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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Tuesday 31 October 2017

2.30 pm

Prayers—read by the Lord Bishop of Oxford.

Oaths and Affirmations

2.36 pm

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

Lord Speaker's Committee on the Size of the House

Announcement

2.37 pm

The Lord Speaker (Lord Fowler): My Lords, I would like to make a short statement. Noble Lords will recall that on 5 December last year, the House debated a Motion in the name of the noble Lord, Lord Cormack, on the size of the House. The Motion sought agreement that the House believes that its size,

"should be reduced, and methods should be explored by which this could be achieved".

Sixty-one Members spoke during the debate and the Motion was carried unanimously. Shortly after, I established a committee drawn from all three parties and the Cross Benches under the chairmanship of the noble Lord, Lord Burns, to examine how this could be done, and I am pleased to announce that today it has reported.

I thank the noble Lord, Lord Burns, and the other members of the committee for their very hard work and skill over the last year in putting together this report. Copies of the report are now available in the Royal Gallery and online. There will be briefing sessions for Members only in the Queen's Robing Room at 4 pm today and again at 11 am tomorrow. I will be present and the noble Lord, Lord Burns, and members of the committee will be available to answer questions.

I urge all noble Lords to read the report and give consideration to the recommendations made. My hope is that there will be a general take-note debate before Christmas and more detailed consideration of the specific measures proposed in the new year.

Today's report presents a challenge, but it also represents an opportunity. We know that the House is too big. A smaller, more effective House will be able to strengthen public confidence and build support for our vital constitutional role. It is now up to us. I commend this report to the House.

Probation Contracts

Question

2.39 pm

Asked by ***Lord Ramsbotham***

To ask Her Majesty's Government when the review of probation contracts, due for completion in April this year, will be published.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, we undertook an internal review of the probation system and, as a result, made changes to community rehabilitation company contracts in the summer. Details of these changes were contained in a Written Ministerial Statement from Minister Gyimah on 19 July. We are continuing to explore further improvements that could be made to the delivery of probation services and will set out at a later stage any changes that are made as a result of this work.

Lord Ramsbotham (CB): My Lords, I thank the Minister for that reply. Clearly, all is not well with probation. Following a whole series of disappointingly and devastatingly bad reports by the chief inspector, the Justice Select Committee launched an inquiry. Following the bad contracting, during the summer the Ministry of Justice had to bail out community rehabilitation companies to the tune of £277 million, which it can ill afford. Many of the warnings in the official impact assessment that the rushed Transforming Rehabilitation agenda had a higher than average risk of failure have been proved correct. Can the Minister tell the House what the Government are going to do about probation? Will they make time for a debate on the subject before the end of the year?

Lord Keen of Elie: On that last point, I cannot say that the Government will be able to make time for a debate on the subject before the end of the year. On the suggestion of bad contracting, I would point out that contracts were entered into with 21 CRCs, and that those contracts encountered some financial difficulty for one particular reason—namely, it was originally anticipated that some 80% of those undertaking probation would be referred to the 21 community rehabilitation companies. In the event, only about 60% of those subject to probation supervision were referred to the companies, and that impacted directly upon their financial model as determined under the original contracts. For that reason, interim arrangements were made with the CRCs in the year 2016-17, and in the current year. However, the figure of £277 million referred to by the noble Lord is not a fixed figure: it may have to be met, depending on the performance of the CRCs.

Lord Beecham (Lab): My Lords, morale in Northumbria's probation service and CRC is at a low level because of understaffing, with 50% of officers leaving the service, excessive workloads, less supervision and the need to concentrate on high-risk cases at the expense of other cases. This is exemplified by case loads of 40, including four to five high-risk cases, now being replaced by much higher case loads, with a greater proportion of high-risk cases and problems with escalating cases from the CRCs to the National Probation Service. What do the Government regard as a satisfactory case load for officers to manage in terms of overall numbers and the balance between high-risk and other cases?

Lord Keen of Elie: There is no fixed proportion as between officers and the number of persons being supervised. That will depend upon the particular CRC and the circumstances in which it is engaged with the individual. The National Probation Service is in the course of recruiting 1,400 additional staff. In addition, the CRC contracts require providers to ensure that

[Lord Keen of Elie]
they have sufficient adequately trained staff in place. Indeed, results tend to bear that out. Nearly two-thirds of CRCs have reduced the number of people reoffending in the past year, according to statistics up to June 2017.

Lord Trefgarne (Con): My Lords, is it not the case that the probation arrangements relating to those prisoners serving indeterminate sentences need to be brought up to date as a matter of urgency, since many of those prisoners should have been released long ago?

Lord Keen of Elie: Clearly, there is an issue over the supervision of those subject to IPP sentences. The circumstances in which they come before the Parole Board are determined under existing rules. Those are always under consideration.

Lord German (LD): My Lords, just last month, the Chief Inspector of Probation laid out two conditions that she thought ought to be in the review: first, the community rehabilitation companies should have their finances put on a stable basis; secondly, these companies should be incentivised for success. Will the Minister heed the advice of his chief inspector, and will the Government meet this requirement as urgently as possible so that these companies can get on with the job of reducing reoffending, getting people into work and making sure that our prisons are not so overcrowded?

Lord Keen of Elie: We are of course conscious of the recommendations made by Her Majesty's Chief Inspector of Probation, which is why we undertook the task in the summer of ensuring that the CRCs were properly financed. As a consequence of that, during the year 2016-17 an additional £37 million was made available, and in contract year four—that is, the first three months of this year—a further £22 million has been made available for the CRCs so that they can meet their commitments. Over and above that, I can confirm that the CRCs are incentivised under the terms of their present contracts to achieve results, and that will remain the position.

Lord Laming (CB): My Lords, the prison population has never been as great as it is today. Is it not therefore a serious matter that the Government should ensure that courts have available to them a robust, rigorous and serious range of non-custodial penalties? The probation service is central to that.

Lord Keen of Elie: I agree with the noble Lord's observations. In that connection, I would observe that, since February 2015, statutory supervision has been extended to a further 40,000 offenders who are otherwise sentenced to a period of imprisonment of less than 12 months—so that has increased the numbers subject to supervision. But clearly, we have regard to the extent to which community sentences and suspended sentence orders operate effectively. It is noted in the statistics published—

A noble Lord: Too long.

Lord Keen of Elie: I am obliged to the noble Lord.

It is noted in the statistics published on 26 October 2017 that the extent of further offending is lower in the case of community sentences.

Housing: Letting Agents

Question

2.46 pm

Asked by ***Baroness Hayter of Kentish Town***

To ask Her Majesty's Government whether they are planning to introduce legislation to require letting agents to join a registration scheme.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Northern Ireland Office (Lord Bourne of Aberystwyth) (Con): My Lords, my right honourable friend the Secretary of State recently announced a package of measures better to protect tenants, including that all letting agents will have to register with an appropriate organisation. This will give landlords and tenants confidence that their agent meets minimum standards. On 18 October we published a call for evidence, seeking views on the regulation of letting and managing agents. The Government will consider the feedback and work with the sector to shape the regulatory framework ahead of introducing legislation.

Baroness Hayter of Kentish Town (Lab): I thank the Minister for that Answer. As he knows, I have already welcomed the commitment that letting agents will in the future be required to register. However, I question the phrase "in the future". As the Minister knows, the Government agreed in March to introduce client money protection for letting agents. It is now the last day in October. Perhaps he can give some reassurance to the House that both client money protection and this new measure will happen without any delay.

Lord Bourne of Aberystwyth: I thank the noble Baroness, whom I know has taken an interest in client money protection in particular. She has been very patient; I know that previously I have said "in due course", "soon" and "very soon". I can confirm to her that it will be this week. I hope that that pleases her.

Baroness Gardner of Parkes (Con): My Lords, does the Minister realise that although this is a good first step and will certainly do something to control rogue letting agents, there is a great need to control rogue landlords as well? Is it not time to give the power back to local authorities to check more carefully on properties, in order to be sure that they are legally sublet and not just converted for pure commercial gain, thereby risking people losing their housing?

Lord Bourne of Aberystwyth: My Lords, my noble friend has raised this issue on occasion; I am grateful to her. She will be aware that there are considerable powers to proscribe bad landlords, which are exercised, and there are powers to fine them. We will bring in additional banning provisions before next April, which I am sure will please her. However, there is already a battery of powers with regard to poor landlords.

Lord Palmer of Childs Hill (LD): My Lords, I thank the Minister for confirming that the measure, which was really an enabling part of the legislation, will be introduced shortly. However, can he and his department

also commit to putting real resources into enforcement to ensure that rogue letting agents are driven out of the market? Furthermore, will he take back to the Government the possibility of ring-fencing the fines and compliance costs so that, when those moneys are obtained by local authorities, they can be used for enforcement rather than for other matters?

Lord Bourne of Aberystwyth: I am grateful to the noble Lord, whom I know has done a lot of work on client money protection. I reiterate that the consultation will be forthcoming this week, along with the draft Bill on letting agents. The noble Baroness, Lady Grender, who is not in her place at present, has worked hard on that. We are concentrating resources on tackling bad landlords and are doing what we can to improve the market, which is important to us all.

Lord Maginnis of Drumglass (Ind UU): My Lords, the concentration on bad landlords seems to be a precursor to a judgment of all landlords. How will the Minister ensure that good landlords, who serve a vital role in our society, are not so labelled?

Lord Bourne of Aberystwyth: My Lords, I am grateful to the noble Lord for that question, as it gives me the opportunity to say that most landlords are good landlords. I do not agree with the hypothesis that, by bringing in legislation to deal with poor landlords, we are saying that all of them are poor, any more than the Theft Act means that everybody is a criminal.

Lord Campbell-Savours (Lab): My Lords, tax evasion by landlords is rife in London. Could a registration scheme be set up in such a way that an agency that registered had to inform HMRC of the tenancies in which it had been involved?

Lord Bourne of Aberystwyth: My Lords, if the noble Lord is aware of any tax evasion, I would be very grateful to hear about it and would then pass the information on to the Treasury in the usual way. I am not aware of this being as widespread as he perhaps suggests, but obviously the Government are keen to make sure that everybody pays the appropriate taxation that is due, so I would be glad to see any evidence that he has.

Lord Clark of Windermere (Lab): My Lords, the Minister mentioned that new powers may be coming in for local authorities to tackle errant landlords. Will they include holiday lets, which cause a major problem? Often companies buy up 70% to 80% of villages, causing all sorts of social problems. Can that be brought into the raft of actions that the Government are talking about?

Lord Bourne of Aberystwyth: My Lords, I know that the noble Lord speaks with particular feeling about his area of the Lake District, and I am aware of the pressures that sometimes exist there. As he will be aware, there is separate legislation for short-term lets in London. A voluntary code has now been adopted by members of the association relating to short-term holiday lets. I think that that will make a difference and the department is looking at it very closely.

Hamas

Question

2.53 pm

Asked by ***Lord Hylton***

To ask Her Majesty's Government what consideration they are giving to removing Hamas from their list of terrorist organisations, in the light of its reconciliation agreement with Fatah and reports of its willingness to hold new elections and to recognise the international frontiers of Israel.

Lord Hylton (CB): My Lords, I declare an indirect interest in that since 2007 I have visited many Hamas leaders in both Gaza and the West Bank. I beg leave to ask the Question standing in my name.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the military wing of Hamas is a proscribed organisation. It is not government policy to provide a running commentary on any proscribed organisation. The Terrorism Act 2000 allows the Home Secretary to consider deproscription by written application.

Lord Hylton: My Lords, I thank the Minister for her reply. Of course I did not expect her to say yes immediately. Nevertheless, does she agree that the situation has changed profoundly since Hamas was first listed? Would delisting not help all sides to be rather less intransigent than they have been up to now? Would it not build confidence among all Palestinians and help support their new Government of unity? Will she at least take away this Question and discuss it with her ministerial colleagues, since it crosses departmental boundaries?

Baroness Williams of Trafford: I acknowledge that the noble Lord raises a challenging and complex issue. It is difficult to predict the impact that a particular course of action may have as the situation is so complex. The UK remains a strong supporter of promoting peace.

Lord Anderson of Swansea (Lab): My Lords, the reconciliation agreement between the two Palestinian factions is surely to be welcomed and potentially gives Israel a negotiating partner. However, will the Minister confirm that Hamas still calls for the destruction of Israel, that its military wing still builds tunnels to attack Israel, and that it sends rockets into southern Israel?

Baroness Williams of Trafford: My Lords, I acknowledge what the noble Lord is saying. However, it is government policy not to provide a running commentary on any proscribed organisation.

Baroness Northover (LD): My Lords, as Britain was a signatory of the Balfour Declaration, and as the Government support a two-state solution, does the Minister think the time has come to recognise the state of Palestine, as more than 130 other countries have done?

Baroness Williams of Trafford: My Lords, as we approach the centenary we are conscious of the sensitivities that many people have about the declaration and the protection of political rights of the non-Jewish community

[Baroness Williams of Trafford]
in Palestine. We also recognise the continued impediment of the occupation towards securing political rights. We are clear that we want to see the creation of a sovereign, independent, democratic, contiguous and viable Palestinian state living in peace and security side by side with Israel.

Lord Kirkhope of Harrogate (Con): My Lords, while I am sure that we all welcome any indication of a more peaceful approach from what undoubtedly has been a clear terrorist organisation for some time, does my noble friend agree that the very minimum we should require from Hamas and others is that they acknowledge the basic right of the state of Israel to exist and to be fully part of the international community, and to respect its democracy?

Baroness Williams of Trafford: My noble friend is right. That is clearly one of the expectations we have in our policy on Hamas.

Lord Kilclooney (CB): My Lords, the Question refers to the international frontiers of Israel. Do those frontiers include the Golan Heights and east Jerusalem?

Baroness Williams of Trafford: My Lords, the noble Lord is straying into Foreign Office territory, on which I am not yet an expert. I shall have to get back to him on that, if that is okay.

Lord Judd (Lab): My Lords, while the actions of the military wing of Hamas have been wrong, totally unacceptable and cannot be condoned, is it not important to recognise in political terms that Hamas is a pluralist organisation? Is it not vital to strengthen the more moderate elements within Hamas, particularly at this time of reconciliation between the PLO and Hamas? Should we not remember that in our own history, starting with John Major and pursued by the Labour Government that followed, we began to make progress on a solution in Northern Ireland when it was recognised that we must find ways of talking to the political wing of the IRA?

Baroness Williams of Trafford: My Lords, as I said earlier, we will not provide a running commentary on any proscribed organisations. I have already laid out some of what we expect from Hamas.

Viscount Waverley (CB): My Lords, what is the mechanism by which a proscribed organisation becomes delisted? Does it require a court process to achieve that?

Baroness Williams of Trafford: My Lords, it does not require a court process but an application to the Home Secretary.

Lord Polak (Con): My Lords, it beggars belief that we are discussing, in the centenary week of Balfour, talk of removing Hamas from the terrorist list. The organisation has not renounced terror and it still calls for killing Jews and the destruction of Israel. Does the Minister agree that any reconciliation deal between Fatah and Hamas, which should be welcomed, should require that Hamas be disarmed, because Israel certainly cannot be expected to negotiate with a terror group that calls for its destruction?

Baroness Williams of Trafford: My Lords, our policy on Hamas is very clear. The group must renounce violence, recognise Israel and accept previously signed agreements. We now expect to see credible movement towards these conditions, which remain the benchmark against which its intentions should be judged. We call on those in the region with influence over Hamas to encourage the group to take these steps.

Lord Rosser (Lab): My Lords, I do not wish to pursue the specific issue raised in the Question but to raise a more general point. What reviews have the Government undertaken to establish exactly what impact proscribing an organisation actually has, as opposed to what it is intended to have, on the unacceptable activities of those who were in membership of that organisation as opposed to the impact of proscription on the organisation itself?

Baroness Williams of Trafford: My Lords, what I can say about the impact of proscription is that those groups are illegal entities in this country. They are not allowed to promote their policies or to progress some of the things that they want—for example, the destruction of Israel.

European Investment Bank

Question

3.01 pm

Asked by ***Lord Balfe***

To ask Her Majesty's Government, in the light of the comments by Alexander Stubb, vice-president of the European Investment Bank (EIB), that loans worth €3.5 billion from the United Kingdom to the EIB are not due to be repaid in full until 2054, whether they intend that the United Kingdom will remain a member of the EIB.

Lord Balfe (Con): My Lords, I beg leave to ask the Question standing in my name on the Order Paper. I draw attention to my entry in the register of interests. There has to be a limit to what is set out in the register, but I should add that I have been friends with members of the EIB for almost 40 years. That is probably relevant to this Question.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, the UK's relationship with the European Investment Bank will need to be resolved as part of our withdrawal from the European Union. The Government are going through the UK's potential rights and obligations line by line and are committed to getting the best deal for this country and a fair settlement for UK taxpayers.

Lord Balfe: My Lords, I thank my noble friend for that Answer. It has been made fairly clear in another place that the UK wants continuing access to funding, and indeed the Brexit Secretary has used the phrase, "an ongoing relationship with the EIB". May I counsel

that we should be cautious in how we withdraw? Although there are some people who wish us to cut ourselves off from every European institution, a strong case could be made for us to negotiate our continuing membership of the EIB, or at least access to its machinery.

Lord Bates: The Chancellor of the Exchequer would echo those words. He has made it clear that a continued relationship with the EIB may be possible and indeed desirable, but that is a matter to be negotiated because at present the EIB's constitution and formation does not allow for it to happen. Changes will need to be made, but in the meantime it is important that we make clear that we believe that the full rights and obligations which come to the UK as a member of the EIB and its partner organisation, the European Investment Fund, should remain fully intact and that UK borrowers should have equal access with other members while we are exiting the European Union.

Lord Davies of Oldham (Lab): My Lords, things are already happening. Is the Minister aware that a current project to provide support for businesses in the north-east is now on hold because the European Investment Bank is meant to provide half the resources towards it? Action is already being taken to the disadvantage of a section of the British people, even while the Government are involved in this situation.

Lord Bates: That is a fair point. The North East Finance application by seven local authorities was put forward. Following the triggering of Article 50, the EIB took the view that it wanted to undertake an additional level of due diligence to make sure that the UK would stand by its obligations after exiting the European Union. We believe we have confirmed that position by producing our position paper on privileges and immunities. We were delighted to see that the EIB, at its September meeting, had started to approve loans again for after that period. We wish North East Finance well in that.

Lord Garel-Jones (Con): My Lords, the European Investment Bank is a major investor in infrastructure projects in the United Kingdom. For example, in 2016, £8.1 billion was invested in projects ranging from the health service to education and telecommunications. Given all that, does the Minister not think that it would be in the interests of both the United Kingdom and the European Union for Britain to have an ongoing relationship with the EIB?

Lord Bates: The UK is a major shareholder of the EIB, with 16.1%. We do well out of the arrangement, which is one reason why we have an interest in the relationship continuing. However, it is not the only mechanism. We have set up the UK Guarantees Scheme, a £40 billion-fund that could be available for infrastructure projects, and we are committed to moving forward in that spirit.

