed at children—those could well be in schools—and will ensure that they are targeted where evidence has shown them to be more effective. This falls four-square within the wider strategic financial capability work of the body, and should form part of the national strategy that we expect the body to deliver.

[LORD YOUNG OF COOKHAM]

As has been mentioned, the Money Advice Service has been undertaking that role, and it is one aspect that respondents to the government consultation overwhelmingly agreed is important for the new body to continue to work on, build on, and continue the initiatives already under way.

The amendment makes provision for the new body to advise the Secretary of State on the role of Ofsted and the primary school curriculum. As the noble Viscount, Lord Brookeborough, said, the Select Committee on Financial Exclusion made similar recommendations on the role of Ofsted and the primary school curriculum in its recent report. We will publish a direct response to the House of Lords ad hoc Select Committee report before Third Reading. The Department for Education, which has prime responsibility for this, will be a major contributor to that section of the response.

Again, as I said in Committee, the Government believe that the remit of the new body may cause confusion with regards to the school curriculum. Of course, it can work with schools to help children understand financial education and it can help fund lessons and explore further the barriers to school involvement. The Government are clear, however, that the school curriculum and monitoring of school performance are matters for the departments for education in England and in the devolved nations. Nevertheless, Clause 2(3) states:

> "The single financial guidance body may do anything that is incidental or conducive to the exercise of its functions".

It seems to me that there is nothing to stop the SFGB informally making suggestions to Ministers without the need for the amendment, as long as they relate to its functions. So I do not think that we need the amendment for there to be a dialogue between the SFGB and education providers. In practice, the body will be able to undertake activities to help schools provide financial education but we do not believe the amendment is an appropriate addition to the strategic function. For that reason, I urge the noble Lord to withdraw the amendment.

Viscount Brookeborough: May I intervene for one second? I thank the Minister for his response. At one stage he said: "Well, we might get help, and it might be in schools. Maybe the education board will look at this and maybe the guidance authority will include this and this". The whole thing is so wishy-washy. There are so many let-out clauses, I am simply not sure that it will happen.

Lord Young of Cookham: That is a fair point, but I ask my noble friend to give the Government the benefit of the doubt until such time as we publish the response to the specific recommendations he has referred to. If he finds that the response is inadequate and does not meet his expectations, I am sure there will be further opportunities for him to raise it. The point has been well made during this debate that further progress should be made. There is an outstanding recommendation to which the Government are about to respond. I suggest that the amendment is withdrawn and the Government given an opportunity to put their case forward when they respond to the Select Committee.

Lord McKenzie of Luton: My Lords, I apologise for my earlier precipitate attendance at the Dispatch Box. For a while, I was transported back to earlier times.

It is clear that we are all in agreement on the need for financial education to tackle the challenges we face. The best way to do it; what the focus should be; how it is going to be funded—these are all issues which will lead to significant debate. It was good to hear the passion of the noble Viscount, Lord Brookeborough. We heard it in the Select Committee and it was the noble Viscount himself who brought particular focus on that in the report. I am looking forward to the Government's response, and doubtless the noble Viscount is as well—presumably before Third Reading. Perhaps we should keep our powder dry until we see it.

I thank the noble Viscount, Lord Brookeborough, and the noble Baronesses, Lady Altmann and Lady Kramer, for their support. The noble Baroness, Lady Altmann, widened the focus. It is not just about youngsters in schools, which is where, as the noble Viscount said, we have them, but in the workplace and beyond. This is difficult and challenging but no less important. I look forward to the response to the Select Committee report in due course, but in the meantime I beg leave to withdraw the amendment.

Amendment 13 withdrawn.

Amendment 14

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

14: Clause 2, page 2, line 34, at end insert—

"( ) As part of undertaking its strategic function to improve the financial capability of members of the public, the single financial guidance body must carry out research on a periodic basis, in collaboration with other bodies with an interest in debt issues, to determine—

(a) the level of unmanageable debt across England, Wales, Scotland and Northern Ireland,

(b) the causes of unmanageable debt, and

(c) ways to prevent unmanageable debt."

Lord Stevenson of Balmacara (Lab): My Lords, I am afraid that I return to the most overworked clause in the Bill, namely Clause 2, subsection (3) of which states:

> "The single financial guidance body may do anything that is incidental or conducive to the exercise of its functions".

Do Ministers genuinely think that that single provision can deal with the breadth of expectation that will be placed on the body, particularly as regards research? It is true that there is a power there, provided that it is "incidental", whatever that means,

> "or conducive to the exercise of its functions".

Presumably, that can be tested in court if there is any doubt about what it means.

However, let us assume that Clause 2(3) provides the foundation on which a research function will be carried out by this body. The question is then threefold. First, a lot of research is being done in this area, which is all to the good. It is being done by the FCA, which we have talked about a lot, but many others do research which could be brought into scope in this area. Are we confident that the research being done by the commercial sector, banks, the FCA and the SFGB, if it should be

able to fund that and start doing it, will fit well within that arrangement? Can Ministers assure us that there will be no blockage if this arrangement is the only way that a body can take that research forward? That is my first general point: do we have competence in this regard and is the constitution sufficient to carry it?

My second and third questions are about scale. Secondly, the problem with this is that we have a lot of information which could perhaps be collated by the body and made available in digestible form. The information that we have been talking about in the FCA report would be slightly indigestible if it was not for the very excellent graphics and graphs it produced which allow us to get into it and make it easier to understand and absorb. However, if we think about the range of issues that could be brought to bear in relation to problem debt and financial capability, we are talking about a very significant volume of activity and work that has to be done.

We should add to that the fact that most of the research is, for good and persuasive reasons, snapshot research—the sort of research which looks at something happening at a particular moment in time. The report from the FCA spans two years but effectively one fiscal year has been chosen, out of which have come the figures. But to understand the causes of unmanageable debt and the way to prevent it we need longitudinal studies. Will the body we are discussing have the resources, the capacity and, most importantly, the constitution to undertake work on that scale? That is very different from being just an incidental part of the function: this is mainstream stuff. It will start now and run for 30 years across a life cycle—perhaps longer—to try to understand what causes unmanageable debt across huge populations, not just in samples. Without that information we will not get the detailed granularity we need to make sure that progress is being made in this area.