Lord Beith (LD): My Lords, the Minister will be well aware of the need for this kind of investment in small, high-technology business in the north-east. Will he make a personal effort to ensure that any remaining difference between the EIB and the Treasury over the kind of assurances that need to be given will be resolved, and that the Treasury's attitude will reflect the urgency, given that the north-east does not have the northern powerhouse funds that other regions do?

Lord Bates: That is right. In fact, the Chancellor of the Exchequer met the chair of the north-east local enterprise partnership on his visit to Gateshead on 22 September. As a governor of the bank, he has been at the forefront, advocating a speeding up in recognising the equal rights of UK borrowers, which must be respected and must continue.

Lord Cunningham of Felling (Lab): My Lords, is it not clear from the record that the European Investment Bank has invested, and encouraged further investment of, billions of pounds in the United Kingdom economy? If the Government decide that we will leave the EIB, what will they do to replace that level of continuous investment, particularly in the regions of England and the nations of the United Kingdom?

Lord Bates: One example is the northern powerhouse fund, in partnership with the EIB, but the British Business Bank is there for precisely that purpose, as are the UK guarantees. As the Chancellor said in his Mansion House speech, we still want to explore, as part of the exiting the European Union negotiations, the possibility of our remaining part of the EIB, for the very reason the noble Lord articulates.

Lord Leigh of Hurley (Con): My Lords, the European Investment Fund supplies finance to the venture capital and seed capital industry. London is widely recognised as a centre of excellence for venture capital and seed capital, but the EIF has suspended finance to a number of venture capitalists based in London. Will the Minister write to the EIF to ask why it is depriving British businesses of what is essentially British money?

Lord Bates: We are very clear on this. We believe that UK borrowers and companies seeking investment should continue to have equal access on that basis. That is why the Chancellor announced the establishment of the British Business Bank and that it would be increasing its threshold of ability to lend to venture capital funds as part of that. We are absolutely clear: we should have equal access while we continue to be members and continue to negotiate what the relationship will be thereafter.

Air Travel Organisers' Licensing Bill

Third Reading

3.08 pm

Bill passed.

Review of Gaming Machines

Statement

3.10 pm

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, with the leave of the House, I will repeat in the form of a Statement an Answer to an Urgent Question made by my honourable friend the Minister in the other place responsible for gambling. The Statement is as follows:

[Lord Ashton of Hyde]

"I am pleased to inform the House that I published a consultation on proposals for changes to gaming machines and social responsibility requirements across the gambling industry today. The consultation will run for 12 weeks, during which the general public, industry and all other interested parties will be able to voice their views on the questions raised. I appreciate some may not understand why we have to run a consultation, but this is the right process by which to proceed if we are to address this issue thoroughly and properly.

As you know, the Government announced a review of gaming machines and social responsibility measures in October 2016 and I am grateful to all those who responded, including individual former addicts, faith groups, local authorities and the bookmakers. The objective of the review was to ensure we have the right balance between a sector that can grow and contribute to the economy, and one that is socially responsible and doing all it should to protect consumers and communities.

While our consultation sets out a package of measures to protect vulnerable people from harm, the main area of interest has been the stake of B2 gaming machines, known as fixed-odds betting terminals or FOBTs for short. We believe that the current regulation of FOBTs is inappropriate to achieve our stated objective of protecting consumers and wider communities. We are therefore consulting on regulatory changes to the maximum stake, looking at options between £50 and £2 to reduce the potential for large losses and therefore the potentially harmful impact on the player, their families and the wider community.

We are aware that the factors which influence the extent of harm to the player are wider than one product or a limited set of parameters such as stakes and prizes, and include factors around the player, the environment and the product. We are therefore also consulting on corresponding social responsibility measures, on player protections in the online sector and on a package of measures on gambling advertising. Within this package we want to see industry, the regulator and charities continue to drive a social responsibility agenda to ensure all is being done to protect players and that those in trouble can access the treatment and support they need.

The consultation will close on 23 January 2018, following which government will consider their final proposals".

3.13 pm

Lord Griffiths of Burry Port (Lab): My Lords, while I am grateful to the Minister for repeating that Statement, I confess it leaves me perplexed. The recent review and other sources have yielded facts enough: 430,000 gamblers with an addiction, up by a third in three years; a further 2 million problem gamblers at risk of developing an addiction; £1.8 billion lost on these machines each year, an increase of 79% in the last eight years; and a gambling industry whose yield, or the amounts it wins in bets, has increased to £13.8 billion from £8.36 billion in 2009, having spent a mere £10 million towards a voluntary levy last year on education and treatment. Some 450,000 children gamble at least once a week.

My question is simple: granted that we are armed already with factual and proven information, what is to be gained by having this consultation? Will the Government let us know clearly what they are probing for by holding this further consultation, and can they assure me that, with the grass-cutting season nearly over, it is not an exercise for lobbing things into the long grass?

Lord Ashton of Hyde: My Lords, that is not an unexpected question. I can assure the noble Lord that we are not putting this into the long grass. He is absolutely right that there was a six-week evidence-gathering session. The evidence gathered has convinced us of the need to take action and reduce the maximum FOBT stakes. However, it is a complex issue and not about stakes alone. We are therefore publishing today a package of measures to address the concerns. We must strike the right balance between the socially responsible growth of the industry and the protection of consumers and the communities they live in. Our position is that the maximum stake should be between £50 and £2. We are consulting on that specific issue. This has to be done with due process to avoid any further problems which may come in the future with doing it in too rushed a manner.

Lord Clement-Jones (LD): My Lords, Liberal Democrats have been calling for a £2 stake on these highly addictive machines, which have been a catalyst of problem gambling, social breakdown and serious crime in communities, for nearly a decade. We therefore give a qualified welcome to the review, but, rather like the noble Lord, Lord Griffiths, we are disappointed that a range of options rather than a firm recommendation is being given, and that we now have a 12-week consultation rather than action. Reducing the maximum stake to £50 would still mean that you could lose £750 in five minutes, or £300 if the stake was reduced to £20. I urge the Minister and his colleagues to resist Treasury pressure and move to take effective action by focusing on stake reduction to £2, which would put a clear and sensible limit on all high street machines. Can the Minister tell us what the role of the Gambling Commission has been and will be in the consultation? It has a duty to minimise gambling-related harm and protect children and the vulnerable. Will the Government act on that advice? Will the review examine the proliferation of betting shops on the high street and the self-referral or exclusion system, which is so ineffective? As well as reducing the maximum stake, will it look at limiting the spin rate? Finally, will the consultation address stakes in online equivalents to these games, such as blackjack?

Lord Ashton of Hyde: My Lords, the noble Lord makes a predictable comment about Treasury pressure, of which there was none. The decision on stakes will come from DCMS and not from the Treasury—although it will take into account fiscal implications, as it does for any government policy. The Gambling Commission is involved in the consultation because it is involved also in the other package of measures covered by it. The consultation is not just on the stakes but on other matters such as tougher licence conditions. The noble Lord referred to spin rates. What one can lose where higher stakes are concerned depends on the spin rate.

I can confirm that that will be included in the consultation. I urge the noble Lord and the noble Lord, Lord Griffiths, to contribute to the consultation and make their views known.

The Lord Bishop of St Albans: My Lords, last year, there were more than 200,000 occasions when gamblers on FOBTs lost more than £1,000 at a single sitting. All other forms of gambling with stakes of more than £2 are restricted to premises such as casinos, which do not have open access and are not on the high street. Does the Minister agree that the only way to rectify the mistake of the 2005 Act and restore logic and order to the gambling regime is to support a £2 stake?

Lord Ashton of Hyde: As I just said, the stake is not the only thing that matters. That is why we are introducing a package of measures. The level of stake is important, obviously, and that is why we are committed to reducing it. But there are economic impacts that must be taken into account, depending on the level of stake that is chosen. The spin rates are important, as are the other measures which may deter people from gambling. I hope the right reverend Prelate will contribute to the consultation.

Lord Cormack (Con): My Lords, does my noble friend accept that it is not just the noble Lord, Lord Griffiths—whom we are delighted to see on the Front Bench—the noble Lord, Lord Clement-Jones, and the right reverend Prelate who have misgivings about this? This is a very disappointing Statement. This is a social issue where we look to the Government to give firm guidance and leadership and not to pussyfoot around. It really is important that the moment this—what I consider unnecessary—period of consultation is over, we have firm action.

Lord Ashton of Hyde: I agree with the noble Lord that the Government should provide guidance and leadership. That is why we have said we believe that the stakes should be reduced. But we have also said—sensibly, I think—that these things have to be done in a proper way and if they are not done in a responsible and thoughtful way, according to the evidence, problems may ensue from that. This 12-week consultation is necessary.

Lord Richard (Lab): My Lords, I confess I have almost totally lost the Government's position on this. At one and the same time they say, "Yes, there is a problem. Yes, we have gathered the evidence. Yes, we know what the evidence is. Yes, it points unmistakably in the direction of doing something about this issue. Yes, we are convinced"—to use the Minister's own word—"of the need to do something about it", and what do we get? We get another consultation period. With great respect to the Minister, and indeed to the Government, merely saying something is appropriate does not make it appropriate. It does not make it right to have a consultation period just because the Government say it is. As far as I can see, there is absolutely no need for it. The Government have the evidence, they have the proposals—why on earth do they not do it?

Lord Ashton of Hyde: Because there is more to it than just the stake. As I said, there is an impact from the different levels of stake, and we have published an economic impact assessment today. The issue is the right balance between continuing a perfectly legal industry and social protection for consumers. That is why we have decided that the stake should be lowered. The 12-week consultation on this and the package of measures that goes with it will ensure that the decisions are made with due process.

Lord Porter of Spalding (Con): Does the Minister agree that noble Lords are quite right to see this as being not FOBT but fobbed off? The stake is considerably too high, even if it is halved. It should not be possible for somebody to lose more than a week's wages in a matter of moments. That money is lost to the local economy—it is being wasted—and we need to do something as quickly as possible to make sure that all the benefits of that money are spread across the whole community and not just into the bank accounts of a few businesses.

Lord Ashton of Hyde: My Lords, if you do it without the proper consideration and it is judicially reviewed, the result may be that you wait longer.

Lord Morrow (DUP): My Lords, will the Minister give an assurance today that the review and report will include the areas where betting outlets are located? Many of them are located in areas of deprivation and cause great social harm, particularly among families.

Lord Ashton of Hyde: My Lords, I agree with the noble Lord. These outlets tend to be in areas of social deprivation. That was included in the review. It is not my area of expertise but I believe that local authorities have been given powers to restrict these outlets, especially new ones.

Financial Guidance and Claims Bill [HL]

Report (2nd Day)

3.25 pm

Amendment 22

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

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

"Debt respite scheme

(1) As part of its debt advice function, the single financial guidance body must operate a debt respite scheme ("the scheme") under which authorised debt advice providers who approach the single financial guidance body for further advice or guidance in relation to a specific case may receive statutory protections for their clients in respect of the relevant debts for the period during which advice or guidance is being sought.

(2) The Secretary of State must make regulations by statutory instrument detailing the operation of the scheme by the single financial guidance body under subsection (1).

(3) The regulations must limit access to the scheme to persons who have received debt advice from a debt advice provider who has been authorised by the FCA.

(4) The regulations must make provision about the length of a period or periods where the protections under the scheme will apply.

(5) The regulations must set out the terms of the scheme, including but not limited to—

(a) the nature of relevant debts for the purpose of the scheme;

(b) the process and conditions of eligibility under which FCA authorised debt advice providers are able to apply for statutory protections for their clients under the scheme;

(c) the criteria under which FCA authorised debt advice providers will be authorised to advise persons on the scheme, support applications to the scheme, and operate designated debt management plans for persons while under the statutory protections of the scheme;

(d) the limitations to be placed on actions that may be taken by creditors against persons in receipt of statutory protection under the scheme;

(e) the method for determining the level and timing of debt repayments by a person while under the statutory protections of the scheme;

(f) safeguards to protect the integrity of the scheme;

(g) the arrangements to be made to create a central register of persons admitted to the scheme; and

(h) the arrangements to be made to ensure that creditors of persons on the scheme are kept informed.

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

(7) The Secretary of State must make regulations under subsection (2) within 12 months of the commencement of this section, subject to subsection (6).

(8) This section commences on the day on which this Act is passed."

Lord Stevenson of Balmacara (Lab): My Lords, in the film "Groundhog Day", the same character repeats experiences on a number of occasions until, mercifully, he is eliminated from it. I feel a little like that, not least because people stream out when I stand up to speak. But I gather that there are rival attractions about to start elsewhere and I can understand why people might wish to be present for those. I thought that we had also lost the Minister as well, but she was just temporarily unavailable.

Group 1 today contains a single amendment, Amendment 22, which is in my name and the names of the noble Baroness, Lady Altmann, and the noble Lord, Lord Sharkey. I am grateful to them for their support. One of the good things to come out of the Bill has been the incredible willingness of people from all around the House to work together and seek progress, not only on this important issue but on a much wider range of topics. Before I get into the detail, I will declare my interests. I am a former chair of StepChange Debt Charity and a commissioner on the independent Financial Inclusion Commission. I thank debt charities and in particular the Children's Society for their support of this amendment.

I also want to mention the water companies. Rae Stewart of Water UK wrote to me recently and gave me permission to quote him, so I would like to set the context for the Bill in the light of this industrial comment. He said:

"I understand that your 'breathing space' amendment to the Financial Guidance and Claims Bill may be debated today. I thought that you might like to know that the water industry backs a breathing space for those people struggling to pay bills and who are seeking financial advice. But although we already operate that way as an industry, we believe that such a scheme will only be properly effective if other companies follow suit. After all, any responsible creditor—whether in the private sector or public sector—would support a breathing space. It's something that's been talked about for years, so we very much support its introduction soon".

It is interesting to look back at the progress we have made in realising this vision of a breathing space. It has the support of all the political parties, as evidenced in the manifestos for the recent election. More by accident than by design, we have arrived at a system where a group of charities, including StepChange, Citizens Advice, the Money Advice Trust, Christians Against Poverty and a number of others, have created an effective system of debt counselling, which enables hundreds of thousands of people in need of help to receive advice, support and access to formal mechanisms that enable them to pay off their unmanageable debts. I pause to pay tribute to Malcolm Hurlston CBE, who was largely responsible for much of the current debt-counselling activity and was my predecessor as chair of StepChange.

We have the infrastructure and, with the support of the financial companies, it is free at the point of the use to those who wish to be part of it. However, these organisations have struggled for far too long to do their job properly. Basically, the only solutions that are readily available to people with unmanageable debt—such as payday loans, guarantee loans, logbook loans and the rest—push people further into debt. The additional charges, punitive interest rates and appearance of bailiffs compound the situation. The combination of this with the stress of dealing with making ends meet causes what is estimated to be some £8 billion-worth of social cost to the economy each year through illness, relationship breakdown and suffering to children.

All this impacts on creditors, too. Most banks, credit card companies and other lenders have good systems in place to deal with people who have problems meeting monthly repayments. But these companies cannot cope with the situation that so often arises, when people owe money to several different creditors. That is where the debt charities largely come in. Creditors need certainty; they need a timescale and they are entitled to receive 100% of their borrowing back—although in practice they will and often do settle for a lot less.

In my experience most people with unmanageable debt and sufficient resources, most of whom want to repay their debts, can be brought on to a formal repayment plan which ensures that their creditors will receive more of their outstanding debt—and in a shorter timeframe than if those creditors had had recourse to legal action. But it is abundantly clear that this whole process is enhanced if the person with unmanageable debts can be given some time to sort out what their actual financial situation is; to work out with advice what constitutes a sustainable budget; and to sign up to a formal debt-management plan. This is at the heart of the amendment which I am moving.

What we have in Amendment 22 may not be perfect; it has had to be constructed within the very narrow limits of the Long Title of the Bill. Even so, it would introduce the breathing space that we all want to see. It is based on the Scottish system, which has evolved over the last 15 years and does what is required. The amendment has the following key elements: the Secretary of State will have the power to set up the scheme; a body will be designated which will be able to designate authorised charities to operate the scheme; it establishes a flexible regime with reasonable time limits; it identifies categories of protections to be offered; and it ensures that creditors are kept informed.

There is a case for considering this amendment on its merits, but there are also ways in which it might be expanded in future, particularly in its territorial extension to make sure that England, Wales and Northern Ireland follow what is happening in Scotland. It is unreasonable and unfair to have a differential approach, because this problem is common to the whole of the United Kingdom.

3.30 pm

This amendment would have the great advantage, compared to where the Government currently are, of being able to get something on to the statute book now which creates the powers that will be necessary to bring forward a breathing space when it is required. We would like to see this in reasonable time, so we have set a time limit of a year after Royal Assent. This contrasts with where the Government have got to. I welcome their position, but it would be much slower. It would involve a lot of consultation, no necessary identification of a piece of legislation to carry forward the proposals, and the possibility that other factors might intervene before it could become law.

The advantage with our amendment, in contrast to where the Government are, is that the breathing space, whose time has come, will happen within 12 months. Even though the Government have moved with what some people would call spectacular speed in the last few weeks, with this they will be able to say they have satisfied the commitment in their manifesto and done something that the country wants. I beg to move.

Lord Sharkey (LD): My Lords, we on these Benches very strongly support the amendment, for which the noble Lord, Lord Stevenson, has made such a detailed, eloquent and powerful case. The notion of a breathing space or debt respite scheme has attracted a lot of support both in this Chamber and outside.

The Minister herself has acknowledged the merits of such a scheme. She said at Second Reading:

"A breathing space scheme could help people affected by serious debt by stopping creditor enforcement and freezing further interest and charges on unpaid debt".—[*Official Report*, 5/7/17; col. 943.]

There is really no need for the conditional "could" in that assessment. The evidence from the existing scheme in Scotland makes it clear that such a scheme does help people affected by serious debt—and help is very definitely needed.

Last week, the FCA published its detailed study of the financial lives of UK adults. This is a truly remarkable and detailed study and an exceptionally useful piece of work, and I congratulate the FCA on producing it. But it is also a truly worrying piece of work. Among its many findings was the fact that in the case of 400,000 adults who were behind on payments and had contacted their provider, their provider did not encourage seeking free debt advice. Another 300,000 adults in the same position reported that their provider did not allow time to pay. Worst of all, for 100,000 adults in arrears, their providers were unsympathetic, did not encourage seeking free debt advice and did not allow more time to pay.

A debt respite scheme would certainly help the debtor, but Scotland shows that it would also help the creditor, who would recover more of the debt. This is a win-win situation. Both sides gain. The case for a debt respite scheme is clear and compelling. That is why, no doubt, the commitment to such a scheme was contained in the Conservatives' 2017 general election manifesto. But the Minister seemed to feel, when we discussed this at earlier stages, that the issue was so complex that delay was necessary. She said in Committee:

"The Government's manifesto … proposed the introduction of a statutory breathing space scheme and statutory debt repayment plan. This is an important and complex issue. It requires thorough preparation and consultation on details, such as who could be eligible, which debts could be in scope and how someone could enter into a breathing space".—[*Official Report*, 19/7/17; col. 1683.]

All this is quite right, of course, and includes the important and unresolved question of whether rent and utilities arrears should be included in any such scheme. In that context, it is worth repeating what the noble Lord, Lord Stevenson, mentioned a few moments ago: a debt respite scheme already has the backing of at least part of the utilities sector, Water UK.

But focusing on these undoubtedly important questions avoids the simple question of when. It ignores the fact that primary legislation can establish the framework and leave the details to secondary legislation. However, the noble Lord, Lord Young, said last Friday in this Chamber:

"The legislative programme for this Session is already at full capacity and there is no scope for additional measures".—[*Official Report*, 27/10/17; col. 1148.]

So, if the question is when there will be a legislative vehicle that will allow the construction of a breathing space, the noble Lord, Lord Stevenson, has provided the answer. The answer is this Bill and this amendment. I hope that the Minister will see its obvious merit and be able to accept it as an obvious way of making progress without further delay.

Baroness Altmann (Con): My Lords, I too have added my name to the amendment, which I hope my noble friend will be minded seriously to consider and, if necessary, bring back at a later stage still. There is clearly widespread support across the House and indeed the country for such a scheme. There is also rising concern about the level of consumer debt within the economy as a whole. We know that more and more people are falling into debt, having perhaps been enticed into borrowing at teaser loan rates that have then risen. We also know that the trend in interest rates may well start to go up, which again would cause significant difficulties for those who have taken on perhaps unwise levels of debt. In practical terms, just giving this breathing space, which I know the Government support, could help to manage a situation that has gone beyond manageable for many vulnerable people. I hope that noble Lords across the House will support this, and indeed that my noble friends on the Front Bench will be able to as well.

Baroness Coussins (CB): My Lords, I very much welcome the proposal at the heart of the amendment, and indeed the very similar idea of the breathing space on which the Treasury announced its consultation last week. At this stage I have just one question on which I seek clarification from both the noble Lord, Lord Stevenson, and the Minister. I remind the House of my interest as president of the Money Advice Trust. In my view, it is essential that any breathing space

scheme covers public sector creditors as well as lenders in the private sector. The noble Lord, Lord Sharkey, touched on this point.

Debts to public bodies are an increasing feature of the UK's personal debt landscape. The Money Advice Trust, for example, reports that 25% of callers to its national debtline service had council tax arrears last year, up from just 14% a decade ago. Calls about benefit overpayments and other public sector debts have also increased, and so too has scrutiny of the debt collection practices of these public sector organisations. So for any new debt respite or breathing space scheme to be truly effective, it must provide breathing space from all creditors, including local councils, the DWP and HMRC in particular, so as to give people the time they need to seek advice and tackle their debt problems. I would be most grateful if the noble Lord, Lord Stevenson, confirmed that the intention behind his amendment is to include public sector creditors, and if the Minister said whether she expects public sector creditors to be included in the Treasury plans.

Viscount Brookeborough (CB): My Lords, a lot of the time when we talk about debt, it would appear that we are talking about people who may be in debt for a particular item or for a short period of time. These are people who are right down there and close to being in debt, and may be able to manage their finances by only a few pounds every week or month. So this is not just a debt problem overall; it is debt for very vulnerable people. If we do not help them and give them a bridging mechanism, we are creating a big social problem—a problem regarding their characters, the way they live, their friends and how they are seen. It is about much more than just how we keep the debt down and how, one day, they get out of it; it is about their social identity. Many of them have not been in debt before, and consider going into debt at all a crime and a slur on their character. When we have the chance, we must create the means to help protect as many of them as possible. Wherever we have a breathing space or gap whereby we can legislate to avoid them going permanently into debt—such as, dare I say it, in universal credit—we must try to do so. I therefore support the amendment.

Lord Kirkwood of Kirkhope (LD): My Lords, I shall make just two quick points in support of the speeches that have already been made. I am very much in favour of the amendment but the timing is really important. I say that because universal credit, as we all know, has some introductory rollout problems, such as establishing debts in a way that can sometimes overwhelm new applicants, given the 42-day waiting period. If some magic process could put in a breathing space immediately, that would give succour, support and some respite to families who will almost certainly now face arrears, particularly rent arrears. Therefore, time is of the essence and I hope that the Government will bear that in mind.

I also agree with the point that has just been made about public sector bodies. The Government should perhaps be able to do that anyway by getting people within the public service to be more reasonable about the way they prosecute the recovery of debt.

My second point, which is really important to me, is that the presence of this opportunity in Scotland completely changes the atmosphere in which negotiations can take place. People start acting a lot more rationally and are not driven by fear into doing things and making undertakings which, in their innermost hearts, they know they cannot fulfil. The circumstances are thereby compounded, which makes everybody's position worse. In Scotland, the ability to just stop the clock, step back and think rationally about the solutions over a longer timeframe transforms the circumstances of families in distress. It is very important that we get this done quickly and take advantage of the experience north of the border, where such an approach has been demonstrated to be worth while and to work.

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 very important debate—indeed in all the debates that we have had on this crucial issue since Second Reading.

As noble Lords will be aware, the Government's manifesto contains a commitment to deliver a breathing space scheme that would give heavily indebted consumers a period of respite from creditor enforcement action, further interest and charges for up to six weeks. Where appropriate, they would be offered a statutory repayment plan to help them pay back their debts in a sustainable way.

I am grateful, as I said, for the helpful contributions during all our debates from noble Lords, and from the noble Lord, Lord Stevenson, in particular, on the important topic of protecting heavily indebted consumers. Noble Lords will have seen, just last week, that the Government have taken their crucial first step towards delivering this manifesto commitment by launching an extensive call for evidence. I might just say here, as noble Lords have asked about public sector debts, that the breathing space call for evidence seeks views on that. We want to ensure that the scheme is designed in the best possible way to support consumers.

The noble Lord, Lord Kirkwood, referred to universal credit. It is right that I point out to noble Lords that all those going on to universal credit are entitled to up to 50% in advance payments, and in some cases they can receive it on the same day they sign up. So, there should not be a huge increase in debt because of those early days.

In addition to support from this House, the announcement of the call for evidence has been positively received by a wide cross-section of the debt advice sector. For instance, The Children's Society has said it is "delighted" with the announcement, the Money Advice Trust agreed this was "good news" and Citizens Advice said:

> "It's good to see the government taking action on problem debt".

We plan to continue to engage closely with these bodies and other stakeholders over the coming months to develop our policy.

3.45 pm

We all agree that a breathing space scheme must be carefully developed to ensure that it is effective in helping those who most need it. It is a complex area, as I have said in previous debates, and we want to get it right. If designed and implemented properly, it will have benefits for many vulnerable customers.

I thank the noble Lords, Lord Stevenson and Lord Sharkey, and the noble Baroness, Lady Altmann, for their amendment, and the noble Lord, Lord McKenzie, the noble Baroness, Lady Kramer, the noble Earl, Lord Listowel, and others for their hard work in developing the issue further in the House.

We are all in broad agreement with the principle of what this amendment is trying to achieve, I think, and we understand the desire to take the opportunity presented by this legislation to act now. However, we genuinely fear that the amendment might jeopardise both the effectiveness of a breathing space and the operation of the single financial guidance body.

First, under the amendment, the single financial guidance body would administer the breathing space scheme. That would not align with the body's wider functions or sit well with its broader aims. We all agree that the body's priority should be to provide easily accessible, targeted, high-quality advice and guidance. With respect, under the amendment those objectives would be confused and the core purpose of the single financial guidance body, which is to improve the customer journey, would be put at risk. Instead of focusing on its core challenge—extending the reach and effectiveness of financial guidance and debt advice—the body would have to divert significant resource and time to administering and enforcing a breathing space scheme.

Secondly, specifying which body should administer a breathing space could have an adverse impact on its delivery. It is a complex policy area and it is important that we take the time, with extensive consultation, to get the framework for the scheme right. We should not pre-empt that work. In particular, it is unclear whether the body is the best organisation to implement a breathing space. None of the body's predecessors has any experience in administering a regulatory scheme such as this. Indeed, in the Scottish equivalent, the Accountant in Bankruptcy administrates the scheme. As I am sure that noble Lords are aware, that is Scotland's insolvency service. It is an organisation with a different remit, aims and set-up to the single financial guidance body. The issue of who should administer such a scheme requires careful consideration, and that is why the Government have sought to establish a proper evidence base for discussions through our call for evidence.

There are also questions around the devolution angle to implementing a breathing space and the appropriate geographical extent, to which the noble Lord, Lord Stevenson, made reference and which the amendment is not clear on. Noble Lords know that the scheme would apply in England but, while Scotland already has its own scheme, that is not the case in Wales and Northern Ireland. It is important that we work through these complex issues, and we want to be able to listen to expert views put forward, rather than be constrained by the wording of the amendment.

For that reason, I hope that noble Lords can work with the Government to achieve consensus and ensure that this important scheme can be implemented quickly and effectively, with minimum risk to both the scheme and the single financial guidance body. Therefore, I would like to take the time between now and Third Reading to take this issue away, review it and consider it further. For those reasons, I ask the noble Lord to withdraw his amendment.

Lord Stevenson of Balmacara: I am grateful to all noble Lords who spoke in the debate. There was a question about public sector responsibilities. In the Bill, as in the amendment, it was intended that that be subject to further consultation. The Minister made the point that there was no reason to suppose that public sector bodies would be excluded from that; it has to include all the pressures on the families affected, and the answer would be yes. Behind the question was a certain amount of knowledge about the situation affecting those who have public sector debt. The arrangements in local authorities, in particular, but also in central government, are not of the standard that we would wish to see. There is far too easy a recourse to bailiffs and to worse measures, and it is time that this was looked at—and I hope that that will be part of the consultation.

I thank in particular the noble Lord, Lord Kirkwood, for his contribution on the situation in Scotland. He made a point that I should have made—it is absolutely right—that the introduction of the scheme would affect the behaviour of those involved in it. If it changes behaviour for the good and leads to a broader and better discussion and debate, it has to be the right way forward.

The Minister has suggested that the Government want to see a breathing space introduced, and introduced quickly, that it should have as part of its processes a statutory repayment plan—I certainly welcome that—and that she generally wants it to be designed to be the best possible way in which consumers can repay their debts and creditors obtain the benefit of that. I think that she is in agreement with all the principles that I identified in introducing this amendment. She shares our desire that, given that there is a Bill passing through, we should attempt to latch on to it as quickly as we can.

I noted the Minister's reservations about the drafting. However, we are where we are because the Long Title of the Bill is very tightly worded—and I do not want in any sense an impression to be left that we have deliberately chosen the single financial guidance body because we thought that it was the best fit, because it is not, for all the reasons given. I do not need to repeat them, and there may well be others. Indeed, there was a hint in what the Minister said about what the Government might be thinking, and I would support that. I mentioned making sure that there was parity of action across the country.

We seem to be in a consensus on this, and I would like to work with the Government. Therefore, in answer to the question whether we would work together to try to achieve a resolution, the answer is yes—we would. There is only one condition that I would make, and I would like the Minister to respond so that I can get a nod from the clerk that we are on the right track. She said that she would like time to discuss matters before Third Reading; she did not give the magic formula that she would come back with an amendment or permit us to bring back this amendment for further discussion at Third Reading. I would be grateful if she could signify that so that I can get the necessary assurance from the clerk that we are in the right place.

Baroness Buscombe: I have to make it very clear to the noble Lord that I am not in a position to make a firm commitment. All I can do is say that we have worked well together through the passage of the Bill thus far, and it is right that he should feel that he could trust what I have said so far, and trust in me and my team to do everything we can to make sure that we can do what he has asked for. But I cannot make a commitment because of the constraints, which I think that he knows I am under, in terms of how the system works. Given the government amendments that are coming forward today and those that came forward last week on Report, I feel that we have had a considerable degree of consensus thus far, and I would be so sorry if that were to end now, because I think that we can do more.

Lord Elystan-Morgan (CB): The Minister tangentially mentioned devolution here, raising the question as to whether there has been any discussion between Her Majesty's Government and the Ministers in Wales, for example. It is in the realm of devolved authority, I believe. The Welsh Government would be wholly justified in saying, "This is a matter solely for us". As she will know, on many occasions such as these, the devolved Administration will say, "We're quite happy for you to legislate on this matter". Has any discussion to that end taken place at all?

Lord Stevenson of Balmacara: My Lords, during that helpful intervention I was able to glance across to the clerk. I was looking for a nod but I got more than that. I got a small written note which confirms that the Minister has said enough to ensure that this issue can be discussed again at Third Reading. Without any commitment from the Minister to bring forward a particular form of words, the intention to look further and come back is sufficient on this occasion. On that basis, I beg leave to withdraw the amendment.

Amendment 22 withdrawn.

Amendment 23 had been withdrawn from the Marshalled List.

Clause 3: Specific requirements as to the pensions guidance function

Amendment 24

Moved by ***Lord Sharkey***

24: Clause 3, page 3, line 15, at end insert—

"( ) In Schedule 3 to the Pensions Schemes Act 2015 (pensions guidance), after paragraph 6(3) insert—

"(3A) In determining what provision to include in the rules, the FCA must include a requirement for the trustees or managers of a relevant pension scheme to ask members of the scheme or survivors of members of the scheme at the point at which they require access to or individual transfer of their pension assets, if they have received the information and guidance available under section 3 of the Financial Guidance and Claims Act 2017 (specific requirements as to the pensions guidance function); and if they have not received such information and guidance the FCA may require the relevant trustee or manager to provide access to such information and guidance before proceeding.""

Lord Sharkey: My Lords, I am grateful to the noble Baroness, Lady Altmann, the noble Lord, Lord McKenzie of Luton, and the noble Earl, Lord Kinnoull, for adding their names to Amendment 24. It may look rather complicated, but it addresses a simple problem and proposes a simple partial remedy. When it comes to pension pot access or transfer, the problem with our current financial information and guidance system is not the quality of the information or advice, but the very low level of take-up. In Committee, we spoke about the quality of the information and guidance and noted the exceptionally high levels of user satisfaction with the Pension Wise service, recorded in the first wave of the service evaluation survey published in October 2016. It was very pleasing to see the same exceptionally high levels recorded again in the second wave of evaluation data published last week. It is clear that the information and guidance provided is of real help to pension holders. That is not the issue: what is the issue are the exceptionally low levels of take-up. The FCA reports that, of those over the age of 55 planning to retire in the next two years, only 10% had used TPAS and only 7% had used Pension Wise. I know that these figures are contested, but even if they were out by an unthinkable 50%—as I am sure they are not—then take-up would still be dangerously and unacceptably low. The simple fact is that too many people will be making decisions about their pension assets without information or guidance.

The amendment is aimed at doing something about that. It is designed to be a nudge, rather than any kind of probably unenforceable or counterproductive compulsion. It amends the Pension Scheme Act 2015 in order to amend FSMA 2000. One way or the other, almost every financial amendment ends up amending that Act. The amendment would require the FCA to change its rules to make possible the provision of last-minute information and guidance to those who have not already had it and who are about to access or transfer their pension assets. The FCA would be required to write into its rule book a requirement for trustees or pension managers to ask members, or their survivors, at the point at which they require access to or transfer of their pension assets, if they have received the information and guidance mentioned in Section 3 of this Act. If they say no, the FCA may require the trustee or manager to provide access to such information and guidance before proceeding.

This is a "may", not a "must", because the universal application of this requirement would obviously be unduly burdensome and, anyway, unnecessary. The FCA knows very well which categories of consumer are most at risk and can restrict the requirement to take action to those cases. Adopting the amendment would mean that people accessing their pension funds could be given a final nudge. There is no compulsion; simply the provision of a last-minute opportunity to see for the first time—for those who have not seen it already—the excellent information and advice available to them, if the FCA judges them to belong to a category that is particularly at risk. There is no compulsion, just a chance to look at valuable information and guidance before making an important and irrevocable decision.

We know that levels of financial education and financial self-confidence in this country are very low indeed and that levels of ignorance and misunderstanding are very high. We know that the take-up of the services provided by TPAS and Pension Wise is far too low. It is entirely right that we take every opportunity to rectify that situation and that we should have a go at doing this when people are at the point of making a critically important decision about their pension assets. This amendment would provide a last chance for reassessment for those who need it most, when they need it most. I beg to move.

4 pm

Baroness Altmann: My Lords, I have added my name to this very important amendment. Of course, I welcome this very important Bill. Providing guidance for consumers is absolutely vital, and I congratulate the Government on bringing forward the Bill. However, the intention of this amendment is to make it work better for the public.

I support this amendment wholeheartedly as it would be a major step forward in ensuring that the pension freedoms work better for the public. As the noble Lord, Lord Sharkey, rightly said, too few people are making use of the excellent Pension Wise service, which was set up to help them make well-informed decisions about their pensions. Indeed, when the Government announced the new pension rules, they rightly recognised that the public were not well equipped to understand the important features of their pension savings and the new landscape that would allow them to make the best use of this excellent new policy, so they also announced what they referred to as the guidance guarantee to ensure that everyone could have free impartial support before making decisions about their defined contribution pensions.

Pension Wise has consistently high satisfaction ratings of 90% or more, as the noble Lord has already mentioned, but the majority of people are at risk of poor outcomes and a worse quality of life in retirement than they could otherwise enjoy because they do not get the guidance. So far, pension providers have been left to encourage people to use the guidance by sending a Pension Wise leaflet with all their so-called wake-up packs. These are sent to a customer about six months before their previously chosen pension age. Providers have to mention that Pension Wise is available, but clearly the message is not getting through. Pension Wise is merely presented as an option for customers rather than what it needs to be: a normal part of the pension access process. Too often, the public do not read the materials they are sent or are encouraged also to call the providers' own hotlines. Once they have done that, people often feel they have already had free help and, even if they do not realise that it is not unbiased or impartial and may not have explained all the issues they need to consider, they do not go on to Pension Wise.

As we are automatically enrolling people into pensions, I believe it is also right to consider automatically encouraging the use of free guidance to help people before they make these irreversible decisions. The two should go hand in hand. Creating the new single financial guidance body, which is warmly welcomed on all sides of the House, could be an excellent opportunity to deliver a new approach to guidance designed to make using the Pension Wise successor body the expected norm. That is what this amendment attempts to achieve, with people automatically being told that they have an appointment waiting for them, perhaps a voucher of some kind that gives them the time of a telephone appointment that has already been made for them but also makes it clear that they can change this if they prefer a different time or have a face-to-face appointment, if they would like.

An ILC-UK survey of consumers found that only half of defined contribution pension customers thought they understood quite well or very well what an annuity is, and that a shockingly low 3% said this about draw-down. Another study by the Pensions and Lifetime Savings Association found that just over half of pension-age customers wrongly thought that draw-down products offer them a guaranteed retirement income, and about a quarter thought that draw-down carried no investment risk at all. Given such findings, it is surely clear that we urgently need better regulatory requirements to help non-advised customers to receive the guidance and fulfil much better the absolutely appropriate promise of this guidance guarantee. The lack of safeguards for pensions seems out of proportion to the known risks of consumer detriment. Research from Just Group, which has also been pushing for this amendment, suggests that defined contribution pension customers aged over 55 who had Pension Wise guidance believe that the investment of time in seeking such guidance was worth while, with 90% saying that all customers should use it.