Thirdly, we are seeing this through the prism of financial capacity. That, of course, is inevitable given where we are starting from. However, as has been stated in many speeches today, and was certainly raised in Committee, the problem with finance is that it is the end product of a lot of other factors that are going on, all of which I argue also need to be researched. Again, I ask: does the wording,

> "The single financial guidance body may do anything that is incidental or conducive to the exercise of its functions",

really catch the need to look at health data, the Tesco card, the purchase of cigarettes or whatever we will use to build a picture of what is happening in relation to people's consumption and their use of the funds they have to enable them to do what they want to do in terms of what the Data Protection Bill, which we are about to go on to, describes as human flourishing?

That term has been coined to try to think through the issues relating to individuals and humans in relation to the work of robots. As citizens we will often be unable to determine whether decisions have been reached by robotic means or by persons. Many people who have campaigned on that Bill argue that we have to remain focused on what will help humans to flourish, not just on how automated machines will work. I am sorry about the digression, but I will tackle that Bill next and it is in my mind as I speak.

The issue remains: do we have confidence that the wording will get us to the point where we can make sure that the body will be able to command both the legal personality to do what it is required and also the funding and resources to carry out a really good job of bringing together so much material, over such a large range of activities, to research what is happening in the debt space particularly? I beg to move.

8.30 pm

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, I thank the noble Lord, Lord Stevenson, for moving Amendment 14—tabled by the noble Lord, Lord McKenzie, in Committee—and for this evening's debate. The amendment relates to the new body's strategic function to conduct research on the levels of unmanageable debts across England, Wales, Scotland and Northern Ireland, as well as the causes of unmanageable debt and ways to prevent it.

It is right that this House continues to take a great interest in understanding the causes of debt and how the Government can best help those who are struggling. I thank noble Lords again for their ongoing, important contributions on this matter since the introduction of the Bill and beyond. Problem debt, as the noble Lord has said, is such a serious issue, with wide-ranging consequences for those affected by it. The Bill is testament that the Government take the issue very seriously and recognise that there is more work to do to ensure that fewer households slip into problem debt. I understand the worthy aims behind this amendment: to highlight the importance of research on indebtedness and to ensure the new body gives it all the attention this important issue requires. The strategic function of the new single financial guidance body will play a fundamental role in this area. It will give the new body the responsibility to develop a national strategy to identify the most pressing issues and the most effective interventions in financial capability, personal debt management and financial education, working closely with others in the financial services industry, the devolved authorities and the public and voluntary sectors.

However, the Government's assessment remains that to specifically reference one area of research over others in legislation is not needed. There are many topics that the new body will need to investigate and I have no doubt that it will conduct research on the very issue that the noble Lord suggests. Significant research is already being undertaken by the Money Advice Service, which is looking at the levels and causes of over-indebtedness across the UK. A great deal of the focus of MAS's financial capability work, and the work that is envisaged for the new SFGB, will support the aim of preventing and reducing problem debt.

I refer, as I did in Committee, to my visit to MAS recently. I was tremendously impressed by the focus of those working there on research. They are trying to bottom out what it is and find out how we can tackle debt from an early age onwards and really make a difference—not just to be tactical about it, but to ask: what is it that leads to this really difficult issue of problem debt? A lot of this debt starts from an early age—as referred to in the previous debate—but it also

[BARONESS BUSCOMBE]
has to do with people's attitude to it and so on. Noble Lords should have every confidence that all these people will be very excited to take this work forward with the new body. However, specifying one issue of research in legislation—as we said earlier this evening, in terms of having lists for things—can always be problematic and could risk hindering the body's ability to take a wide-ranging, strategic approach across the whole sector.

The legislation has specifically been drafted to enable the body to do anything that is conducive or incidental to the exercise of all its functions, and this includes conducting research. So, yes, in response to the noble Lord, Lord Stevenson, we are confident that doing research is a part of the incidental and conducive function, and I am very happy to give that assurance. This will ensure that the body is future-proof and able to have regard to any unforeseen, emerging issues—ones which we have not even begun to contemplate, I am sad to say, and which may confront us in years to come.

The whole purpose of this new body is to improve the financial capability of the public through its delivery and its strategic functions. To do this effectively, it will need to conduct wide-ranging research to fully understand the issues it is addressing, test what works best and learn new approaches. As I hope I have set out clearly today, the Government believe that the new body should have the ability to choose the specific topics it researches in relation to its function and that these should not be specified in legislation.

The noble Lord, Lord Stevenson, also asked whether the body will have the capacity to do this research on a large scale. Yes, it will have that capacity. I have talked to everybody working across the three existing bodies and they see this very much as a part of their role going forward. Therefore, I hope that, after considering these points, the noble Lord will withdraw his amendment.

Lord Stevenson of Balmacara: I thank the Minister for her ringing endorsement of the role of research in the work of the SFGB. I admire her confidence that it will be able to be done, and I am sure that it will be. We hope that it will be one of the things that will be read in *Hansard* and used as a way of building up the forward work programme. I am still slightly worried about the breadth of the research and the ability to carry it out on a very long timescale. Longitudinal studies take time and a lot of resources, and they have very few results for a long time, so a real engagement at that level will be required. However, given that that is where we are and it is what we are going to do, I beg leave to withdraw the amendment.

Amendment 14 withdrawn.

Amendments 15 to 20 not moved.

Amendment 21

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

21: Clause 2, leave out clause 2 and insert the following new clause—

"Objectives and functions

(1) The objectives of the single financial guidance body are—

(a) to improve the ability of members of the public to make informed financial decisions,

(b) to support the provision of information, guidance and advice in areas where it is lacking,

(c) to secure that information, guidance and advice are provided to members of the public in the clearest and most cost-effective way (including having regard to information provided by other organisations),

(d) to ensure that information, guidance and advice are available to those most in need of them (and to allocate its resources accordingly), and

(e) to work closely with the devolved authorities as regards the provision of information, guidance and advice to members of the public in Scotland, Wales and Northern Ireland.

(2) The single financial guidance body must have regard to its objectives when it exercises its functions.

(3) The single financial guidance body has the following functions—

(a) the pensions guidance function;

(b) the debt advice function;

(c) the money guidance function;

(d) the strategic function.

(4) The pensions guidance function is to provide, to members of the public, free and impartial information and guidance on matters relating to occupational and personal pensions.

(5) The debt advice function is to provide, to members of the public in England, free and impartial information and advice on debt.

(6) The money guidance function is to provide, to members of the public, free and impartial information and guidance designed to enhance people's understanding and knowledge of financial matters and their ability to manage their own financial affairs.