This amendment would allow the use of similar principles to auto-enrolment and would help to overcome the inertia and lack of engagement with the complexity of pensions. By arranging or directing customers to free guidance rather than just mentioning it to them, take-up is likely to be much higher. Such auto-enrolment into guidance can be organised in a number of ways. However, the current guidance service management with whom I have liaised has already suggested to me that it believes that providers could book appointments for customers who call up with a request to transfer money from their pension or take some money out of it. I point out to noble Lords that guidance for some transfers is important, not just for when people take money out, because the customer could be helped to avoid falling for a scam scheme. Pension Wise has already managed to stop some customers from losing their pension when they responded to a cold call that was urging them to transfer rapidly out of a good scheme to a scam one.

To ensure that people have a guidance session before they engage with their provider about the possible options for their pension is more likely to result in them not taking out money yet, which the provider may not tell them about, or realising that there are many reasons to keep the money in pensions, such as not being taxed or losing the tax benefits of pensions. Of course, financial advisers can help here, but for those who do not have such independent advice the free guidance service is important. I hope that the Government will accept these sensible ideas, which have wide support from across the House, and which would be a major step forward for consumer protection in pensions.

The Earl of Kinnoull (CB): My Lords, my name has also been added to this amendment, and I agree with every word the noble Lord, Lord Sharkey, and the noble Baroness, Lady Altmann, said. I declare my interests as set out in the register of the House, in particular those which relate to the insurance industry.

It has long been the case that for homes and mortgages considerable protections exist for consumers to prevent them from doing something in a hot-headed fashion. Indeed, this House has helped to shape those protections over many years—I remember studying the Law of Property Act 1922 at Bar school. Those protections have continued to build and generally are considered to work.

The pension asset has in recent times become just as significant. I say that off the back of an Office for National Statistics report, which it produced in December 2015, one chapter of which is called "Private Pension Wealth, Wealth in Great Britain, 2012 to 2014". It reports that 59% of our fellow citizens now have a private pension and that the median value of the pension pots at June 2014 was £57,000. Obviously, those pots are growing through time. The median value for people between the age of 55 and 64—to the unscrupulous, the target people—was £145,000. To put that in perspective, the last house price index in this country—in June—listed the average value of a house at £220,000 or so, and Savills has helpfully estimated that the average loan-to-value ratio is about 48%. I do not want to prove anything in particular with that spray of statistics, but I want to demonstrate that the pension asset is now as valuable to our fellow citizens as the house asset across the board. Accordingly, in my mind and in logic, it too should enjoy similar protections to try to stop bad things happening.

The problem has been coming up on us and has been exacerbated by two things in recent times: first, the Osborne pension reforms; and, secondly, the very rapid rate of growth of pensions in general. To give my last statistic, the same ONS report said that in the two years to June 2014 private pension pots had grown by a median of 22%. My concern is not the big pot holder—I think that there will be sophisticated people who can look after themselves—but the large number of small pot holders who, to the unscrupulous, must look like very tempting targets.

The amendment serves to protect particularly the vulnerable and it goes some way towards making the pension asset safer, just as the legislation I referred to earlier has done for homes and mortgages. Pension asset security would be improved, without great effort on the part of government or, indeed, cost for someone who is trying legitimately to access or restructure their pension arrangements. Accordingly, I feel that this is a very sensible amendment and I very much hope to hear shortly from the Minister that the Government can do something in this area.

Lord Deben (Con): My Lords, I refer the House to my declaration of interests, particularly as chairman of the Personal Investment Management & Financial Advice Association.

It is very important to take this amendment seriously because of the reforms brought in by George Osborne. There are two halves to giving people freedom: one is giving the freedom and the other is making sure that they have access to the best information in order to make the best choices. I fear that sometimes people find the first easier than the second.

I sat for some time as the representative of financial advisers on a committee of the then regulator looking into the financial understanding of people throughout the country. It was a very salutary experience, not least because many of the leaders of the providers were totally unable to explain what they were providing in language that I—being somewhat of a professional—could understand, let alone anyone else. My concern is that this is an industry that, even with the very best of intentions, is not very good at explaining the details. There are two reasons for that: one is that a special language is spoken by the experts and the second is that these things are very complicated. That is why, in many companies, people who are perfectly capable of being chairman or chief executive soon find somebody else to look after the pensions. It is a very complicated matter.

My concern is that the Bill needs constantly to look at the moments when people are most able and willing to receive advice. If that is also the point at which they most need the advice, it becomes particularly valuable. My noble friend might take note of one of the biggest changes to have happened in a quite different area. We were busy trying to get people to understand how important energy efficiency was. Many of the steps that we took seemed to have very little effect until we started to tell people, when they bought a new appliance under the European Union scheme, how energy efficient the appliance was. From one year to the next, we got rid of most of the GH levels and arrived at a situation where we were talking about A, A+ and A++. This was because we chose the moment when it was best to advise people. That is precisely what the amendment means. Not having it is not having the other half of the reforms.

4.15 pm

It is right to give people choices and allow them to make decisions about their own money. It is not right to say that other people know best. However, it is important to recognise that many of those who have this choice, this opportunity, are not well fitted to make such a choice simply because we have not had an educational system and the like which would give it to them, and because the democratisation of pensions means that many more people have a private pot—I hate the word "pot"—which, small though it may be for some, is very important for them in the future.

This is about the ordinary people who represent an increasing proportion of the public—even more so with auto-enrolment and so on—and therefore we have a particular duty in this House to protect them. It may be that many of our friends and the other people I represent are able to have financial advisers and wealth managers, but we should recognise now that it is a high financial barrier for those people to have that kind of advice. Unless we do something like this, we are denying the very people whom we ought to be protecting the protection which is particularly good at this moment, not only for them but for our society.

Viscount Brookeborough: My Lords, I support the amendment and I thank the noble Lord, Lord Deben, for saying half of what I was going to say.

However, I should like to add one other point. Yes, this is about protection of the consumer and, secondly, advice. However, there is another word for advice: education. This is not simply about advice for people who go to the right places—very often they do not know where to go unless the advice is put in front of them—but about educating people. In our report on financial exclusion and in the FCA report, it is absolutely clear that there has to be continued learning and education throughout people's lives. They are at school and then go to their first job and may not be able to save much money. Then they think of settling down, then they want a mortgage, then they want a car and so on—and then they want a pension.

We must look at the fact that a vast proportion of post-graduates—I do not have the figure in front of me now but we have all heard it recently—say that the most important omission from their education is financial education. It is therefore not a wonder that we have to do this. Taking the amendment in isolation, I can see why the Government may not want to accept it, because it is another addition to the legislation. However, it would not be so important if the Government accepted that education in schools should be not only controlled but monitored to ensure that it takes place. However, other things have been allowed to lapse. There are not the checks and the compulsory education, which should start at school and then continue. If there were, people would automatically want to be more educated in financial affairs as they go through life because they would know of their importance at an early stage. This is why this kind of amendment must be brought in at this stage to educate people and keep them in line for the future part of their lives.

The Viscount Thurso (LD): My Lords, I have followed the passage of this Bill with great interest but I have not felt the need to intervene. However, today I support my noble friend in this amendment based on two experiences.

The first is as a trustee of the Parliamentary Contributory Pension Fund, which, as I am sure many Members know, is a well-run fund and gives a great deal of excellent advice. However, it is always surprising to discover how many well-educated, highly numerate and literate people fail to grasp much of what there is to do with pensions. If those of us who regard ourselves as reasonably well educated, quite numerate and quite literate are having difficulty with pensions, it stands to reason that many people who have not had those advantages will have even greater problems. To my mind, therefore, the need for advice is a case that is clearly made.

The second experience arises from my time on the banking commission of the Treasury Select Committee in another place. We worked extremely hard to ensure that the Financial Conduct Authority had a proper consumer remit. I am delighted that the Government accepted what we had to say because the FCA has proved to have undertaken the remit well and with a degree of teeth. If we want to ensure that a regulation works, we must make sure that the person promulgating it has teeth. It is absolutely right that the FCA should be the body to make the regulations and to follow up on them.

In summary, it would not surprise me if there is considerable resistance from the Treasury, but that is simply a manifestation of its well-known terminal "not invented here" syndrome. Experience shows that where the Treasury is obliged to take on regulation, it comes round to accepting its wisdom in due course. The test of this amendment, therefore, is not "Why should we?" but "Why shouldn't we".

Lord McKenzie of Luton (Lab): My Lords, I have added my name to this amendment. We support not only the manner in which it was moved by the noble Lord, Lord Sharkey, and spoken to by the noble Baroness, Lady Altmann, but all other noble Lords who have spoken in support of it. The noble Baroness, Lady Altmann, said that it was about making the system work better, while the noble Lord, Lord Sharkey, reminded us that it is not about making this mandatory. The noble Earl, Lord Kinnoull, talked about the need to look at pensions. We have looked at mortgages in the past, but now is the time to make sure that pensions are fully protected. The noble Lord, Lord Deben, said that having freedoms is one thing, but being able to use those freedoms effectively with financial knowledge is important. The noble Viscount, Lord Brookeborough, reminded us again of the importance of financial education and the noble Viscount, Lord Thurso, outlined the importance of the FCA.

Amendment 24 is clear in its purpose. The FCA must require all trustees and managers of pension schemes to ask people, at the point at which they seek to access or transfer their pensions, whether they have received the information and guidance available to them from the new financial guidance body under Clause 3. If they have not received that guidance, the FCA may require the trustee or the pension scheme manager to provide the individual with access to it before the manager proceeds with the access or transfer request. In effect, the FCA can require that people at risk are defaulted into guidance through their scheme.

Public pension policy is now predicated on, effectively, dividing pensions into two elements: a saving phase and an access phase. In the saving phase, the barriers to individuals' acting in the face of complexity, which inhibits optimal decision-making, are recognised and regulated defaults have been introduced—auto-enrolment and default investment funds. In the access phase, policy assumes behaviours to be dramatically different, with individuals bearing direct responsibility for making good choices, even though the evidence is clear that they need more support. People are nudged by public policy to save, but they are left to their own devices when accessing or transferring their savings. As the chief economist at the Bank of England, Andy Haldane, commented on 18 May at the annual dinner of the think tank New City Agenda,

> "I consider myself moderately financially literate. Yet I confess to not being able to make the remotest sense of pensions. Conversations with countless experts and independent financial advisers have confirmed for me only one thing—that they have no clue either. That is a desperately poor basis for sound financial planning".

The radical reforms to accessing savings, introduced in the 2014 pension freedom and choice flexibilities, introduced new risks attached to individual decision-making, which will only increase over time as more pensioners become dependent on defined contribution savings. Many people are not well-equipped to make informed decisions. Many of the pension draw-down products do not have the governance and value for money requirements that workplace pensions possess in the savings phase. The prevalence of scams has increased as a direct result of the new freedoms as, increasingly, fraudsters try to get hold of people's hard-earned savings.

As the FCA observed in the interim report on its retirement market study following the introduction of the new pension freedoms, consumers are poorly placed to drive effective competition. The retirement income market is not working well and the introduction of greater choice and more complex products will reduce consumer confidence and weaken the pressures on providers to offer good value.

The governance of the UK private pension system remains a challenge and the creation of the single financial guidance body is intended, in part, to address market failures and support people to make informed decisions that are in their interest. That will happen only if people access the guidance available—if those at risk of poor decisions use it and are referred to it before they make their decisions or their decisions are implemented. That is precisely what the amendment seeks to achieve, by requiring trustees and scheme managers to ask people whether they have taken the guidance available before they access or transfer their pensions and, if necessary, by requiring the trustees and managers to provide access to that guidance, in line with rules drawn up by the FCA, before proceeding to implement the individual's decision. Requiring providers to ask people before they make their decision whether they have received guidance from the new body will improve public knowledge of the service and, in some circumstances, address the known barriers put in place by some providers that are reluctant to see their customers access impartial guidance, for fear that they will not buy a product or service from them as a result. Requiring trustees and managers to provide access to that guidance before proceeding to act will directly help to protect savers from making poor decisions.

The case for the amendment is also provided by the FCA's recent *Retirement Outcomes Review: Interim Report*. The FCA observed that,

"pension freedoms have made consumer decisions much more complex … consumers struggle to understand their options and to think through the implications of their decisions … leading consumers to choose what … may not be the best decision for them".

Some consumers cannot, or will not, engage with those decisions. Not all will take advice because of its cost and availability. That is a market gap. Indeed, the FCA expressed concern about whether a competitive market in retirement products can ever develop in the future. It identified four areas of remedy, one of which was to get savers to use the free and impartial guidance. That guidance is currently available from Pension Wise, the Pensions Advisory Service and Citizens Advice, but will transfer to the new body. The FCA explicitly recognises that favouring more guidance will,

"require cooperation across the Government, regulators", and industry. The amendment is an important requirement in securing that co-operation and protecting the increasing number of vulnerable savers. For the vast majority of people, a poor financial decision at the point of retirement or on transfer is a mistake for life. It cannot be remedied.

In conclusion, if noble Lords needed further reason to support the amendment, I refer them to the briefing from the Association of British Insurers on the amendment, delivered yesterday evening, which states:

"Enhancing access to advice and guidance is essential, and the SFGB has the potential to play a crucial role in helping more people understand their pension options. This should include exploring with industry and the DWP how we can make the use of guidance a recognised, positive norm when people choose to access their pension savings. The ABI would like to explore how this could work in practice, for example through options such as defaulting or auto-enrolling customers to guidance, earlier retirement communications to prompt people to use guidance, and introducing a Midlife MOT".

I urge support for the amendment.

4.30 pm

Baroness Buscombe: My Lords, the amendment relates to the specific pensions guidance requirements set out in Clause 3 that the single financial guidance body must provide as part of its general pensions guidance function. The amendment seeks to increase the take-up of this particular guidance by members of the public when they wish to access or transfer their pension.

I am grateful for the opportunity to reference the Pension Wise service, which is currently delivering the guidance described in Clause 3. The Pension Wise service evaluation, published last week, shows that the service is incredibly well regarded by its customers, with customer satisfaction at 94%—a figure referred to by several noble Lords.

The amendment is driven in part by figures that suggest that Pension Wise is not reaching enough people. However, our contention, as my noble friend Lord Young set out in Committee, is that assessing take-up volumes is far from straightforward and that the picture is much better than the figures published by the FCA would suggest. In fact, I recently met with Pension Wise and it was very clear to me that a huge number of people are accessing guidance just on the website.

As noble Lords said, the amendment is driven also by the FCA's recent interim report on the retirement outcomes review. The report raised some issues, which noble Lords have referred to, and the FCA has proposed a number of remedies. These include additional protections and measures to promote competition for consumers who buy draw-down without taking advice.

The FCA is actively engaging with government, regulators, industry and consumer bodies before it delivers its final report in the first half of 2018. We should take decisions about how to proceed in the light of the fullest information possible. This will ensure that we make interventions that go to the heart of addressing any weakness in the system and ensure people make informed choices for their circumstances.

The amendment would oblige the FCA to make rules requiring pension providers to ask individuals with personal or stakeholder pensions whether they have had the specific pensions guidance set out in Clause 3 when they require access to, or individual

transfer of, their pension assets. Beginning with individuals requiring access, it would be helpful if I take a moment to remind noble Lords about the retirement risk warning rules, which are in force today and will continue to be in force when the new body is established.

The FCA already requires that when a person has decided in principle to access their personal or stakeholder pension pot, and before the action is concluded, the pension provider must ask the individual whether they have received pensions guidance or regulated advice. If the person says that they have not or if they are unsure, the FCA requires that the firm must explain that the decision is an important one and encourage the individual to use pensions guidance or to take regulated advice. If the person says that they have had their pensions guidance or regulated advice, or if they insist on proceeding, the FCA requires the firm to give the individual appropriate risk warnings.

These warnings must be relevant to the chosen method of access and, where the pot is over £10,000, the provider must ascertain information about the individual's circumstances to tailor the warnings. Risk factors that should be covered where relevant are: the individual's health; loss of guarantees; whether the person has a partner or dependants; inflation; whether the person has shopped around; sustainability of income in retirement; tax implications; charges, if a person intends to invest their pension savings; impact on means-tested benefits; debt; and investment scams.

These retirement risk warnings are in addition to other FCA rules that require pension providers to tell people with personal or stakeholder pensions: first, that free and impartial guidance is available from Pension Wise to help them understand their pension options; secondly, how to access the guidance through the internet, over the phone or face to face; and, thirdly, that they should seek guidance and consider taking independent advice to help them decide which option is most suitable for them.

Pension providers must include this information with the wake-up packs that people are sent when they approach retirement or, importantly, when they contact them about accessing their pension—I always smile when I reference the fact that the packs are called "wake-up" when they are for those approaching retirement.

It may also be helpful to remind the House that the FCA also requires pension providers to include the Money Advice Service booklet, *Your Pension: It's Time to Choose*, or materially the same information in wake-up packs sent to members with personal or stakeholder pensions. This provides information and guidance on pension options and where to go for more help, including Pension Wise and the Pensions Advisory Service. Again, I say to noble Lords that I was amazed and hugely encouraged by the extraordinary expertise and experience that exists within those organisations, particularly when I visited the Pensions Advisory Service, where there are people with 30 or 40 years' experience in the financial services industry giving advice to people over the phone—over the counter, as it were—and on their websites and by email. The booklet also covers essential information about tax, the importance of shopping around and avoiding scams. I hope that noble Lords will agree that this existing regime already provides individuals with important information and strong encouragement to take advantage of guidance and advice before accessing a pension pot.

I now turn to individuals requiring a transfer of their pension. Noble Lords will be aware that many transfers have the express aim of accessing the pension freedoms, and they are protected by the measures I have just spoken about. A large proportion of other transfers from one registered scheme to another can be a routine decision to consolidate pension pots to keep financial affairs simple. This can often deliver better value for members, and adding friction to what is essentially an administrative process could directly inhibit member engagement with their pension.

It is also the case that there are existing requirements in relation to transfers from one registered pension scheme to another. In a transfer situation, the Government are keen that members with valuable guarantees are aware that they have them and of the implications of giving them up. Where an individual has safeguarded benefits—for example, a guaranteed annuity rate—the current provider would need to determine the value of those benefits. If that value is more than £30,000, the individual must have received regulated advice from an authorised financial adviser before the transfer can go ahead.

From April 2018, pension providers must give members with guaranteed annuity rates and similar guarantees more personalised information. This should detail the guarantees they hold and their value, and must be sent at the point they risk giving them up, when they seek a transfer or request access to their pension. There is also a legal obligation for trustees to act in members' best interests, and the FCA requires that providers treat customers fairly. As well as highlighting guarantees, many pension providers encourage members to think about the implications of transferring, particularly in relation to exit fees and charges.

To sum up, pension providers are consistently cited by around half of the people who contact Pension Wise as the place they first heard of the service. Pension Wise is working with pension providers to ensure that signposting is as effective as possible and with employers locally and nationally to encourage take-up of the service. This includes a major pilot project with Tesco, where Pension Wise appointments are delivered in the workplace. This is in addition to national advertising of the Pension Wise service through a variety of media channels, which has been used since the service was launched in 2015. That has clearly contributed to increased awareness of the service, borne out by the significant increase in the number of people using it.

I appreciate the sentiment behind the amendment and agree that more people should take advantage of the excellent service that Pension Wise provides. However, I do not agree that the amendment is the way to achieve it. It is essentially a reimagining of existing obligations that the FCA already places on providers. As I have explained, the FCA has already made rules, in force now, which place strict requirements on providers when engaging with an individual about accessing their pension.

My noble friend Lady Altmann said that this would be a major step forward, but the rules are already in place. There is no problem with the Treasury—this

was referenced by the noble Viscount, Lord Thurso. We already have the rules in place. Take-up of Pension Wise guidance is increasing and bringing together all the offers in this area under one roof. The single financial guidance body will make it easier for people to take advantage of the excellent services available.

For the benefit of noble Lords who have just joined us in the Chamber, this is supposed to be a framework Bill to set up the single financial guidance body—without too many additional powers or burdens placed upon it over and above those which are necessary to take this forward. I trust that, with this reassurance, the noble Lord will feel able to withdraw his amendment.

Lord Sharkey: I thank all noble Lords who have spoken in the debate. I note the support for the amendment from all sides of the House. I note also that the Government seem to rely in their argument on essentially unsubstantiated claims for the performance of Pension Wise in reaching people. The low level of take-up is the problem we are addressing. No matter what current and elaborate arrangements the Minister may tell us are in place, they are not working.

The amendment sets out at no cost—no downside—a simple proposal. It intervenes at an absolutely critical point in the pension process, as people begin to access or transfer their pension assets. We do not claim that it will prevent all bad or suboptimal decisions but we believe that giving people this last chance for information and advice is sensible, prudent and fair-minded, particularly for the most vulnerable people and those most at risk. It is clear—again, given the low take-up figures for the information and advice services—that this is needed. I do see the point of doing all we can to help people make good decisions about their future financial well-being, especially at this critical point in their lives. I would like to test the opinion of the House.

4.42 pm

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5 pm

Clause 6: Setting standards

Amendment 25

Moved by ***Baroness Buscombe***

25: Clause 6, page 4, line 32, at end insert—

"( ) In determining whether to approve the standards, the FCA must have regard to the needs of people who are receiving, or who may seek to receive, the information, guidance or advice to which the standards will apply."

Baroness Buscombe: My Lords, during our debates at Second Reading and in Committee, the noble Baroness, Lady Drake, raised a concern about the Financial Conduct Authority's focus in approving the service standards for the body. The noble Baroness and other Members of the House stressed the need for the body's standards to be focused on supporting and safeguarding members of the public. The Government agree that it is important that the standards should be designed with the needs of the public in mind. People's needs should be at the heart of how services are delivered by the body and its delivery partners.

For example, users of the body's service will need a variety of delivery channels to be available. They will need the people giving guidance or advice to have the required skills to do so, and they will need information to be presented in a clear and fair way that is not misleading. Members of the public should expect needs such as these to be met by the service, and we expect the standards to be designed to make sure that the body's services meet those needs.

This amendment makes it clear that the FCA, in undertaking its role to approve the body's standards, must consider the needs that members of the public have in accessing information, guidance and debt advice through the body. This includes not only people who are using the body's services, but those who are likely to need information, guidance or advice provided by the body in future. I have already stressed the benefits of including the FCA in the standard-setting process for the body. The FCA currently sets the standards for the Pension Wise service. Figures published last week show a 94% customer satisfaction rating, and these standards are firmly centred on customer needs.

For example, Pension Wise standards include that a guidance provider must have the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to it; people using the service must be able to change to a different delivery channel; the service must be accessible to people under relevant equalities legislation; and the delivery of the service must be consistent across all delivery channels. These are a few among many Pension Wise standards which are focused on ensuring the service meets the needs of the people who use or will use Pension Wise guidance.

This amendment places a clear obligation on the FCA to have regard to the needs of members of the public when approving the single financial guidance body's standards. By making this explicit, I trust that noble Lords will agree that this addresses any concerns they may have that the FCA would not take seriously people's needs when approving the body's service standards.

I shall turn briefly, if I may, to Amendment 26 in this group. As noble Lords will be aware, the activities of the single financial guidance body are funded by a levy which the Financial Conduct Authority collects from sections of the financial services industry. One part of that industry involves a payment service provider. Clause 10(11) defines a "payment service provider" by reference to the Payments Services Regulations 2009. Since the Bill was introduced into your Lordships' House, those regulations have been replaced by the Payment Services Regulations 2017. This amendment therefore seeks to update that reference so that it refers to the new regulations.

I hope noble Lords will agree that we should keep the Bill up to date and with this minor amendment we will do so. For this reason, I hope that noble Lords will be willing to accept this amendment. I beg to move.

Baroness Drake (Lab): My Lords, I support government Amendment 25, and thank the Minister for her reflections on the issues raised in Committee. The amendment is a very helpful addition to the Bill because it makes it clear that the FCA, which is an economic regulator, authorises the standards of the new financial guidance body and ensures that they are complementary to the objectives of that body—to improve consumers' financial ability and their ability to make informed decisions. I support the amendment and thank the Minister.

Amendment 25 agreed.

Clause 10: Levy under FSMA 2000 for expenses of single financial guidance body

Amendment 26

Moved by ***Baroness Buscombe***

26: Clause 10, page 7, line 15, leave out from "Regulations" to "of" in line 16 and insert "2017 (S.I. 2017/752) as a result of falling within any of paragraphs (a) to (h)"

Amendment 26 agreed.

Amendment 27

Moved by ***Baroness Buscombe***

27: Before Clause 12, insert the following new Clause—

"False claims about provision of information etc

(1) It is an offence for a person to hold himself or herself out (or where the person is a body, to hold itself out) as providing information, guidance or advice on behalf of the single financial guidance body when that is not in fact the case.

(2) It is a defence for a person charged with an offence under this section to prove that the person took all reasonable precautions and exercised all due diligence to avoid committing the offence.

(3) A person guilty of an offence under this section is liable on summary conviction—

(a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine, or both;

(b) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale, or both;

(c) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.

(4) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (3)(a) to 51 weeks is to be read as a reference to 6 months.

(5) Proceedings for an offence under this section may be instituted in England and Wales only by or with the consent of the Director of Public Prosecutions.

(6) Proceedings for an offence under this section may be instituted in Northern Ireland only by or with the consent of the Director of Public Prosecutions for Northern Ireland."

Baroness Buscombe: My Lords, at Second Reading and in Committee, the noble Baroness, Lady Drake, highlighted the importance of protecting the public and the integrity of the single financial guidance body. I am grateful to her for raising those issues and have considered them carefully. It is essential that people know that they can trust the single financial guidance body, so that they make steps to get the help that they need to make effective financial decisions.

The amendments will make it a criminal offence for someone to hold themselves out as providing information, guidance or advice on behalf of the single financial guidance body when that is not the case. It will prohibit the impersonation of the body itself, in phone calls or via webpages, and of the body's delivery partners if the impersonator claims to be providing services on behalf of the body. The provisions are designed to make it easier to prosecute individual members of organisations where the offence is committed by an organisation. As with the existing offence for Pension Wise, the new offence is summary only. It proposes a maximum sentence of 51 weeks in England and Wales although, until the commencement of Section 281(5) of the Criminal Justice Act 2003, the maximum sentence is six months. The maximum sentence in Scotland will be 12 months and in Northern Ireland six months. The offence also allows the courts to impose fines—an unlimited fine in England and Wales, and a maximum fine of £5,000 in Scotland and Northern Ireland. Criminal justice is a devolved matter in Scotland and Northern Ireland; that is the reason for the differences in sentences and fines.

The new offence will provide an additional deterrent to existing criminal offences such as fraud. It will send out a strong message that impersonating the new body is illegal and carries significant penalties. In practical terms, the offence will make prosecutions of offenders more likely, because the evidential burden of proving that a person or organisation impersonated the new body is likely to be lower than that required to prove that fraud had been committed. Unlike fraud, there is no need to prove intent to make a gain or to cause a loss for this offence. However, where scams and fraud are particularly serious, the offence does not limit in any way the ability to prosecute the criminals with offences that attract higher sentences—for example, fraud, which carries a maximum custodial sentence of 10 years.

Noble Lords will be interested to know whether the offence will also protect the branding of the existing service providers. The noble Baroness, Lady Drake, suggested in our previous debate that people might continue to recollect the brand names of Pension Wise, TPAS and MAS—the Money Advice Service—before they began to recognise and remember the name of the new body. I reassure noble Lords that we anticipate a controlled transition between the existing services and the new body. The intellectual property of the existing services will transfer to the new body. That will include the brands and website domains of the existing services.

If people search for or telephone the existing services, we expect that they will be automatically transferred to the new service and, where existing brand names are to be discontinued, that would occur only when the new brand had gained sufficient recognition. That will ensure minimal drop-off from people looking for government-sponsored guidance but being unable to find the correct website or telephone number. Ensuring that customer traffic is not lost will be important throughout the transition period.

In that way, the opportunity for scammers to exploit public recognition of the branding of the existing services will be minimised. The protection that the new offence offers extends to the brands that the body uses. If fraudsters and scammers pretended to be MAS, TPAS or Pension Wise and the body was still using those brands to market its services, that would also be an offence under the amendment. This provision therefore ensures that the legacy names of the existing services are protected for as long as those brands are actively used by the new body.

The offence will apply to all the services offered by the new body. I trust that noble Lords agree that the amendments provide comprehensive protection for the body and the public. I beg to move.

Baroness Drake: My Lords, I support government Amendments 27 and 28, and thank the Minister for her personal efforts on this matter, which are appreciated because it is very important. The amendments are welcome in making it clear that it is a criminal offence for organisations falsely to present themselves as providing a service on behalf of the new guidance body. They are thorough in addressing the actions of the corporate body and the individual officers in those guilty organisations. I particularly welcome the Minister's reassurance about handling the TPAS, MAS and Pension Wise brands. That is an excellent statement, which I was not expecting. I compliment the department on having thought through in such detail how it can protect those names—so thank you for that.

However, I shall spend a little time on the issue. Spelling out in the Bill that it is a crime to mimic will act as a powerful deterrent, and a deterrent is certainly needed because of the potential human cost of such fraudulent activity. That is illustrated even now by existing cases, such as the person who received a letter with their details on it, which had not come from their pension administrator, claiming that they wished to leave the company pension scheme. The letter asked them to choose whether to withdraw, transfer or take out the paid-up option and to return all policy documents. The website of the company sending the letter advised that it was legitimate and said to be aware that scammers were imitating it. Then, there was the lady who reported the actual Pensions Advisory Service to the Information Commissioner's office as she believed that it had rung her and she was registered with the Telephone Preference Service. The number was traced to a company bearing a near identical name to TPAS. There are numerous

[Baroness Drake]
other cases of people being contacted by companies mimicking the public pension advisory services, offering a pension review and persistently pressing individuals to sign to transfer a DC pot; or offering a free pension review and sending a courier round to collect the documents; or claiming to be part of a post-Brexit government-sponsored pensions review.

These impersonators are ingenious in their hunt to claim fresh victims. The documented work of several government agencies, be they police, the Revenue or the regulators, reveals the extent of organisations implying that they are regulated when they are not, some falsely carrying warning messages against scams. A mechanism designed to protect consumers is now being used to dupe them. The Financial Services Compensation Scheme, further to previous public warnings about fake emails from fraudsters promising compensation payments, has issued a new warning about a scam website using the logos of the FCA and the Prudential Regulation Authority to give it false credibility. The Pensions Regulator has just put out a further release advising that it has launched new online warning messages, using animation, circulated via Facebook, Twitter and YouTube, urging consumers to keep their eyes and ears open for scams.

The new financial guidance body will have a substantial remit and a considerable reach out to the public. The damage that can be done to the body and the interests of consumers by those falsely claiming to be providing its services, be they on finance, debt or pensions, could be considerable if not controlled. I support these amendments, which provide a welcome strengthening of the Bill, and thank the Minister for bringing them forward.

Amendment 27 agreed.

Amendment 28

Moved by ***Baroness Buscombe***

28: Before Clause 12, insert the following new Clause—

"Offences under section (False claims about provision of information etc) committed by bodies corporate etc

(1) If an offence under section (False claims about provision of information etc) committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of an officer of the body, or

(b) to be attributable to any neglect on the part of such an officer,

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In subsection (1)"officer", in relation to a body corporate, means—

(a) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;

(b) an individual who is a controller of the body.

(3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(4) If an offence under section (False claims about provision of information etc) committed by a partnership is proved—

(a) to have been committed with the consent or connivance of a partner, or

(b) to be attributable to any neglect on the part of the partner,

the partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In subsection (4) "partner" includes a person purporting to act as a partner.

(6) If an offence under section (False claims about provision of information etc) committed by an unincorporated association other than a partnership is proved—

(a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) Proceedings for an offence under section (False claims about provision of information etc) must be brought—

(a) where the offence is alleged to have been committed by a partnership, against the partnership in the firm name;

(b) where the offence is alleged to have been committed by any other type of unincorporated association, against the association in its own name.

(8) Rules of court relating to the service of documents have effect in relation to such proceedings as if the partnership or unincorporated association were a body corporate."

Amendment 28 agreed.

Amendment 29

Moved by ***Baroness Buscombe***

29: After Clause 12, insert the following new Clause—

"FCA general rules: information about the availability of guidance

After section 137FBB of the Financial Services and Markets Act 2000 insert—

"137FC FCA rules: disclosure of information about the availability of financial guidance

(1) The FCA must make general rules requiring specified authorised persons to provide information about the availability of financial guidance to the descriptions of persons specified in the rules.

(2) The rules may specify the circumstances in which the duty to provide the information applies.

(3) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—

(a) the Secretary of State,

(b) the Treasury, and

(c) the single financial guidance body.

(4) In this section—

"financial guidance" means information, guidance or advice provided in pursuance of the single financial guidance body's pensions guidance, debt advice or money guidance function (see section 2 of the Financial Guidance and Claims Act 2017);

"specified authorised person" means an authorised person of a description specified in rules made by virtue of this section.""

5.15 pm

Baroness Buscombe: My Lords, Amendments 29, 30, 31, 32, 44 and 45 would amend the Financial Services and Markets Act 2000 to require the Financial Conduct Authority to create a new rule requiring specified authorised persons to signpost to the new single financial guidance body. Signposting will help to improve the accessibility of financial guidance and advice to the public. The Government and the Financial Conduct Authority want to see more people seek financial guidance and advice, and at an earlier point so that it can be of most help to them. The new body will place accessibility of guidance and advice at the heart of its services.

The noble Baroness, Lady Drake, tabled an amendment in Committee which would require the FCA to create a new rule requiring all relevant firms regulated by it to signpost their customers to the new single financial guidance body. When she did so, the Government stated their wholehearted agreement that signposting could help to improve public access to guidance. We are grateful to the noble Baroness for raising these matters. We have considered them carefully and, as a result, have tabled this amendment which takes forward the spirit of her earlier one. I hope noble Lords will be satisfied that the Government have heard their concerns, and addressed them through this amendment. The amendment will put a clear duty on the FCA to set rules to secure effective signposting to financial guidance and advice for those most likely to benefit from it.

I also thank the noble Lords, Lords Sharkey and Lord McKenzie, my noble friend Lady Altmann, and the noble Earl, Lord Kinnoull, for tabling Amendment 29A. This would amend the Financial Services and Markets Act 2000 to require the FCA to create a new rule, which would require specified authorised persons to refer persons specified in the rules for financial guidance, and specify the manner and circumstances in which the duty to refer applies. As we understand it, the noble Lord, Lord McKenzie, has indicated that "refer" is a more involved process than providing information about the availability of financial guidance. This amendment would mean that, rather than providing information on where to obtain guidance and advice, and allowing people to make their own decisions, specified authorised persons would have to actively refer persons specified in the rules for financial guidance.

We understand that this amendment is driven by the desire to ensure that the people who need financial guidance, such as vulnerable consumers, actually use the guidance available. We can assure noble Lords that the Government are wholly committed to improving the uptake of guidance and advice for people who are vulnerable. In fact, the FCA has already carried out a great deal of work on how it supports vulnerable consumers. Many Peers recently had a helpful meeting with the FCA, which I hope reassured them that the FCA takes its responsibility for vulnerable consumers very seriously.

As we discussed at that meeting, issues regarding access and vulnerability are at the core of the FCA's mission and business plan, which were published in April this year. In the debate we had last week, my noble friend Lord Young referred to the FCA's mission, which states that:

> "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 develop a consumer strategy through its consumer approach paper, which will be published in the next few weeks. The consumer approach will provide a means for the FCA to measure outcomes for vulnerable customers. The FCA will also work to develop vulnerability mapping so it can ensure it has captured the needs of vulnerable consumers when finalising its business priorities. We therefore think that the intent behind this amendment will already be covered under the FCA's work.

When reviewing existing rules and developing new rules in relation to the single financial guidance body, the FCA will consider whether there is a need for referral, in addition to providing information. I hope this will assure noble Lords that the amendment is not necessary. In fact, it would add confusion and reduce the FCA's flexibility to design the new rules in a way that best serves the needs of particular customers.

Furthermore, there is a concern that expanding the duty to cover referrals for financial guidance could prove unnecessarily costly and burdensome to the industry. The FCA has a duty to carry out a cost-benefit analysis of any new rules under the regulatory principles in the Financial Services and Markets Act 2000. FiSMA outlines the principle that a burden or restriction imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction. The Government are therefore reticent to legislate for a duty to refer before the FCA does the necessary cost-benefit analysis and consultation with industry about the exact impact over and above the existing costs.

On identified costs, existing legislation and FCA rules require pension schemes to provide information to customers such as TPAS and Pension Wise services. The FCA also requires mortgage providers to signpost customers to the Money Advice Service, and debt management firms to make people aware of free-to-client advice funded by the Money Advice Service in their first communication.

These rules will be updated to reference the single financial guidance body rather than TPAS, Pension Wise and the Money Advice Service. The Government's impact assessment has indicated that this will create an estimated direct cost on business of £5.65 million in the first year of the policy. The requirement to create new rules on signposting would be an additional cost. Therefore, we should give the FCA flexibility through this Bill to better identify which additional costs would be effective. I understand and agree with the desire to ensure that people are receiving the guidance and advice they need to make the right decisions for them. I hope that the FCA's commitment to consider the need for referral will give noble Lords sufficient reassurance.

I beg to move the amendment standing in my name and urge the noble Lords to withdraw Amendment 29A.

Amendment 29A (to Amendment 29)

Moved by ***Lord Sharkey***

29A: After Clause 12, after subsection (2) insert—

"( ) The FCA must make general rules requiring specified authorised persons to refer persons of a specified description for financial guidance.

( ) The rules must specify the manner and circumstances in which the duty to refer applies."

Lord Sharkey: I will speak very briefly to Amendment 29A in this group. I am very grateful for the support of the noble Baroness, Lady Altmann, the noble Lord, Lord McKenzie of Luton, and the noble Earl, Lord Kinnoull, who have added their names to it.

As the Minister said, the amendment would add to government Amendment 29, the case for which she put eloquently and convincingly. If I may paraphrase, Amendment 29 deals essentially with the provision of information about the availability of financial guidance. It is an amendment about signposting, as I think the Minister said. Subsection (1) requires the FCA to,

"make general rules requiring specified authorised persons to provide information about the availability of financial guidance",

to persons whose descriptions are "specified in the rules". Actually, the wording says that such information must be provided to the,

"descriptions of persons specified in the rules".