(7) Where the single financial guidance body provides information, guidance or advice to a person in pursuance of one of the functions mentioned in subsection (3)(a) to (c), it must consider whether the person would benefit from receiving information, guidance or advice in pursuance of any other of those functions and the single financial guidance body must ensure that, where information, guidance or advice is provided on its behalf by an SFGB delivery partner, the SFGB delivery partner is under a duty to do the same.

(8) The strategic function is to develop and co-ordinate a national strategy to improve—

(a) the financial capability of members of the public,

(b) the ability of members of the public to manage their debts, and

(c) the provision of financial education.

(9) In developing the national strategy, the single financial guidance body must work with others, such as those in the financial services industry, the devolved authorities and the public and voluntary sectors.

(10) The single financial guidance body also has the function of providing advice and assistance to the Secretary of State on matters relating to the functions listed in subsection (3).

(11) The single financial guidance body may do anything that is incidental or conducive to the exercise of its functions.

(12) In this section "the devolved authorities" means—

(a) the Scottish Ministers,

(b) the Welsh Ministers, and

(c) the Department for Communities in Northern Ireland."

Lord Stevenson of Balmacara: It seems rather perverse, right at the very end, to talk about a clause that we have been debating for nearly a whole day and then to

propose that it should be struck out and replaced with something else. Also, I wonder whether the clerks understand what we are trying to do here. We have already amended Clause 2 as it currently stands and they have not raised a single eyebrow. Actually, two eyebrows are being raised at the moment but they were not raised earlier when we seemed to stray into the territory of constitutional confusion, although I do not wish to raise that again today.

Let us be quite clear about this. The amendment was meant to be an attempt to aid wider public understanding of what the body is about. When we went through Committee, and certainly when we talked about some of the issues relating to the Bill in meetings, it was felt that we had the wording in the Bill as published before this stage—starting as it did with functions and moving on to objectives—the wrong way round. It was felt that there would be better clarity and a better understanding of what we were about if we could rejig it in a way that focused on the long-term vision of this body, how its constitution and powers supported that long-term vision, and what functions it needed to achieve that objective in the medium term. Amendment 21, in my name, is an attempt to do that. It borrows heavily on discussions with the Bill team, for which I am very grateful, and indeed some of the wording may be rather familiar to the team. It is not far from what appears in the Bill as currently printed, except that it is in a different order. I argue that the way it now reads—and I hope that there will be support for this around the Chamber—provides a much more logical approach to what we are going to do.

In a nutshell, the problem is that if you start with the functions of the body as it may be in the future, you tend to think of those in terms of where we are at the moment with the existing constituent bodies—the MAS, Pension Wise and TPAS. If you detach that from your initial thinking and think only about what will happen to the consumer and the journey the consumer takes in trying to get the information, advice or guidance that they seek, in the appropriate way, it clears up a lot of the confusion that we ran into and the terminological difficulties that we had. They were helpful in that they brought out the problems that we faced, but unhelpful in that they brought us back to confusion about what this body was about.

In Amendment 21, the objectives, coming before functions, are listed in paragraph 1. In paragraph 2 they are now objectives, whereas before they were functions, and then the functions follow. The related powers come after that. It has a clarity of overall shape that commends it, but I doubt that the wording is now sufficient to cope not only with where we might want to see changes coming forward but also in light of what has happened.

I have anticipated an amendment already in the Bill, as of this afternoon, by including within the phrasing of my current amendment the "free and impartial" amendment, which we have accepted. I took a bit of a chance on that but I am delighted that we have agreed that that should go forward, as it should do. There may be others that a little bit of time and work by parliamentary draftsmen could polish up by the time we get to Third Reading. I hope that, when the Minister responds, she might feel it worth taking away this amendment and bringing back something that would substitute for the existing Clause 2 in a way that fulfils some of the objectives that I have set out here today. I beg to move.

Baroness Buscombe: My Lords, I thank the noble Lord, Lord Stevenson, for this amendment to Clause 2. I also want to thank all noble Lords who have spoken today in connection with the functions and objectives of the single financial guidance body. We have had a wide-ranging debate, covering matters including financial inclusion, financial exclusion, financial education, scams and fraud, and unmanageable debt. We were also going to debate, and accept as important, the resourcing of front-line services.

I also thank the noble Lords, Lord Stevenson and Lord McKenzie, for the discussions that we have outside the Chamber in relation to this clause and how it might be reframed. As noble Lords have rightly indicated, Clause 2 is the foundation that sets the whole tone and ethos for how the single financial guidance body will operate. It provides, as we have discussed today, the framework and lens through which the body will exercise its functions and make progress, working with others towards achieving its objectives.

I think that we are all agreed that establishing the single financial guidance body with a framework of broad core functions and objectives provides a sensible and pragmatic way forward. The amendment that the noble Lord, Lord Stevenson, has tabled does four key things. It restructures the subsections in Clause 2 to bring to the fore the body's objectives. It places an obligation on the body to consider all a person's information, financial guidance and debt advice needs, and whether they would benefit from receiving other services that the body provides. It seeks to clarify that the body will hold the pen and have some responsibility for ensuring that all parties involved in developing a national strategy make progress on taking it forward. It also seeks to extend the strategy's financial education element beyond children and young people. I see the value in the intentions behind this amendment.

There is a certain merit in setting out up front what the objectives behind the activities of the body should be. I also see merit in making it more apparent that the single financial guidance body will take the lead in developing a national strategy to improve people's financial capability and ability to manage debt. These changes could clarify, not only to the body but also to all those it will work closely with, that these are the Government's and Parliament's expectations.

I recall that the noble Lords, Lord Stevenson and Lord McKenzie, raised a similar point in Committee about ensuring that, if a member of the public comes to the new body seeking information, guidance or debt advice from two or more different functions of the body, they will be able to access those different functions if needed, as opposed to only one function. I think we all agree that this is important. While this was one of the Government's stated aims for the single body, I still believe that it is already encapsulated in the Bill. However, I can see that it may be useful to strengthen that point and make it more obvious in the legislation.

[BARONESS BUSCOMBE]

We discussed earlier amendments tabled by the noble Lords, Lord McKenzie and Lord Stevenson, and the noble Baroness, Lady Kramer, on matters relating to financial education which seek to extend the element of the strategic function beyond the provision of financial education to children and young people. I do not think it is necessary for me to reiterate the points which I and my noble friend Lord Young made when discussing Amendments 9, 10 and 13, but I am supportive of much of the intent behind this amendment. I feel that we agree on the broad thrust of much of what it aims to achieve. On this basis, I trust, and very much hope, that the noble Lord, Lord Stevenson, will withdraw the amendment to provide some further time for us to consider and refine it before bringing it back at Third Reading.