I am not sure that you can provide information to a description of a person—but the intent is clear even if the wording is rather odd.

Subsection (2) allows the FCA to decide when a duty to provide the information set out in subsection (1) actually applies. We agree with those provisions, but we believe that they should be extended beyond simple signposting. They should be extended to allow the FCA to require persons of a specified description to be referred for financial guidance and so that the FCA has the power to decide in what circumstances and how this duty of referral should apply.

The government amendment deals only with information about the availability of guidance; our amendment has the power to refer for guidance. In both cases the powers are given to the FCA, which has unfettered discretion in deciding how, when and to whom these powers are to be applied, both as to providers and as to customers of these providers. There is no requirement in either case that the FCA acts universally across providers and across customers. Both Amendments 29 and 29A, taken together, require the FCA to make rules requiring the provision of information about the availability of financial guidance and rules requiring specified providers to refer specified customers for financial guidance. How all this might happen is left to the FCA to decide.

The first part—the government part—is a requirement to signpost. The second part—our part—is a requirement to refer. It seems sensible to have both weapons in the armoury. Signposting is a good idea in principle, even if it has a somewhat chequered and contested success rate or even effective compliance rate. Successful reference for guidance is, we know, likely to produce an effect. All the Pension Wise service evaluation data, which we have discussed several times in this House, shows that to be the case. In both cases—signposting and referral—the FCA may, at its discretion, decide which providers and which customers should signpost or refer, or be signposted or be referred.

It has been a constant theme in our debates on the Bill that in this country people are not financially well educated and do not have confidence in their own ability to handle financial matters, and that dangerous financial ignorance and misunderstandings are widespread. Amendments 29 and 29A, taken together, will allow the FCA to make decisive interventions about signposting and referral among groups it sees as most needing this kind of help. I had hoped that the Minister would see that her amendment was complemented and strengthened by ours and would be able to accept it in the spirit in which it was offered. Having listened carefully to the Minister, I now sense that that may be unlikely.

Baroness Drake: My Lords, obviously, I welcomed government Amendment 29, because it addresses an issue that I raised in Committee. However, I am also persuaded by the arguments used in Amendment 29A, which gives to the FCA the discretion to define the circumstances in which providers would be required to refer people to the impartial single financial guidance body—a reference probably driven by the characteristics of a vulnerable group at risk of making a poor decision. The FCA would define those circumstances. Because under this amendment it can and does, it would not create a blizzard effect of referrals for financial guidance which overreaches the function of the new body, nor need it undermine the new body's ability to focus on those most in need of guidance. This amendment clearly gives the FCA the duty and the statutory authority to nudge or default people into impartial financial guidance in those circumstances which the FCA specifies. In specifying the circumstances, it will have consulted with the single financial guidance body.

The recent FCA Financial Lives Survey identified that 50% of adults—25.6 million people—are financially vulnerable on one or more characteristics. The single financial guidance body cannot possibly solve a systemic problem of that scale, nor should we take the risk of trying to overload it so that it cannot effectively discharge its key remit. But it can make a material difference by improving the financial capability of those most in need of support. However, to do that, those most in need of support need to use the guidance, and this amendment would give the FCA the complementary authority to enable those most in need of the guidance to be referred to it.

I know that it is possible to list a whole series of regulatory requirements on information and disclosure but the ever-increasing evidence is that they simply do not work when it comes to protecting vulnerable consumers. They need more—they need guidance or other levels of protection.

5.30 pm

Lord Hunt of Chesterton (Lab): My Lords, I am not an expert on these things, as most people obviously are. A scam was carried out on me in France in the summer, and that was very educational. The point is:

would a person in a remote village who is confused and has already been scammed trust the mail or any other form of communication? Surely there needs to be somewhere—perhaps the post office or the bank—where worried people can go. At the moment they have to write to some governmental body far away. We are in a desperate situation and I would be interested to know the Minister's opinion on this.

Lord McKenzie of Luton: My Lords, I can be brief. We welcome the Government's amendments, which would place in the Bill a duty on the FCA to make rules requiring information to be given to consumers and members of the public by relevant organisations and persons about the availability of impartial financial guidance. This requirement will cover all information, guidance and advice provided by the single financial guidance body.

The substance of our debate on this group has been Amendment 29A, which strengthens the government amendment with the intent of increasing the use of the new financial guidance service by placing a duty on the FCA to make general rules requiring specified persons to refer specified members of the public to the new body for guidance. The FCA must also specify the manner and circumstances in which the duty to refer applies. Therefore, the amendment puts the FCA in the driving seat, which is the thrust of the amendment. The noble Baroness said that this was basically what the FCA was about in any event, in which case I would ask: if we are at one in what we are trying to achieve here on the authority that the FCA should have, why not enshrine it in the Bill?

Baroness Buscombe: I have already spoken in detail on Amendment 29A, so I am possibly at risk of repeating everything that I have said. However, I would ask the noble Lord, Lord Hunt of Chesterton, to refer to *Hansard*, where he will see that since 19 July we have been discussing the very issue about which he is concerned.

The truth is that we are setting up a single financial guidance body which we hope will be even better than the bodies that already exist when it comes to improving people's financial capability and giving them regulated advice and guidance. That is the purpose of the Bill. I hope that I have persuaded noble Lords that Amendment 29A is not necessary and that the noble Lord will be happy to withdraw it.

Lord Sharkey: My Lords, I entirely agree with the noble Lord, Lord McKenzie of Luton, that it would be better to have Amendment 29A on the face of the Bill. I think that it is a perfect complement to the elegantly crafted Amendment 29. However, I hear what the Minister says and I beg leave to withdraw.

Amendment 29A withdrawn.

Amendment 29 agreed.

Schedule 3: Minor and consequential amendments relating to Part 1

Amendments 30 to 32

Moved by ***Baroness Buscombe***

30: Schedule 3, page 24, line 31, at end insert—

"( ) before ", 137SA"(inserted by paragraph (a)), insert ", 137FC";"

31: Schedule 3, page 24, line 38, at end insert—

"( ) before paragraph (ac)(inserted by paragraph (a)), insert—

"(aba) section 137FC;";"

32: Schedule 3, page 25, line 3, at end insert—

"( ) before ", 137SA"(inserted by paragraph (a)), insert ", 137FC";"

Amendments 30 to 32 agreed.

Amendment 33 not moved.

Clause 14: Power to dissolve the single financial guidance body

Amendment 34

Moved by ***Baroness Buscombe***

34: Clause 14, page 10, line 16, leave out subsection (1) and insert—

"(1) The Secretary of State must keep under review the question of whether the single financial guidance body should be dissolved.

(1A) If the Secretary of State considers that the single financial guidance body should be dissolved, he or she must carry out a public consultation.

(1B) If, after the period of 12 weeks beginning with the day on which the consultation began, the Secretary of State still considers dissolution of the single financial guidance body to be appropriate, he or she must lay before Parliament—

(a) draft regulations, and

(b) an explanatory document."

Baroness Buscombe: Amendments 34, 35, 36, 37, 38 and 39 would revise Clause 14 and insert a new clause into the Bill. Clause 14 makes provision for the winding up of the single financial guidance body and for its functions, property, rights or liabilities to be transferred to the Secretary of State or another body. These amendments would add safeguards to the procedures for dissolving the body should that be necessary in the future.

In drafting these amendments, we have listened carefully to the concerns raised in previous debates by the noble Lord, Lord McKenzie, and the recommendations of the Delegated Powers and Regulatory Reform Committee. As a result, we have studied the approaches taken in both the Public Bodies Act 2011 and the Enterprise Act 2016 to provisions to dissolve arm's-length bodies.

As I explained in Committee, we would expect stakeholders, the public and other interested parties to have the opportunity to give their views before any decision to dissolve the new body was made. We are now putting that beyond doubt by setting out clearly that a public consultation will be required before the Government can lay any draft regulations to dissolve the body.

The amendments also provide assurance that any draft regulations cannot be laid until at least 12 weeks after the consultation has begun. This allows a suitable period of time for consultation and consideration of the responses to take place. In addition, the amendments

[Baroness Buscombe]
require that the Secretary of State must, alongside any draft regulations, lay before Parliament a document to explain the rationale behind dissolving the body.

The amendments also give Members of both Houses the opportunity to request that the period for scrutinising the draft regulations be increased from the usual 40-day period to 60 days. During this time, the Secretary of State must have regard to any representations, resolutions and recommendations made by either House, their Members or committees.

I trust that noble Lords will agree that we have listened carefully and responded fully to the strength of feeling on the need for consultation and parliamentary scrutiny. I trust too that they will agree that these amendments provide those important safeguards. I beg to move.

Lord McKenzie of Luton: My Lords, when we debated in Committee an amendment to Clause 14 requiring a more extensive parliamentary process for the dissolution of the SFGB than that set out in the Bill, the Minister promised to reflect on the matter. This she has done and we are grateful for that.

As the Delegated Powers and Regulatory Reform Committee set out in its first report of Session 2017-19, under the Bill as drafted the Minister does not have to be satisfied as to anything before deciding to abolish the body, does not have to consult, does not have to conduct a formal review and does not have to wait a certain time to see whether the new body is working well before deciding to abolish it. Each of those deficiencies appears to have been taken into account in the government amendments. Amendment 39 enables the super-affirmative process to be applied if either House or a relevant committee of either House so determines, and the process is reflected in the detail of the amendment. This requires that the Secretary of State must have regard to the representations received and any recommendations of either House or of a relevant committee. Effectively this means that Parliament can directly influence the terms of the regulations.

We should note that the provisions of Clause 14 have effect not only to dissolve SFGB but to determine where and to whom its functions are to be transferred.

We can support the amendments and I thank the Minister again for addressing the concerns which have been raised.

Lord Kirkwood of Kirkhope: My Lords, I welcome the amendments and congratulate the Minister on bringing them forward. It makes a huge difference if Ministers listen carefully to what is said on the Floor of the House and changes are brought forward as a direct result.

I acknowledge also the important work that the Delegated Powers and Regulatory Reform Committee does in its service to this House. In its first report it made clear the comparisons that the Minister has alluded to with the Public Bodies Act and the Enterprise Act and the earlier precedents they contained. We should study carefully the work the Committee does because it provides an important service to the House. The Minister has listened carefully and she deserves credit for that.

As a member of the Secondary Legislation Scrutiny Committee, which assists the Delegated Powers and Regulatory Reform Committee, I welcome these amendments. Both committees enhance the work of the House.

Amendment 34 agreed.

Amendments 35 to 38

Moved by ***Baroness Buscombe***

35: Clause 14, page 10, line 18, after "The" insert "draft"

36: Clause 14, page 10, line 28, after "The" insert "draft"

37: Clause 14, page 10, line 32, after "The" insert "draft"

38: Clause 14, page 11, line 1, leave out subsection (6)

Amendments 35 to 38 agreed.

Amendment 39

Moved by ***Baroness Buscombe***

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

"Regulations dissolving the new single financial guidance body: procedure

(1) The 40-day affirmative procedure applies to draft regulations under section 14 unless, within the period of 30 days beginning with the day on which the draft regulations were laid before Parliament—

(a) either House of Parliament resolves that the super-affirmative procedure should apply, or

(b) a committee of either House charged with reporting on the draft regulations recommends that the super-affirmative procedure should apply and the House to which the recommendation is made does not by resolution reject the recommendation within that 30-day period.

In either of those cases the super-affirmative procedure applies.

(2) Under the 40-day affirmative procedure, if after the expiry of the period of 40 days beginning with the day on which the regulations were laid before Parliament, the draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.

(3) Under the super-affirmative procedure, the Secretary of State must—

(a) have regard to the matters mentioned in subsection (4), and

(b) make the regulations in accordance with subsections (5) to (7).

(4) The matters are—

(a) any representations,

(b) any resolution of either House of Parliament, and

(c) any recommendation of a committee of either House of Parliament charged with reporting on the draft regulations,

made in relation to the draft regulations during the period of 60 days beginning with the day on which the draft regulations were laid before Parliament.

(5) If, after the expiry of that 60-day period, the draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the draft regulations.

(6) If, after the expiry of that 60-day period, the Secretary of State wishes to proceed with the draft regulations but with material changes, the Secretary of State may lay before Parliament—

(a) revised draft regulations, and

(b) a statement giving a summary of the changes proposed.

(7) If the revised draft regulations are approved by a resolution of each House of Parliament, the Secretary of State may make regulations in the terms of the revised draft regulations.

(8) Regulations are made in the terms of draft regulations (including revised draft regulations) if the regulations contain no material changes.

(9) In calculating the periods of time referred to in this section, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.

(10) The regulations are to be made by statutory instrument."

Amendment 39 agreed.

Clause 16: Transfer to FCA of regulation of claims management services

Amendment 39A

Moved by ***Lord Hunt of Wirral***

39A: Clause 16, page 12, line 38, at end insert—

"(ba) arranging the provision of temporary replacement motor vehicles,"

Lord Hunt of Wirral (Con): My Lords, I declare my interests as set out in the register, particularly as a partner in the global legal firm DAC Beachcroft LLP and as chair of the British Insurance Brokers' Association.

I return to matters I have raised previously. The context for the further concerns about the regulatory framework for claims farmers lies in the Government's plans for whiplash reform, as outlined in the Queen's Speech. The aim of that reform package is to crack down on,

"minor, exaggerated and fraudulent road traffic accident related soft tissue injury claims".

That quote is from my noble and learned friend Lord Keen of Elie in his foreword to the Government's consultation paper nearly a year ago.

Noble Lords expressed their dismay in Committee at the rich harvest of unsolicited and unwanted nuisance calls and texts, which Members of this House and millions of our fellow citizens continue to receive as I speak. I spoke previously about the need for every loophole to be closed and for a commitment that where there is a claim there is regulation.

5.45 pm

The first two of my amendments seek to close two loopholes: first, by extending the regulation of claims farmers to include those responsible for offering replacement vehicles on so-called credit hire; and, secondly, to those arranging medical reports. In reality, these two beasts of the field are involved in the claims process merely for what they can get out of it. While credit hire companies and medical reporting organisations both provide a service, they do so in an unregulated environment and, in particular, with no control on how much they can charge for their services. It cannot be right or fair that the reporting organisation should receive more remuneration for arranging the provision of a medical report than the doctor who is examining the claimant and then giving his or her professional opinion.

I am afraid that claimants for whiplash are treated as little more than a commodity—an entry ticket for commercial interests to gain access either to the damages they can recover or to the costs available to their lawyers. While I know that the Ministry of Justice's plans for whiplash reform will go a long way to address that last point, I would welcome any commitments my noble friend the Minister is able to give on what can be done about these regulatory gaps.

My final amendment seeks to require the FCA to impose a cap on the fees claims farmers can charge in personal injury claims. There are real concerns that the Government's plans will create an environment in which claims farmers offer claim-handling services to the public directly and are not too scrupulous about how much they charge. Of course, the Minister will say that the problem has not materialised yet. In a sense that is correct for we shall not know for certain that consumers are suffering until the whiplash reforms have been introduced, probably at the same time that the measures in Part 2 take effect. We can, however, confidently expect from all precedent that the opportunity to exploit consumers will not be passed up. Opponents of the proposed whiplash reforms will criticise anything that leaves claimants open to any exploitation not strictly controlled by the regulator.

It is far better in my experience to lock the figurative stable door while the horses are still in situ. I beg to move.

The Earl of Kinnoull: My Lords, I support these three amendments, to which my name was added after the Marshalled List was printed. I pay tribute to the clear introduction of the noble Lord, Lord Hunt.

In the debate on Amendment 24, the Minister talked about the framework element of the Bill. These amendments are three pieces of Meccano that should be added to the framework for the reasons I am about to deliver.

On the enabling provision in Amendment 39A, I looked at the Competition and Markets Authority private motor insurance report, which came out in September 2014. The data in the report was a year older so it is already four years old. The report suggests that in the sampling year 370,000 credit hires were done. It is a very big business. It estimated in paragraph 36 of the report that the detriment—that is, the overcharging by the credit hire companies—was then £84 million. That, essentially, is profit that goes to these sucking entities, which has to be paid by everyone through their motor insurance policies.

The report goes on at length about whether anything should be done about it. It said that, on balance, it is not quite enough money yet to do anything and, anyway, there is not a convenient Bill travelling through Parliament on which one could hang any framework. However, I can say from my experience in the insurance industry that things have moved on rapidly over the past four years. I do not know what the detriment is today because no one has been calculating it, but it is certainly a heck of a lot more than the £84 million that the CMA measured in 2013. Although the evidence base might not be quite there for the Government

[The Earl of Kinnoull]
to act, certainly the Meccano pieces of the framework should be put in place. That would be greatly to the benefit of us all and I can see no downside to it being done.

My logic is exactly the same when it comes to Amendment 39B. Unfortunately I have not had time to hunt around for some relevant statistics, but this area is also an incredibly profitable business for someone sucking money out of the insurance payments that are made. Ultimately, of course, it means that ordinary citizens have to pay higher insurance premiums. This is also a growing business and it is likely that there would be a strong evidence base for a regulator to do something pretty soon.

Amendment 39C, as the noble Lord, Lord Hunt, said, is slightly different. Some powers are already in place, but the insurance industry is concerned that the small claims track increase will mean that within small claims there is plenty of scope for customer detriment, which again is very bad. This is a free piece of Meccano that can be put in so that at some point in the future, if the evidence base is there, the Government will be able to move very swiftly to sort it out rather than having to wait. I note that it has taken three years since the Competition and Markets Authority report for a suitable Bill to come forward on which to hang these important amendments. I hope to hear good news from the Minister.

Lord Flight (Con): My Lords, I rise briefly to support the amendments in the name of my noble friend Lord Hunt. We all know what they address and we may have experienced these abuses. The existing law and regulations fail to address them, and it is time that they did so. As has just been pointed out by the noble Earl, this is an appropriate piece of legislation in which to include them. I hope very much that the Government will accept the amendments.

Lord Deben: My Lords, in the 19th century there were great battles over trying to insist that people properly labelled their products so that the public could make informed choices. I am afraid that our predecessors would put forward arguments that this was interference in one way or another, the time was not ripe and there was no suitable Bill. A series of reasons of that kind were given. When today we talk about physical things like tins of milk or packets of biscuits, we think it perfectly right that there is a framework of regulation which ensures that people are neither misled nor charged for things that are not what they claim to be. The difficulty is that, the moment we move into anything to do with financial matters, we find it hard to apply the same lessons we learnt to apply in the 19th century.

The reason why I beg my noble friend to take these points seriously is that the people now involved form a much larger group than had once been the case. In the past, this was the kind of issue which might have affected only people of substance, but the amendments brought forward by my noble friend would have a real effect on all those for whom this is a serious matter. I do not mean just those who are misled, but all the others who have to pay insurance premiums that have gone up because of those who were misled.

My noble friend knows how disappointed I was that she did not accept what I think was a reasonable amendment to insist that the cold calling which goes on in many of these areas should be made illegal. I know that she is hoping to find a way in which we might come back to the issue, and I hope she will, because the real truth is that these are popular measures. That is why I find it so difficult to understand why there is any pushback at all. It may be that the amendments are not quite right. Perhaps my noble friend Lord Hunt, brilliant though he is and being a lawyer of outstanding ability, has not quite got them right. However, the tenor or burden of the amendments is clearly right. It is important to put in place the Meccano which, although it may be a little out of date—my grandchildren are great putters-together of things, but they have moved on from Meccano—is an image that those of us of a certain age can recognise very clearly.