Lord Stevenson of Balmacara: My Lords, how could one possibly resist that invitation? I accept it in every way possible. We were joking beforehand that we were so in debt to Ministers that at one point we would have to run round the table and embrace the noble Baroness to thank her for all that she has done on our behalf. I will hold back on that for now—we need to see what happens at Third Reading before we get to the kissing stage. But I thank the Minister very much for what she said. It was also wrong of me not to mention the additional important point about proposed new subsection (7) and I am glad that she was able to pick it up and talk about it. I am sure that we can work together on this. There is time to get it right before Third Reading. I beg leave to withdraw the amendment.

Amendment 21 withdrawn.

House adjourned at 8.46 pm.

Grand Committee

Tuesday 24 October 2017

Telecommunications Infrastructure (Relief from Non-Domestic Rates) Bill

Committee

Relevant document: 5th Report from the Delegated Powers Committee

3.30 pm

The Deputy Chairman of Committees (Baroness Stedman-Scott) (Con): My Lords, if there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells ring and resume after 10 minutes.

Clause 1: Relief from local non-domestic rates: occupied hereditaments

Amendment 1

Moved by ***Baroness Pinnock***

1: Clause 1, page 1, line 14, at end insert—

"(aa) the hereditament is wholly or mainly located within a local authority area where the average broadband speed is 10Mbps or less, and"

Baroness Pinnock (LD): My Lords, I have wondered from the outset of the Bill's proceedings why companies with billion-pound turnovers require business rate relief, as stated in the Explanatory Notes, of £60 million over a five-year period to provide an incentive for laying fibre to provide fast broadband. My amendment relates to concerns about the lack of focus for the expenditure of public funds. When, as is the case, resources are extremely limited, it is important that they are spent in the most effective way. In this instance, the focus should be on providing incentives where broadband speeds are already poor.

At the last Budget in 2016, the Chancellor emphasised the importance of fibre-to-property broadband to meet future needs, especially of businesses, where improving broadband speeds is probably the single, and simplest, change that will improve this country's lagging productivity. A report in August of this year assessed that the UK was behind 30 other countries in accessibility to fast broadband. The Government's current assessment is that 90% of properties have access to fast broadband; however, this figure includes properties that are 1 kilometre distant from the cabinet—not the Cabinet but the street cabinet—and consequently have barely a connection at all.

The Bill simply gives an incentive for broadband providers, both large and small, to lay fibre. The major companies have billion-pound turnovers, so the question has to be asked whether an incentive at the level provided for in the Bill will be significant. Obviously, it will make a difference for smaller providers but the Bill does not distinguish between large and small providers. The Bill makes no requirement for companies to focus on laying new fibre where broadband speeds are currently below the Government's standard of 10 megabits per second where the need is greatest.

Hence the amendment, which will limit the business rate relief to laying fibre where broadband speeds are already poor. I have deliberately not made the distinction between rural and urban, as some rural areas such as Cornwall have already benefited from EU investment in improved broadband access, while some urban areas have very poor broadband speeds. Even in London, some areas such as parts of Southwark suffer from having below 10 megabits per second.

I should like to explore further a concern that the largest provider of fibre, BT, has a business plan based on laying cable to the cabinet in the street and not to the premises. From there to the premises the link will be by copper, which in itself degenerates the speed. The further the premises are from the cabinet, the worse the broadband speed. At 300 metres distant, the broadband speed is not much improved from the old copper connections. As I said earlier, at 1 kilometre the connection is barely accessible. A further factor that results in broadband speeds reducing, even with fibre, is the number of properties connected to the cabinet. None of these issues is addressed in the Bill.

My final concern, which is admittedly outwith the Bill, is the cost to families and individuals of accessing broadband. Fibre cable can be laid to provide access but if the cost is prohibitive, some families will not be able to access the better quality broadband. Since it is becoming, in my view, one of the utilities—like water, electricity and fuel provision—it is really important that we start thinking about how all families are able to afford broadband. I put this into the equation to ask the Government whether they will, at some point, be willing to address that increasingly significant concern. My amendment would encourage the Government to focus public funds on incentives that will make areas with poor connectivity see significant improvements. I beg to move.

Lord Kennedy of Southwark (Lab): My Lords, I refer the Committee to my registered interests as a local councillor and a vice-president of the Local Government Association. I support Amendments 1, 5 and 11 in this group, tabled by the noble Baroness, Lady Pinnock. They highlight some real problems for communities—be they urban or rural—which suffer from poor connectivity, and there has been no real incentive to improve the situation for them by improving speeds. The amendments add the condition that, for the relief to apply, it has to be focused on areas within a local authority where the average broadband speed is 10 megabits per second or less. I think I am right when I say that about 93% of homes and businesses in the UK are able to receive superfast broadband, but it is the copper version. The Bill is generally welcomed.

The noble Baroness is right to focus her amendments on areas with poor connectivity. There is a good argument for this as reliefs provide an incentive to do something that a business might otherwise not want to or be keen to do. The view may be taken that it is not economically beneficial, or something else could be more beneficial. The noble Baroness raises the important issue of how to ensure that those parts of England and Wales, urban and rural, which suffer from poor connectivity can benefit from the relief provided to companies. Otherwise, such areas run the risk of

[LORD KENNEDY OF SOUTHWARK]
falling further behind. We can all agree that the benefits that fibre can bring could be enormous to all parts of the UK.

Can the noble Lord, Lord Bourne, respond to the concern expressed by the noble Baroness, as we do not want to see parts of the country falling further behind? How can we ensure that this relief, welcome though it is, actually benefits those areas with the worst connectivity?

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, my noble friend Lord Bourne has left this one to me. I thank the noble Lords for their contributions. I realise the point that some of these issues raise. I will make some general comments on the points made by the noble Baroness, Lady Pinnock, and then come to the substance of the amendment.

The noble Baroness referred to billion-dollar companies—I presume she meant BT. The relief applies to all companies, large or small, because fibre-optic cable is the way of the future. We regard laying fibre-optic cable as a good thing, regardless of where it is and who lays it, so we leave it up to the market. This Bill is a fairly blunt instrument, merely an enabling measure; it was announced by the Chancellor and it is merely to allow the relief to be take place. On the very understandable issue of where it should be directed, we have carried out a number of measures to effect that. We understand the issue about rural and hard-to-reach areas—and, indeed, some of the areas in our cities that do not have adequate broadband. The specific amendments do not necessarily address the broad thrust of some of the remarks made by the noble Lords, and I will explain why we do not think the amendments are particularly helpful. They would mean that the reliefs provided for in the Bill on new fibre applied only to those areas that currently receive an average speed of less than 10 megabits per second. They would undermine a fundamental part of what we seek to achieve through the Bill. We want to ensure that businesses and households throughout the country, including rural areas and cities, have access to faster broadband. In fact, by the end of this year, 19 out of 20 premises will have access to superfast broadband.

The universal service obligation will provide a digital safety net by giving everyone in the country the legal right to request a connection to broadband speeds of at least 10 megabits per second by 2020. As noble Lords will know, we are also considering a voluntary proposal from BT in that respect. I stress that the 10 megabits per second is a safety net; we want as many people as possible to have access to superfast broadband or better, which is why we have set a target of 95% superfast coverage by the end of 2017, which will continue to be extended beyond that to at least 97% of premises.

We have delivered a series of measures to ensure that all areas can and do have access to the broadband speeds that they need. For example, Defra has just made available £30 million of funding under the rural development programme for England, targeted at supporting rural businesses and growth for broadband services in those areas with speeds of 30 megabits per second or faster, where that is not currently available or planned. In the 2016 Autumn Statement, the Government announced more than £1 billion to support digital infrastructure, targeted at supporting the rollout of full fibre connections for future 5G communications. The first wave of projects for our local full fibre networks programme has been launched, and includes a mixture of urban and rural areas. We are soon to launch a challenge fund for local bodies to bid for access to £200 million for all parts of the UK free to participate, and we anticipate a significant number of applications from predominantly rural areas. We think that those projects will encourage further commercial interventions to build and extend fibre networks.

We support better broadband in all areas, but we believe that the amendment would limit the rate relief to only those local authority areas with an average of less than 10 megabits per second, which would damage the rollout of faster broadband across the UK. First, it would mean that much of the new fibre to be installed to the premises—FTTP—would be excluded from the relief. To deliver a network that is fit for the future, we need more fibre everywhere, including in areas that currently get more than 10 megabits. This amendment could deter significant investment and have the perverse result that less full fibre—the gold standard of broadband technology—was actually deployed.

Secondly, the amendment would exclude from the rate relief new fibre in those villages and rural areas that do not currently have high speed broadband but happen to fall within a local authority area which does on average have high speed broadband. It would mean excluding from the relief whole areas where support is needed and where the measures provided for in the Bill would make a difference. At the moment, less than 3% of premises across the UK receives under 10 megabits per second, so the amendment potentially excludes up to 97% of premises from the relief.

Therefore, I hope that the Committee will recognise that the amendments should not be included in the Bill. However, we agree that improving broadband in those areas with less than 10 megabits is a priority, which is why we have put in place the universal service obligation. The new fibre rate relief as proposed through the Bill will support that objective. I hope that, with this in mind, the noble Baroness will withdraw her amendment.

3.45 pm

Baroness Pinnock: My Lords, I thank the noble Lord, Lord Ashton, for his detailed response to the amendment, which I tabled to explore how the Government's intentions could result in better focused expenditure of public money. I accept his criticism that using local authorities as a geographic unit is, to use the phrase he used earlier, a blunt instrument.

I was trying to say to the Government that if we are to spend public funds, which are in short supply, let us make really good use of them by connecting to higher speeds those parts of the country that currently have very poor broadband. I accept the very detailed response the noble Lord has given, but to be honest he has not responded to the question of focusing on improving accessibility, apart from saying we need fibre connections everywhere. We all agree with that, but let us incentivise companies to do it where it is needed. I would welcome

the Government coming forward with an amendment that enables that to happen, with the vast support they have working these things out, but given the response I have had, at this moment I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2

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

2: Clause 1, page 1, line 16, at end insert—

"(4FA) Conditions prescribed by the appropriate national authority by regulations under subsection (4F)(b) must include the condition that new fibre is part of the hereditament under subsection (4F)(a)."

Lord Kennedy of Southwark: My Lords, Amendments 2, 3, 6, 7, 9, 10 and 12 are all in my name and form group two in our deliberations. This group seeks to address one of the principal concerns expressed by people and smaller companies in the industry: that the way the Bill is written does not provide enough protection from companies ripping out old fibre and laying new fibre solely to benefit from the relief, which would pay for itself in less than two years. I think that was one of the points the noble Baroness, Lady Harding of Winscombe, made at Second Reading after her discussion with colleagues and people in the industry. I am convinced that there is a real risk of this happening, which would be absolute madness and not what the relief was intended for. It would, in effect, become a subsidy for old networks. Can the Minister address this particular point: how will we ensure this does not happen?

My amendments seek to prevent this in three ways. They would put in the Bill the words,

"must include the condition that new fibre is part of the hereditament".

They would add a subsection that would put in the Bill the meaning of "new fibre" and what would not be covered by this relief. They would go further to address the point that laying, affixing, flying or attaching should not be solely to gain relief. Amendment 9 makes the specific point that the relief should not be there just to "replicate existing" telecoms structures. The Bill is about providing business relief to encourage and to speed up additional fibre telecommunications infrastructure.

There may be other ways to do what I seek here, but the Bill as drafted has people in the industry concerned. They are unhappy with the protections that the Bill affords at present, or fails to afford. The purpose of these amendments is to raise the issue with the Minister, and to get a response and, I hope, a commitment from the Government that these issues will be looked at seriously. Further, would he be prepared to meet me and representatives of the industry between now and Report? That would be helpful, because it is a serious problem. Somehow the Government, either with these amendments or by regulation, have to address these points further. I beg to move.

Baroness Pinnock: My Lords, I support the amendments tabled by the noble Lord, Lord Kennedy, because he, like I did in previous amendments, seeks to focus the relief provided in the Bill on those places and areas that need it most. He is asking to put in safeguards to prevent some companies deliberately laying cable with no purpose and to ensure that what is done on rate relief achieves the outcome the Government seek, which is to provide more domestic premises and businesses with fast broadband connectivity. I look forward to the response from the Minister—I am not sure which one, perhaps it will be a double act. The questions that the noble Lord, Lord Kennedy, has raised are important and need an answer.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Northern Ireland Office (Lord Bourne of Aberystwyth) (Con): My Lords, on this occasion I am genuinely grateful to the noble Lord, Lord Kennedy, for raising this matter. I am not always grateful to him for raising matters but I am today. I am grateful also to the noble Baroness, Lady Pinnock, for her comments. We have a shared interest here, in that I cannot believe that anybody wants to see gaming in the system.