We should have in this Bill the ability to deal with these infringements of people's decent rights, and above all, to deal with things that make people lie. The most unhappy aspect of the failure of this Bill to make these protections much more widespread is that they would guard against activities which, in the end, lead people to lie. We have accepted that on whiplash, but we know that the activities will move on. My noble friend has rightly said that we need to put in place something that can be used to stop yet another move by these unscrupulous people. This House has a duty to stop them because of the people who suffer. They are not only those who are led astray; they are the entire public who see prices increasing. There are going to be a lot of price increases because of the Government's action on Brexit, so let us at least do something about the things that we can actually affect.

Lord Young of Cookham (Con): My Lords, the co-pilot is back in charge. Amendments 39A and 39B, moved by my noble friend Lord Hunt of Wirral, seek to include the arrangement of credit hire agreements and the commissioning of medical reports within the scope of claims management regulation. I am grateful to him for the powerful advocacy he put into moving his amendments and for the support he has received from the noble Earl, Lord Kinnoull, who underwrote—that may be the right expression to use—the amendment with a nostalgic reference to Meccano. I am also grateful to my noble friends Lord Flight and Lord Deben for their support. We will be coming to an amendment on cold calling in due course.

As I explained in Committee, I understand and sympathise with my noble friend's concerns, and I can see how these issues link with claims management activity. However, I would maintain that credit hire organisations and medical reporting organisations are not claims management companies as such, and therefore it does not automatically follow that they should be regulated in the same way as claims management companies or, indeed, by the same regulator. When the independent review of claims management regulation reported and recommended the transfer of claims management regulation to the FCA, it did not consider an extension of scope to the credit hire and medical reporting organisations which we are debating at the moment.

However, I want to be clear with noble Lords that the Government understand how important these issues are. That is why we are considering what more can be done on credit hire. We have identified this as an area of concern and we have specifically sought the views of stakeholders in the call for evidence in the section of the whiplash reform consultation that closed in January this year. I can assure my noble friend that the Government are actively continuing to work on these issues, and as a result of this debate I will certainly speak to my noble and learned friend Lord Keen of Elie and ask that his department prioritise and publish the second part of its consultation response, which will set out the Government's position on the issue raised in our debate today.

Similarly, and as I set out in Committee, good-quality medical evidence is central to the Government's whiplash reform programme. MedCo is working well and is providing both the Government and the relevant regulators with invaluable data on a number of important areas. However, medical reporting is much wider than just the provision of whiplash reports. Reports can be sought from and provided directly by individual specialists as well as by medical reporting organisations, and any regulation of this sector would need to be applied fairly to all those involved in it, not just to one component.

6 pm

I assure my noble friend that MedCo has taken, and continues to take, firm enforcement action against those claimant solicitors, medical experts and medical reporting organisations that breach the MedCo rules and the government policy that underpins them. That has resulted in many such organisations being suspended and/or removed from the system entirely because of their attempts to game the system. We will keep this sector under review and continue to work closely with MedCo to promptly identify and tackle any other bad behaviours as they arise.

CMCs are just part of this wider market. The Government agree with my noble friend that there could be scope for more formal regulation of these sectors, but adding the provision of credit hire services and medical evidence to regulated CMC functions is not the way to deal with it. These are specialised sectors and any regulation would need to be grounded in the appropriate expertise to deal with the particular challenges each sector poses. As credit hire organisations and medical reporting organisations are separate issues to those under consideration in the Bill—I identified the action that Government are taking on them—and, as they are being dealt with separately, I would urge my noble friend not to press the amendment.

I turn to my noble friend's Amendment 39C, which commanded support from all sides of the House. It seeks to extend the duty on the FCA to cap fees to include personal injury claims. I remind noble Lords that the duty on the FCA to cap fees—to protect consumers from being charged excessive fees—is specifically in relation to financial services claims for a good reason. As I explained in Committee, different types of CMCs manage claims in different ways. Those dealing with personal injury claims, such as holiday sickness claims, tend to focus on marketing activities. Those in the financial services claims sector, on the other hand, tend to represent clients all the way through the claim process. It is telling that, in 2015-16, 95% of consumer complaints about CMCs related to financial services claims, compared to only 2% that were related to personal injury.

However, I acknowledge the point made by a number of noble Lords that the market could change, particularly following our reforms in relation to whiplash. We understand that markets can change, which is why the FCA already has a broad power to restrict fees across the range of claims management services that it will regulate. The Government have worked closely with the FCA and relevant regulators in the personal injury sector while developing their whiplash reforms. That collaboration will continue as the work progresses, to ensure effective and appropriate controls are developed to underpin those reforms.

While changes might happen in relation to the personal injury CMC market in the future, it would not be right for the Government to impose now a requirement on the FCA to do something when we do not know the exact nature of the problem we are trying to tackle or, indeed, whether it will definitely exist. The FCA is aware of the Government's planned changes and the potential impacts they could have on the personal injury CMC market. It will be important for the FCA to consider the impact of government changes on the market and how CMCs operate before deciding whether to use its fee capping power. If, as noble Lords have suggested, further risks to consumers emerge in this market, the FCA already has a range of regulatory tools and powers at its disposal that will enable it to take swift, effective and proportionate action to deal with consumer harms. I will draw the FCA's attention to points that have been made in the debate.

I hope my noble friend will agree that it is too early to presume that there will need to be a fee cap for CMCs operating in the personal injury market, which has a different business model to financial services. I hope he agrees that the FCA is well placed to monitor and respond to any emerging risks. In light of that, I encourage him to withdraw his amendment.

Lord Hunt of Wirral: My Lords, I am very grateful to the noble Earl, Lord Kinnoull. I completely understand his reference to Meccano; I suppose it is easy to pretend that we have moved on, as the noble Lord, Lord Deben, said—advised, no doubt, by his grandchildren. I understand the point that there needs to be a structure; it is that about which I was hoping to persuade the Minister.

I am also very grateful to my noble friends Lord Flight and Lord Deben for their support. I sensed a feeling around the House that something needs to be done. Does the Minister understand that I have been gnawing away at this particular problem for over 10 years? I think it was the noble Baroness, Lady Ashton, who took through a Bill some considerable time ago that recognised the need to regulate claims management companies. Many examples were given then, many years ago, of how that represented a growing market. Looking around us today, particularly at holiday sickness claims, you suddenly realise that a new breed of companies

[Lord Hunt of Wirral]
are exploiting the admitted rights of individuals to compensation, but in return are demanding a share of that compensation. That has become the lifeblood of these claims management companies; and they keep changing. One moment, you impose a different form of regulation, then the next, you see that the companies have completely escaped any form of regulation.

It may well be that the Minister is right to look to the future with confidence, knowing that the Financial Conduct Authority will now be dealing with the problem. He is right to point out that the FCA has power under existing legislation. Perhaps we will see at last a reining in of these individuals, who have been feeding on the lifeblood of victims who cannot afford to allow part of their compensation to be siphoned off into a developing, stronger claims management company. In a way, I suppose my noble friend was saying that I have made a serious error of judgment in labelling them all as claims management companies. It may well be that they do not fit that description, but I think we all know what we are talking about when we refer to claims management companies. I call them claims farmers. I recently attended a conference where I was asked why I have this vendetta against claims farmers; I admitted that it is because they have no justification for what they do and for the way in which their business model has developed. The Minister has made a number of commitments—I can see him quickly checking his notes on what commitments I am referring to—and I sensed a considerable amount of sympathy for the point I was making. I want to reflect carefully on all the points.

The Earl of Kinnoull: I have here the report I referred to, from the Competition and Markets Authority. Paragraph 2.37 states:

"The range of services provided by CMCs can include … (d)"—

among other things—

"providing credit repair and credit hire for non-fault claimants".

In other words, as far as the CMA is concerned, claims management companies certainly include credit hire companies. In my bit of the industry—underwriting—we would absolutely think that they are part of the same thing. No one has objected to that. It is very clear throughout that section of the CMA report that they are one and the same.

Lord Hunt of Wirral: I am grateful to the noble Earl for making that important point. I do not necessarily want to speak on behalf of the Minister, but I sense that his response may be that other people do that work as well. We need to try to ensure that we fulfil my objective that where there is a claim, there should be regulation. There should be a structure whereby there is some control of the companies seeking to exploit the situations certain people who need to bring a claim find themselves in.

I will reflect carefully on all the points my noble friend the Minister raised, but this problem is not going to go away. I can see it increasing.

As I am already becoming aware, there is other legislation in respect of which claims managers are looking at new areas to fasten on to and exploit. We have to be prepared to deal with that in advance, rather than seek to catch up, as we have tried to do for the last 10 years. Let us move ahead. In the meantime, I thank my noble friend for all he has said and I beg leave to withdraw the amendment.

Amendment 39A withdrawn.

Amendments 39B and 39C not moved.

Amendment 40

Moved by ***Lord Kirkwood of Kirkhope***

40: After Clause 17, insert the following new Clause—

"Interim rules restricting charges for claims management services

(1) The Compensation Act 2006 is amended as follows.

(2) After section 5 (the regulator) insert—

"5A Power and duty of the regulator to make rules restricting charges for claims management services

(1) The power of the regulator to make rules includes the power to make rules prohibiting authorised persons from—

(a) entering into a specified regulated claims management agreement that provides for the payment by a person of charges which, taken with charges payable under an agreement treated by the rules as being connected with the regulated claims management agreement (if any), are specified charges, and

(b) imposing specified charges on a person in connection with the provision of a service which is, or which is provided in connection with, a specified regulated claims management activity.

(2) Within two months beginning with the day on which the Financial Guidance and Claims Act 2017 is passed, the regulator must make rules by virtue of subsection (1) in relation to all regulated claims management agreements, and all regulated claims management activities, which concern claims in relation to financial products or services.

(3) The rules must be made with a view to securing an appropriate degree of protection against excessive charges for the provision of a service which is, or which is provided in connection with, a regulated claims management activity.

(4) The rules may specify charges by reference to charges of a specified class or description, or by reference to charges which exceed, or are capable of exceeding, a specified amount.

(5) In relation to an agreement entered into, or charge imposed, in contravention of the rules, the rules may (amongst other things)—

(a) provide for the agreement, or obligation to pay the charge, to be unenforceable or unenforceable to a specified extent;

(b) provide for the recovery of amounts paid under the agreement or obligation;

(c) provide for the payment of compensation for any losses incurred as a result of paying amounts under the agreement or obligation.

(6) This section is repealed at the beginning of the day on which section 17 of the Financial Guidance and Claims Act 2017 (power of the FCA to make rules restricting charges for claims management services) is implemented by the FCA.""

Lord Kirkwood of Kirkhope: My Lords, I will move Amendment 40 on behalf of the noble Baroness, Lady Meacher, who regrets that she has had to leave the Chamber to attend to an unexpected and unforeseen

family problem. I can dispatch the amendment without taking up too much time. It is part of a process. As colleagues will see, it would insert a new clause to bring in interim rules restricting charges for claims management services.

The Government, through the FCA, are promoting public interest in completing applications for PPI claims. There is a public interest in that, and a lot of advertising encouraging people to do so, but as we heard in Committee, many people are being caught up in this and caused significant detriment as a result of the mis-selling of PPI. They are incurring fees of 30% or sometimes more when using a claims management company, when they could achieve the same thing by themselves directly from lenders without charge. Citizens Advice has advised that almost half of the problems and complaints relating to claims management concern disproportionate fees.

I have been involved only at the margins, but it should be acknowledged that the noble Baroness, Lady Meacher, has been working on this issue intensively with the Minister and her team. The noble Baroness, Lady Buscombe, has spent a lot of time trying to make sense of it. This is an interim but necessary measure. The amendment is part of a process and its purpose is to seek assurance that something could be brought forward at Third Reading, and that that is being worked on.

A lot of intensive work is being done, which is welcome, but during the gestation of the ideas currently in play, the noble Baroness, Lady Meacher, and I would like serious consideration to be given to the quantum of the cap we are talking about. One of the figures being considered is approximately 20% plus VAT. We can consider that in more detail at Third Reading, but it sounds quite high to the noble Baroness and me. There may be a technical reason why it has to be set at that level, but our plea in moving the amendment is for careful consideration to be given to the level at which the cap is set.

It has been suggested that if a company charges more than the cap allows under the amendment, that would not be a breach of statutory duty, but the excess only would be recoverable by the claimant. The mechanism is not clear and is difficult to understand. If the Minister can explain why an excess charge would not be a breach of statutory duty, I, as a provincial solicitor many years ago, would go to bed this evening in a happier place.

The process being undertaken by the ministerial team is acknowledged and welcome. On our side, we have had help from Lloyds Bank and Citizens Advice, but I hope the Minister can give us some welcome assurance on the process going in to Third Reading. This is a probing amendment, and anything he can say in that regard would be extremely helpful. I beg to move.

6.15 pm

Lord McKenzie of Luton: My Lords, we should be grateful to the noble Lord, Lord Kirkwood, for moving the amendment on behalf of the noble Baroness, Lady Meacher. If I understand the points he made it looks as though this will be another issue for us to consider on Third Reading, so I do not propose to dwell on it extensively. If that is not the case it will be good if the Minister tells us.

The thrust of the amendment is to try to get interim rules in place to put a cap on the charges levied, particularly relating to PPI as the ability to claim is coming to the end of its natural life. The noble Lord raised an interesting point on what the remedy would be when people exceed the cap. Will the Minister confirm that the route would be that the excess is recoverable by the claimant, rather than some other more direct remedy? I look forward to his reply.

Baroness Altmann: My Lords, I thank the noble Lord, Lord Kirkwood, for moving the amendment on behalf of the noble Baroness, Lady Meacher. I ask the Minister whether we have considered the issue, supported by a number of consumer groups, that I raised in Committee requiring a company that has been found to need to pay out on a claim to pay the claims management fee, rather than taking it out of the compensation. That should perhaps be more acceptable with a cap, but also more effective for those who receive compensation, as well as encouraging companies that have mis-sold something or perpetrated harm to the consumer to voluntarily contact consumers who have been harmed, rather than waiting for a claims management firm to do so on their behalf, thus saving them the extra cost of the claims management fee.

Lord Young of Cookham: My Lords, I join the noble Lord, Lord McKenzie, in thanking the noble Lord, Lord Kirkwood, for moving the amendment in the absence of the noble Baroness, Lady Meacher. We are sorry that she had to leave for family reasons. I again pay tribute to the work she has put into this amendment. She has pursued it with diligence.

The amendment seeks to put in place a fee cap from two months after Royal Assent until the FCA implements its own cap. We debated this in Committee. I am grateful to noble Lords who contributed to this debate for highlighting it again.

Clause 17 already makes great strides to secure fair and proportionate prices for consumers by giving the FCA a duty to cap fees charged for financial services claims. However, as a number of noble Lords pointed out in Committee, the implementation of a new regulatory regime and an effective, robust cap will necessarily take some time, during which consumers could continue to be charged disproportionate fees. In that debate, noble Lords expressed concerns that the FCA's PPI claims deadline may have passed by the time its fee cap is in place. That point was made by the noble Lord, Lord McKenzie. We already know that 90% of financial services claims relate to PPI and therefore we want to ensure that consumers are protected against excessive fees for PPI claims as soon as possible. That is why, as the noble Lord, Lord Kirkwood, anticipated with commendable foresight, the Government intend to table an amendment at Third Reading to introduce an interim fee cap in respect of PPI claims management services.

The amendment will set a fee cap at 20%, excluding VAT, of the claim value and will be enforced by relevant regulators on commencement two months after the Bill receives Royal Assent. The Claims Management Regulation Unit consulted on a 15% cap. The data that it collected on the costs to CMCs of processing

[LORD YOUNG OF COOKHAM]
claims and market analysis of profit margins resulted in proposals to introduce a 20% excluding VAT cap on claims management services. The amendment supports the Government's aim of ensuring that the claims management sector works in the interests of consumers by protecting them from excessive fees.

The amendment tabled by the noble Baroness, Lady Meacher, and moved by the noble Lord, Lord Kirkwood, would go some way towards ensuring that consumers are protected during this interim period. However, the government amendment will go further in two key areas. First, it will have a wider application than the amendment tabled by the noble Baroness. The interim fee cap will apply to both CMCs and legal services providers that carry out claims management services in relation to PPI claims, to be enforced by the relevant regulators.

Secondly, it will include in primary legislation a prohibition against charging more than 20% of the claim value for PPI claims, which will enable the regulators to implement the cap quickly. As I said a moment ago, this level was reached using the helpful and comprehensive responses to the Ministry of Justice's consultation on proposals to introduce a fee-capping regime for CMCs handling financial services claims.

On the procedure for claiming any excesses imposed over the cap, anyone in breach of the interim fee cap will be subject to regulatory enforcement, which could include fines. Furthermore, a contract to receive or pay a sum in excess of the fee cap would be unenforceable, thereby ensuring that firms cannot profit from their malpractice and that consumers are entitled to recover excessive fees.

My noble friend Lady Altmann raised a question about compensation. As we will revert to this issue at Third Reading, perhaps we could deal with it then.

I make it clear that the interim cap is intended to be a temporary measure and, as such, will apply only until the FCA has implemented its new rules under Clause 17. It will also apply only to PPI claims, whereas the FCA's cap will apply to all claims relating to financial products and services. We remain of the view that the FCA, as the incoming regulator, will be well placed to develop its own cap, or caps, based on an assessment of the market. Given the Government's undertaking to table an amendment on this matter at Third Reading, I hope that the noble Lord will feel able to withdraw the amendment.

Lord Kirkwood of Kirkhope: My Lords, I am very happy with that undertaking. I hope that the dialogue can continue and I beg leave to withdraw the amendment.

Amendment 40 withdrawn.

Amendment 41

Moved by ***Lord Holmes of Richmond***

41: After Clause 17, insert the following new Clause—

"Regulatory principles to be applied in respect of claims management services

(1) In relation to the regulation of claims management services, the FCA must act according to the principles that—

(a) authorised persons should act honestly, fairly and professionally in accordance with the best interests of consumers who are their clients; and

(b) authorised persons should manage conflicts of interest fairly, both between themselves and their clients, and between clients.

(2) In this section, "authorised person" has the same meaning as in the Financial Services and Markets Act 2000, and "authorised persons" shall be construed accordingly."

Lord Holmes of Richmond (Con): My Lords, being a member of the my noble friend Lord Hunt's flock in your Lordships' House, I am a bit concerned that if I overly push on Amendment 41, which comes hot on the heels of Amendment 39A, I, too, may be the victim of whiplash. We discussed many of the issues in Committee. I have brought back the amendment on Report so that I might push my noble friends who understand the timeline for bringing in a duty of care. My initial intention was to table an amendment placing a general duty of care on financial institutions; as a result of the scope of the Bill, a specific duty as set out in my amendment pertaining to CMCs is what we are discussing today.