Concerns about gaming in the proposed rate relief for new fibre were raised by a small number of operators in August, when we first shared with them our proposals for the draft regulations. As the noble Lord has said, my noble friend Lady Harding raised this issue at Second Reading. I think she went on to say that she was not by any means convinced that there would be gaming but she raised it as a concern, so we share an interest in ensuring that there is not gaming.

Other operators have told us that they do not believe there is scope for gaming and support the proposed scheme. Nevertheless, we take this matter seriously and have been investigating these claims. Overall, our initial view is that it is unlikely gaming will be used in this tax relief. As I have said, we continue to discuss this with the sector and we are still gathering evidence.

However, if it will help the Committee, I will explain in a little detail why concerns as to gaming have arisen, why we believe such gaming is unlikely, in practice, and how I propose to deal with the matter between now and Report. What is being seen as the potential risk of gaming comes from the line we propose to draw in regulations as to when the relief should apply. New fibre installed after 1 April 2017 will receive the relief. However, some operators will choose instead to use existing fibre optic cable which was installed prior to 1 April 2017 but has not yet been activated. This is known as dark fibre. The objective of the measure in the Bill is to support investment in new fibre broadband infrastructure. Therefore, previous investment in existing fibre, including dark fibre, is not considered to be new fibre, has not been incentivised by this measure and will be outside the relief.

We have heard concerns that the proposed different treatment in the relief scheme of new fibre, which gets the relief, and dark fibre, which does not, could lead to some gaming in the system. It has been suggested that telecom operators may replace or duplicate existing dark fibre with new fibre merely to secure the rate relief. It has also been suggested that some operators may install new fibre in existing locations to gain a competitive advantage over existing operators in that location, merely because of the rate relief.

[Lord Bourne of Aberystwyth]

To understand this better we are investigating the costs and operational implications of installing new fibre into existing infrastructure, such as ducts. By comparing these costs to the potential saving on business rates from the new fibre relief we can identify where, in principle, the scope for gaming exists. To help us with that work we have held discussions with telecom companies regarding this matter and are now considering evidence provided by one operator, Gamma Telecom, which I mentioned at Second Reading. The consultation on the draft regulations runs until 21 November, and during this time we would like to hear views from other operators regarding the risk of gaming. This work is at an early stage and noble Lords will understand that some of the data we are using in this study is commercially confidential.

Our initial findings are that in the vast majority of cases—perhaps covering more than 99% of the telecom network—it will not be financially viable for operators to install new fibre merely to gain the relief. In those cases, the cost of purchasing the fibre and the labour costs associated with opening existing ducts—putting the fibre through those ducts and then connecting the fibre—exceeds the saving from business rates. In those situations it will be cheaper to use existing dark fibre, so gaming would not occur. Our focus, therefore, is on smaller networks where the business rates paid in respect of each kilometre of network are higher than for larger networks. The potential for making a saving in business rates is therefore also higher.

We are looking closely at the circumstances in which new fibre may be installed in existing smaller networks and exploring more of the costs associated with accessing existing ducts. These circumstances account for a very small fraction of the telecoms network—probably less than 1%. That said, I cannot see why 1% should be ignored and if there is evidence of the possibility of gaming, I would want to ensure that we act. But even if there are circumstances where, in principle, the rates saving exceeds the costs, it does not necessarily follow that, in practice, gaming is viable. For example, it may not be possible to add new fibre to ducts which are already in use, while switching from one fibre to another may cause interruption or disruption to the customer, which may be especially unacceptable for business customers and unattractive to the operator. But, as I have said, we agree with the noble Lord and the noble Baroness that we do not want a tax system that is open to gaming in the way that has been suggested. If from our work with the sector we conclude that gaming is likely, I assure the noble Lord and the noble Baroness that we would consider how to amend the draft regulations to prevent it.

The amendments we are considering would move the definition of new fibre into the Bill. This would in fact significantly limit our ability to tackle any gaming. The approach in the Bill of defining in regulations the meaning of new fibre gives us the scope to first identify the circumstances in which gaming might arise before we devise the solution. It allows us to ensure that any solution is practical and to respond quickly to any future circumstances where gaming might arise.

Moving on to the practical points put by the noble Lord and echoed by the noble Baroness about meeting the sector, as I have indicated, I intend to meet Gamma between now and Report, which will probably be towards the end of November. I will certainly keep the House—including the noble Lord and the noble Baroness—informed about how the discussions are going. I would be happy to include them in the thrust of what is happening, and expect to act on any concerns about gaming which indicate that this issue needs addressing. As I say, we are as keen as they are to tackle any potential gaming. I hope with that assurance and the guarantee that I will keep the noble Lord and the noble Baroness involved with what is happening, that the noble Lord will feel able to withdraw his amendment.

Lord Kennedy of Southwark: My Lords, I thank the Minister for that helpful response. I am happy to withdraw my amendment at this stage. I am delighted that the Minister is meeting representative of the industry, particularly Gamma. That is very good.

I hope the Minister is right on all these things and that there is no issue with gaming at all. My only concern is that we should pass the legislation in a way that eliminates it. We are often told by the Government that parliamentary time is precious. It would be a shame to get the Bill through and then find, in a year's time, that there was a problem after all and people are doing the things which we do not think they will now. I like the idea of putting something in regulations as a good way forward. They can be amended a bit more easily. I was at a meeting this morning on a completely different subject: a very good initiative that the Government had come forward with many years ago, when I first joined the House, but now there are some concerns about how it is operating. To get that initiative changed, we have to go back and get the law changed. That is not always easy. I thank the Minister for his response and look forward to further discussions. I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3 not moved.

Amendment 4

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

4: Clause 1, page 1, line 16, at end insert—

"(4FC) Providers of telecommunications benefiting from the relief under subsections (4E) and (4F) must give due consideration to providing high quality telecommunications services to rural and hard to reach areas."

Lord Kennedy of Southwark: Amendments 4, 8 and 13 in my name and Amendment 15 in the name of the noble Baroness, Lady Pinnock, concern how we help rural areas and communities benefit from improved connectivity with fibre, to address the concerns that rural and other hard-to-reach areas have.

Amendments 4, 8 and 13 are in effect the same amendment placed in three different parts of the Bill. They would place a requirement on those companies benefiting from the business rates relief to give due

consideration to providing high-quality telecoms services to such areas. These are very reasonable amendments—I always table reasonable amendments in your Lordships' House—and they would place a duty only to give due consideration. There is nothing onerous or anything that would put the viability of a business at risk, but they propose that connectivity must be given proper consideration and significance.

If a particular area is benefiting from an upgrade to fibre, the company doing the work should give proper weight to the proposition that, as a beneficiary of the rates relief, it should also look at whether the work in the village down the road could be done at the same time—the risk being that if it is not done then, it will never be done at all. The community would then be as disadvantaged, as it was previously.

I fully support the amendment in the name of the noble Baroness, Lady Pinnock. It asks that a report be laid before Parliament 12 months after the Act comes into force, to look at various issues, which I am sure she will refer to in her contribution. I beg to move.

4 pm

Baroness Pinnock: My Lords, obviously I support Amendments 4, 8 and 13 in the name of the noble Lord, Lord Kennedy, which draw attention to the issues that he has just spoken about. Amendment 15 in my name asks for an impact study after 12 months to see how effective the provision is. In this instance, there have been difficulties that I have struggled with, as with the earlier amendment proposing a local authority boundary for an assessment of an average 10 megabits per second.

In Amendment 15, I have used "rural" as an accepted definition of areas which, on the whole, have poor broadband connectivity. If this was accepted by the Government, obviously it could be extended to all parts of the country. I am focusing again on the need for the Bill to use public funds effectively, by targeting their impact where they can make the most significant difference. Subsection (2)(c) of my proposed new clause refers to mobile phone connectivity. This relates to the fact that until we get 5G coverage, which I believe will be in 2020—it could be a year or two later—connectivity will depend on fibre-optic cables going as far as the mobile phone masts. This will have a big impact on those many families who cannot afford broadband but rely on mobile phones for their connectivity everywhere. They rely on them for accessing public services, which are now digital by default. If they can, they also make job applications via their phones, rather than having broadband to the house. That is why I raise these issues today.

The fundamental part of the amendment is to have a pause or period in which the Government assess the impact of this rate relief and ask: is it doing what we hope it will do? Can we improve the quality of mobile phone coverage by ensuring that some of the fibre-optic cable that is laid goes to mobile phone masts, in preparation for 5G coverage?

Lord Ashton of Hyde: My Lords, I am grateful to noble Lords for laying out their amendments clearly. As the noble Lord, Lord Kennedy, said, these amendments are very much linked to the last group on which I answered—the first group today.

Amendment 4, which was moved by the noble Lord, Lord Kennedy, seeks to ensure that there is a requirement for recipients of the relief to,

"give due consideration … to rural and hard to reach areas".

In a similar vein, the noble Baroness, Lady Pinnock, proposes an amendment to require a report on the impact of these measures on rural connectivity. Although I might support the spirit of these apparently reasonable amendments, I do not believe that they are necessary. I share the concerns of many noble Lords that rural and remote areas should not be left behind in the drive to improve and extend high-quality broadband connectivity. I declare an interest: I live in a rural area and am absolutely aware of the problems to which noble Lords have alluded.

The relief provided for in the Bill is available across England and Wales. No area is excluded or exempted, and we have engaged with the Welsh Government to support the application of the measure in Wales. Providers deploying fibre connectivity in the countryside will receive the same rates relief as those deploying in the hearts of our great cities. That is important because the problems of slow speeds are the same, regardless of where the household is located. When we talk about social deprivation, for example, it is still a problem in an inner city as well as a rural area.

Providers are free to deliver connectivity wherever the market allows. However, to ensure that people living and working in rural and remote areas can and do have access to the broadband speeds that they need, the Government have delivered a series of measures, which I mentioned in my previous answer—but I shall remind noble Lords of them just briefly. There is the superfast rollout programme, which is worth about £1.7 billion of public money. We are currently consulting on the broadband universal service obligation, which will apply across the United Kingdom, with at least 10 megabits per second. Then there is the local full fibre networks programme, worth £200 million, and the rural development programme for England at £30 million for broadband. Those measures have been a great success, with 45% of households with superfast in 2010 rising to 95% by the end of this year.

It is clear that the relief will be alongside a package of measures put in place by the Government to help spread to those living and working in rural and remote areas the benefits of economic growth and access to services that better broadband connectivity will bring. Together, they will also lay the foundations needed for the next generation of mobile technology, known as 5G, to which the noble Baroness, Lady Pinnock, referred.

The noble Baroness's proposed new clause in Amendment 15 would require a report on the impact of the measure on rural connectivity. I support the outcome—that is, an understanding of the impact of Government's action in this area—but my concern is that requiring a report on the impact on rural connectivity may have an adverse effect. Telecoms networks take time to plan and build, and investors rely on certainty. A report on the relief after 12 months is premature, given the time taken to deploy networks. My noble friend Lord Bourne will cover reporting arrangements in greater detail later, but my concern is that if the

[LORD ASHTON OF HYDE]
Government are required to report so soon, it could create uncertainty over whether the relief will continue, and lead to unintended consequences.

On subsection (2)(c) of the noble Baroness's proposed new clause, on mobile coverage, I note that the main benefit of the measure to mobile will be in aiding the deployment of 5G. It will take longer than 12 months for the next generation of mobile technology to appear; we do not quite know what it is yet.

Of course, we will monitor the effectiveness of the scheme in providing new fibre, which will include rural areas, but we need to allow the sector appropriate time to build networks in all areas. Ofcom reports on infrastructure deployment every year, and we should see the impact of all the Government's measures in this field in due course. In view of those explanations, I hope that the noble Lord will withdraw his amendment.

Lord Kennedy of Southwark: The Minister made the point, with regard to the amendment of the noble Baroness, Lady Pinnock, that 12 months may be too soon. After what period of time does he think a report would be useful? Would it be 12 months, 24 months or 36 months?

Lord Ashton of Hyde: Ofcom reports every year, so I do not think it would matter whether it is 12 months or 24. My point was specifically on mobile coverage for which the 12 months would not be appropriate, because 5G has not really been invented yet, so there certainly will not be any visible signs on mobile coverage. Essentially, we are saying that we want fibre-optic cable to be laid over all areas of the country to improve future mobile reception and also fibre to the premises, which is what the future gold standard is. We need it everywhere, not just in rural areas. While we accept that rural and hard-to-reach areas have a problem, I have laid down a series of other measures to deal with those areas specifically.

Lord Kennedy of Southwark: I thank the Minister for that response and for his response to my other question. I am happy at this stage to withdraw my amendment.

Amendment 4 withdrawn.

Clause 1 agreed.

Clause 2: Relief from local non-domestic rates: unoccupied hereditaments

Amendments 5 to 8 not moved.

Clause 2 agreed.

Clause 3: Relief from central non-domestic rates

Amendments 9 to 13 not moved.

Clause 3 agreed.

Amendment 14

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

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

"Assessment of rate relief: reporting

(1) The Secretary of State must, within the period of 12 months beginning with the day on which this Act has effect, lay a report before both Houses of Parliament containing an assessment of the operation of the relief provided under this Act in the 2017-18 financial year.

(2) The report must include an account of—

(a) the impact of the relief upon the level of local authority income raised through non-domestic rating;

(b) the level of investment likely to have been stimulated by the relief, and the scope for extending the relief to other forms of investment;

(c) whether the duration of the relief is appropriate;

(d) the views of those subject to the charges of non-domestic rates on the relief; and

(e) the efficacy of the mechanism for the distribution of the relief."

Lord Kennedy of Southwark: My Lords, I will be brief, as we have rehearsed some of the points made earlier. Amendment 14 in my name and that of the noble Baroness, Lady Pinnock, puts a requirement on the Secretary of State to lay a report before both Houses of Parliament. A similar amendment was tabled in the other place to get the Government to make an assessment of the operation of the relief proposed under this Bill. The amendments list, in paragraphs (a) to (e) in subsection (2) of the proposed new clause, the areas that the report should cover. I hope that the Minister can address the concerns raised by the amendment. It seeks to ensure, among other things, that the issues we have been discussing today and in previous debates do not arise. It would be a major disappointment if we failed to address these concerns and also failed to take any measures to keep ourselves informed about the effect of the relief and how it is working.

I like to base my decisions on evidence. As I said, I was at a meeting today on a completely different matter, where, after many years down the line, we have not got a mechanism to change things. I hope we can get a positive response. I do not accept that having a report to Parliament, whether next year or in 24 months' time, in itself creates great problems for business in terms of uncertainty. We are in very uncertain times on a whole range of issues, and I am sure businesses would be much happier with other things. I am sure the point can be made for the moment, but I do not accept the inference made. I beg to move.

Baroness Pinnock: As I have put my name to this amendment, clearly I support it. The specific parts of this amendment that I would like the Government to consider are paragraphs (a) and (e) of subsection (2). The first is the impact of the relief upon the level of local authority income raised and the second is, importantly, the mechanism for the distribution of the relief, whether it is going to be a speedy one and how carefully it can be calculated. I can see quite a lot of room for dispute about the cabling, such as which part

of local authority boundaries it crosses and so on. What we would like is an assurance that there will be an appeal mechanism for local authorities if the distribution of the relief is not what they anticipate. The reporting would enable that to happen.

4.15 pm

Lord Bourne of Aberystwyth: My Lords, I thank the noble Lord and the noble Baroness for their contributions on this amendment dealing with the possibility of a review. I welcome the opportunity to return to this proposed new clause, which, as the noble Lord rightly says, was discussed in Committee in the other place.

We have said throughout the passage of the Bill that we intend to work with the sector and the Valuation Office Agency to ensure the smooth implementation of this relief. I happily restate that. We have published draft regulations for consultation; they are up for consultation until 21 November. I hope that noble Lords will see from the debate that we have just had in relation to gaming that my department and the Government as a whole are looking very closely at the detailed operation of the scheme. We all share the objective of wishing to see this scheme implemented effectively and quickly from the outset. This in turn will lead to new fibre growth and improved broadband. That is the aim, which I know that noble Lords share.

However, I fear that the proposed new clause would not achieve that aim and, if included in the Bill, could threaten the success of this scheme. I note what the noble Lord says about business uncertainty elsewhere, but that hardly means that a bit more uncertainty is a good thing or something that we should not be concerned about. Sending a clear signal to investors in the telecoms sector is critical to the success of this measure, which is why we have moved quickly to bring forward the Bill and why we are consulting early on the draft regulations. Investors need to see a clear intention on the part of the Government to deliver relief from 1 April 2017 for five years up to 2022.

One suggestion is about the length of the relief being provided. Any suggestion that it might not last the full five years is not desirable. Those sorts of signals can make the difference to decision-makers in telecoms companies in deciding whether to proceed with an investment. Businesses thrive on certainty. Decisions in telecoms companies are being made now on the basis of the promise made by the Chancellor that new fibre will have relief until 2022.

I understand the objective of the amendment, but it would create uncertainty in the sector and damage the prospects for success of the measure. By providing for, in effect, a review of the rate relief after only one year, we will sow the seeds of doubt in the sector. The sector may fear that the Government might cancel or otherwise negate the relief after a year—especially when, as the amendment clearly states, the review should consider the duration of the relief. We could expect telecoms companies to react in only one way to the prospect of such a review: they will be less likely to invest, which would damage the rollout of broadband. Therefore, I am afraid that the Government cannot accept the amendment.

We will, of course, continue to monitor the effective operation of the scheme to ensure that it is indeed providing relief on new fibre. We will work with the sector and the Valuation Office Agency to do that. The powers in the Act will allow us to adjust the scheme where necessary such as to reflect changing and new technologies. Any suggestion that the relief might last less than five years is something that we cannot subscribe to.

The amendment would also require the Government to assess the impact of the relief on local government. In fact, that is information which we already plan to collect and publish. I can give that undertaking. Each year, the department publishes non-domestic rating returns containing the information about the business rates income and relief in each local authority area, which this seems to ask for. I can ensure access to that; we can provide the link so that that information is readily available. Those returns are based on information provided to us by local government, and they can be found in full on our website. As I say, I am very happy to provide guidance on how that can be accessed. Those returns will in future include information about the level of new fibre relief. We expect the first returns to include this information to be the outturns for 2017-18, published in autumn next year. I am happy to provide that information and, indeed, meet the noble Lord and the noble Baroness, with officials, to explain how a lot of the information that has been requested is already available.

Throughout the passage of the Bill through this House and the other place, we have been clear that we would compensate local government for the cost of its share of the relief, and I give that assurance again today. In view of these assurances, I hope the noble Lord will feel able to withdraw his amendment, with the undertaking that I am happy to meet him and the noble Baroness to go through this, perhaps to explain how at least some of this information is available at the moment.

Lord Kennedy of Southwark: I thank the Minister for his helpful response. I am happy to withdraw my amendment. I think that brings us to the end.

Amendment 14 withdrawn.

Amendment 15 not moved.

Clauses 4 to 6 agreed.

Schedule agreed.

Bill reported without amendment.

Committee adjourned at 4.21 pm.