I am grateful to all the organisations that helped with briefing for the amendment, not least Macmillan Cancer Support, which really demonstrates what a modern charity can do, not just focusing on the specific issue at the centre of its organisation but going wider to all the elements that directly affect people when they receive a cancer diagnosis. That is partly why I chose to focus on Macmillan and cancer in putting down this amendment. It goes to the heart of bringing to life why there is a need for a general duty of care to be exercised by financial services institutions, when one in two of us will receive a cancer diagnosis in our lifetime. This is not a marginal matter; it demonstrates that financial institutions not only have their current responsibilities and obligations but need that general duty of care.

The amendment deals specifically with CMCs. I push my noble friend the Minister to accept it and to give some further description building on comments that he made in Committee on the timeline for considering bringing forward and implementing a general duty of care, with the good offices of the FCA obviously involved—I am grateful to the FCA for meeting me to discuss this, not least Mr Christopher Woolard. I shall say no more; the arguments were put in Committee. I urge my noble friend to accept the amendment and beg to move.

Baroness Kramer (LD): My Lords, I congratulate the noble Lord, Lord Holmes of Richmond, on sticking with this issue, because it is fundamental. I say to the Government that a duty of care is so important and should be so central to every piece of our financial services industry that we should not let the perfect—having a general duty of care—be the enemy of the good, which is the opportunity to put a specific duty of care in this Bill. I hope the Government will consider that.

I have the privilege to be on the Parliamentary Commission on Banking Standards. As we sought to strengthen the framework of regulation and to expose a lot of misdirection within the financial services industry, I think everybody, not only on the committee

but far more broadly, agreed that the key problem lay in culture. We have turned to the banking and financial services industries and asked them through various bodies to improve their culture, but surely we also have a responsibility to drive that with every piece of legislation that comes our way. Duty of care reflects that whole-culture approach: the underlying, underpinning approach that we expect our financial services to take, where the interests of the customer are at the centre. It is not that the financial services should not be able to make profits—of course, that is the business they are in—but it should never be at the expense of that central interest of the client or customer.

I urge the Government to take seriously this opportunity in an area where there has been extraordinary abuse. I listened to the noble Lord, Lord Hunt of Wirral, for example; others talked about whiplash and issues around holiday sickness. In issue after issue, we have seen a complete failure in the culture of the bodies that provide such services. We should tackle that issue head on and not be afraid to use language that is clearly around that duty of care—not considering it too soft or too difficult—so that it becomes a general habit. I hope we will not rely just on general duties of care, because those can sometimes be imperfect, but will make sure that in every piece of financial services legislation this issue is underscored. In that, this legislation could be a leader.

Lord McKenzie of Luton: My Lords, like the noble Baroness, Lady Kramer, we have added our name to the amendment of the noble Lord, Lord Holmes of Richmond, which takes us back to regulatory principles and the duty of care.

The noble Lord is right to have removed the "where appropriate" qualification from his earlier amendment. The amendment deals with the regulation of claims management, although this is seen as an opportunity to debate the wider calls for a duty of care across the financial services piece.

On the narrower point, we acknowledge that in Committee the Minister gave assurances about the FCA consulting on the design of new rules for claims management companies and taking account of its statutory operational objectives, including an appropriate degree of protection for consumers. However, we note that there is no current alignment of the objectives of the CMRU and the FCA, and there seems to be no certainty about where this process will end up.

6.30 pm

On the wider issue of duty of care, we should note the recommendation of the House of Lords Select Committee on Financial Exclusion that the Financial Services and Markets Act should be amended to require the FCA to make rules that require financial services providers to exercise a reasonable duty of care towards their customers. The Financial Services Consumer Panel suggested that,

"a duty of care … would oblige providers of financial services to avoid conflicts of interest and act in the best interests of their customers".

According to Macmillan Cancer Support, a duty of care is supported by organisations including StepChange, the Financial Services Consumer Panel, the Money Advice Trust and the Consumer Council, to name but a few. I think we have all had the briefing from Macmillan which outlines how cancer can bring a real risk of financial hardship and the difference that, for example, providers of mortgages can make in helping individuals to manage periods of financial difficulty. But there will need to be a change in culture if individuals are to have the confidence to tell their bank about their diagnosis.

The Minister has told us that we will receive the Government's response to the Select Committee report before Third Reading. Are there any pearls that might be shared with us today, given the strong recommendations that it makes around duty of care?

Baroness Altmann: My Lords, I congratulate my noble friend Lord Holmes on persisting with the amendment. I support the need to make sure that regulated firms have this duty of care, especially in circumstances such as the diagnosis of cancer and other illnesses, from which people can recover but for which they need particular care during that period. While the Bill is going through the House, it would be excellent for the market if we were able to introduce measures of this nature, but I also look forward to hearing from my noble friend and seeing the Government's response before Third Reading.

Lord Young of Cookham: My Lords, I am grateful to my noble friend Lord Holmes for moving the amendment. He mentioned that he was a member of my flock. He displays exactly the right independence of thought tempered by loyalty to the party that any Whip could wish for. I am grateful to the noble Baroness, Lady Kramer, the noble Lord, Lord McKenzie, and my noble friend Lady Altmann for speaking to the amendment, which seeks to ensure that the FCA adheres to a set of regulatory principles in relation to acting in the best interest of consumers and managing conflicts of interest fairly. Noble Lords also raised the broader issue of duty of care, which is not mentioned specifically in the amendment but is obviously relevant. As noble Lords may remember, my noble friend tabled a similar amendment in Committee.

Aside from the provisions in general consumer law, the FCA already applies rules on firms conducting regulated activities in relation to their dealings with consumers. First, the FCA's rules set out in *Principles for Businesses* require firms to conduct their business,

"with due skill, care and diligence",

and to,

"pay due regard to the interests of … customers and treat them fairly".

Principle 8 sets out:

"A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client".

That accurately mirrors proposed new subsection 1(b) in the amendment, so there is a congruity of objective there.

Secondly, the rules on clients' best interests require a firm to act in its client's best interests across most regulated activities. The client's best interests rule states:

"A firm must act honestly, fairly and professionally in accordance with the best interests of its client".

[Lord Young of Cookham]
Again, those are exactly the words used in my noble friend's amendment, so there is no disagreement over objective.

Thirdly and finally, a number of FCA rules contain an obligation on firms to take "reasonable care" for certain activities. For example, one of the *Insurance: Conduct of Business* rules states:

"A firm must take reasonable care to ensure the suitability of its advice for any customer who is entitled to rely upon its judgment".

Those rules in the *FCA Handbook* are supplemented by more specific rules in various FCA sourcebooks. The FCA will be able to apply its existing *Principles for Businesses*, which I have just quoted, to claims management companies and to make any other sector-specific rules that may be necessary, under its existing objectives. The FCA supervises against these rules and other provisions and, where necessary, can take enforcement action against firms to secure appropriate consumer protection.

The FCA is of the view that its current regulatory toolkit is sufficient to enable it to fulfil its consumer protection objective. The FCA will consider the precise rules that apply to claims management services and how they fit together as an overall regime. In doing this, the FCA will take into account its statutory operational objectives, including its objective of securing an appropriate degree of protection for consumers. It will also consult publicly on its proposed rules.

Turning to the broader issue of duty of care, the noble Lord, Lord McKenzie, asked whether there were any pearls. I think the oyster is still at work so the pearls are not available for display this evening. The words "duty of care" mean different things to different people and the precise scope and content of any proposed duty of care are uncertain. The impact of a duty of care obligation needs to be fully considered, as do the cost, complexity and time that might be involved in customers seeking to bring firms to court as a result of a duty of care obligation.

I was asked to say something about the timescale of the work on this. A duty of care could have an effect on many of the FCA's provisions in its handbook, including the need to replace or remove some. The FCA intends to undertake a comprehensive review of the handbook post Brexit. The FCA believes that it would be best to include duty of care in that review, particularly as the FCA's ability to change its rules in some areas will depend on the relationship between the EU and UK post withdrawal. Many of the FCA's current rules are based on EU legislation. Once the relationship between the EU and the UK following withdrawal is clear, there will be more clarity around the degree of discretion that the FCA has to amend its rules.

In addition, the FCA is currently identifying the necessary changes to its rules to ensure that they continue to operate as a coherent set of rules following EU withdrawal. This work is being done in parallel with the work across government to review directly applicable EU legislation. It is a significant, complex and time-critical exercise that must be progressed immediately. If noble Lords have any concerns about the timing of the discussion paper, that is primarily a matter for the FCA.

Returning to the amendment, it is not necessary to include regulatory principles in the Bill because of the provisions the FCA already has. For that reason, I would request—or suggest—to my noble friend Lord Holmes that he withdraw his amendment.

Lord Holmes of Richmond: I thank all noble Lords who have participated in this short debate, and my noble friend the Minister, from whom I am happy to take requests and suggestions in equal measure.

I imagine my noble friend has become far more familiar with the rulebook than he could have imagined or perhaps even desired. I agree with the rules he recited but there seems to be a slight contradiction in that the rules are clearly stated but simultaneously it is accepted by all concerned, not least the FCA, that there is at least a question worth asking and looking into around duty of care. I think we are in a positive place: there is an acceptance that there is at least a question that is worth looking into.

In financial services there is a lot of talk around the acronyms, as in any business or organisation. There is a lot of focus on KYC—"Know your customer". May I suggest that, rather than promoting just KYC, all noble Lords involved in this debate and everybody outside the Chamber should also promote alongside it CFYC? That would take financial services into a very positive place for the future, as that "Care for your customer" is where banking originated centuries ago. It would be a thoroughly good thing for all financial services organisations to have a sense of CFYC.

On the amendment itself, I have heard my noble friend's arguments and I understand the position. It would be helpful to have further discussions between now and Third Reading, to see what specifics it may be possible to set out in regard to this amendment. We may have had the answer on the general duty for this stage but it would be worth while having more discussions, not least because we are promised the response to the report of the Financial Exclusion Select Committee, of which I was fortunate enough to be a member. I would welcome further discussions and we could then decide what the route may be to Third Reading. But in thanking all noble Lords who have participated this evening, including my noble friend the Minister, at this stage I beg leave to withdraw the amendment.

Amendment 41 withdrawn.

Amendment 42

Moved by ***Lord Sharkey***

42: After Clause 17, insert the following new Clause—

"Ban on unsolicited real-time direct approaches by, on behalf of, or for the benefit of companies carrying out claims management services and a ban on the use by claims management companies of data obtained by such methods

(1) The FCA must, within the period of six months beginning with the day on which this Act comes into force, introduce bans on—

(a) unsolicited real-time direct approaches to members of the public carried out by whatever means, digital or otherwise, by, on behalf of, or for the benefit of companies carrying out claims management services or their agents or representatives,

(b) the use for any purpose of any data by companies carrying out claims management services, their agents or representatives where they cannot demonstrate to the satisfaction of the FCA that this data does not arise from any unsolicited real-time direct approach to members of the public carried out by whatever means, digital or otherwise.

(2) The FCA must fix the appropriate penalties for breaches of subsection (1)(a) and (b) above."

Lord Sharkey: My Lords, Amendment 42 is in my name and those of the noble Baroness, Lady Altmann, and the noble Earl, Lord Kinnoull. Given our extensive discussions of cold calling at every stage of the Bill, I can be brief.

This amendment would require the FCA to ban cold calling for claims management companies. Critically, it would also ban the use by these companies of any data obtained by cold calling. Together, these provisions would make cold calling for CMCs illegal and cut off the revenue stream to cold callers, by preventing CMCs using their data. The amendment would also allow the FCA to set the appropriate penalties for any breach of either of these bans. The bans would come into effect with the passing of this Bill—in other words, fairly soon. I will not rehearse here the manifest evils and dangers of cold calling, either in general or for CMCs in particular, but I will just mention that the disgraceful whiplash and holiday sickness scams are a prime and continuing example of why cold calling for CMCs remains an active and current problem. There will inevitably be another scam along any time soon.

We discussed all this at some length last Tuesday, when the House showed the strength of its dislike and disapproval of cold calling, not for the first time and from all sides. The House voted by a large majority last Tuesday to enable a ban on all types of cold calling where consumer detriment could be shown. During the debate that led up to that vote, the Minister pointed out that our proposed mechanism for banning cold calling involved quite a lengthy process. She went on to make a generous offer to do something about cold calling for CMCs faster than our amendments would allow. The Minister said:

"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".

She also proposed to bring forward a government amendment in the other place to meet the concerns of the House. Towards the end of her speech on the issue, the Minister said:

"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".—[*Official Report*, 24/10/17; cols. 861-63.]

6.45 pm

I hope that the Minister's promise remains open. It would be extremely disappointing and very odd if it were now to be withdrawn. If the Minister intends to withdraw this timely and welcome promise, I hope she will tell the House why, and explain why a problem she saw clearly as requiring urgent action last Tuesday no longer requires it this Tuesday. It really is hard to see how this would make any sense, or be seen as fair or reasonable. The Minister could of course accept the amendment before us as a way of doing by other means what she promised last Tuesday. But one way or the other, it is time that we put a speedy and definitive end to these flagrant and damaging abuses. I beg to move.

Baroness Altmann: My Lords, briefly, I support this amendment as well. Cold calling and other unsolicited approaches are a growing nuisance. I have not come across a group pushing to stop the Government from banning these cold calls. Direct marketing to people's home phones or personal mobiles surely has no place in modern business practice. Leaving responsibility for a ban to Ofcom and the ICO is simply not an effective strategy. It clearly is not working.

The measures in Amendment 42, which has been deliberately and carefully crafted by the noble Lord, Lord Sharkey, supported by the noble Earl, Lord Kinnoull, are designed to prevent the cold calls rather than trying to catch cold callers afterwards, once they have already plagued the public. If firms engage in unsolicited approaches to encourage consumers to make claims which may or may not be valid, using the data thereby obtained would also be an offence. We could finally tell the public that any people who call them out of the blue, or contact them in some unsolicited way, are breaking the law; they should therefore not engage with them.

This provision would not stop claims management companies advertising broadly to offer claims management services, but it would help to stop the speculative nuisance calls, texts or emails which are plaguing millions of British people so frequently. The crucial additional power would be the role of the FCA. Using the regulator and forcing firms to demonstrate, if challenged, that they have not obtained business as a result of leads from cold calls would then mean that they would be at risk of losing their licence. It would be a much more effective strategy to stop the cold calls in the first place. I welcomed my noble friend Lady Buscombe's words during our previous day on Report, which promised that there would indeed be some action from the Government in another place. I hope that we will get broad reassurance on those points in tonight's debate.

The Earl of Kinnoull: My Lords, I will be very brief indeed, as we have heard two very clear and good speeches from the noble Lord, Lord Sharkey, and the noble Baroness, Lady Altmann. The first point I made at Second Reading was on the importance of maintaining access to justice for our citizens. The point I make now is that I see nothing in Amendment 42 which in any way fetters access to justice. I see only good features of it, and I very much hope that we will hear good news from the Government in due course.

Lord Stevenson of Balmacara: My Lords, I too support this amendment, which we discussed earlier and which I think has been re-presented in the expectation that it will commend itself to Ministers, and in the hope that they will look kindly at it. It is absolutely right to consider these cold-calling activities as one of the greatest nuisances of the modern age. Indeed, the Minister herself admitted that they had led her to give

[Lord Stevenson of Balmacara]
up her landline so that she could not be persecuted. But that does not seem to stop them; they just find your mobile phone and get on to that as well, using texts and other means. I cannot wait until they start using drones and other things to deliver their messages in the hand. Maybe at that stage we would have the Government on our side, as they might recognise aerial bombardment as taking it a step too far.

But at the heart of this is the question of trust. The noble Baroness was extremely persuasive on an earlier amendment in suggesting that she could be trusted and was a person of trust. Her work with all of us around the House—we have all had a chance to talk to her about issues of interest to us—can be seen in the amendments that she laid herself and the support she has given to other amendments coming forward. Here is a classic: she gave a commitment at an earlier stage, admittedly in slightly different circumstances, to bring something forward. She let slip that the civil servants are already working on it, which suggests that a great deal of activity has probably gone on around Parliament and departments, because she would not have mentioned it if she did not have some confidence that what was being proposed could have been seen and agreed by other Ministers who have an interest in this area. So I suspect that things are well primed. I do not like defence or guns in metaphors, but if the gun has been so charged and so primed, it seems rather odd that it has been left in a loaded position somewhere close to her office not being used. Trust is something we want to see exercised in practice, and I look forward to hearing the noble Baroness's comments.

Baroness Buscombe: That is quite an interesting one: any gun should be locked in a cabinet. The amendment tabled by the noble Lord, Lord Sharkey, my noble friend Lady Altmann and the noble Earl, Lord Kinnoull, seeks to ban "unsolicited direct approaches" such as phone calls,

"by, on behalf of, or for the benefit of companies",

providing claims management services. It also seeks to prevent these companies using data obtained through the use of such methods.

I have spoken previously about the significant steps taken by the Government to address these issues. We have increased the amount that regulators can fine those breaching direct-marketing rules. We have forced companies to display their number when calling you. As we have previously discussed in your Lordships' House, cold calling is already illegal in certain circumstances, such as where a person has registered with the Telephone Preference Service or has already withdrawn consent.

The Information Commissioner's Office enforces restrictions on unsolicited direct marketing. The Data Protection Act 1998 requires organisations to process data fairly and lawfully. Organisations must: first, have legitimate grounds for collecting and using personal data; secondly, not use the data in ways that have unjustified adverse effects on the individuals concerned; and, thirdly, handle people's personal data only in ways they would reasonably expect. A serious contravention of the data protection principles could result in a monetary penalty notice being issued by the Information Commissioner. Depending on the circumstances, this could include a CMC which sought to use data that it had originally obtained through unlawful means.

However, we have listened carefully to the views of your Lordships' House and fully agree that more needs to be done to tackle the prevalence of nuisance calls across the UK. As I previously explained, there are complex issues to work through, including those relating to EU directives. But I can reassure your Lordships' House that the Government are working through the details of a cold-calling ban in relation to the claims management industry. To that end, I am pleased to say that I revisit the offer made in your Lordships' House last week and repeat that the Government intend to bring forward an amendment in the other place to meet the concerns of this House. This amendment will look to ensure that the onus is no longer on the consumer to opt out of marketing calls.

Unfortunately, the amendment tabled by noble Lords would give the FCA a duty it cannot enforce under its current regime. I assure noble Lords that the Government are committed to tackling this issue properly and will consult with the FCA, the CMRU and the ICO to ensure that the government amendment addresses these issues in the most effective way. But if Amendment 42 were accepted, it would not achieve its aim. For these reasons, I urge the noble Lord to withdraw the amendment.

Lord Sharkey: My Lords, I thank all noble Lords who have spoken in this brief debate, but especially the Minister for what she has just said to the House. There is only one possible response to what she said, which is to say thank you and to withdraw the amendment.

Amendment 42 withdrawn.

Clause 18: Extent

Amendment 43

Moved by ***The Earl of Kinnoull***

43: Clause 18, page 15, line 27, at end insert "and Scotland."

The Earl of Kinnoull: My Lords, we are on the home leg. In moving Amendment 43, I shall speak also to Amendment 46. I am reporting back the same two amendments that we discussed in Committee, and your Lordships will be delighted to hear that my remarks will be very short. Before I make them, I should say that the Minister is now a great hero of mine. I remarked that he was sending me emails at 7.21 am during Committee stage, but he takes a bit of a lie-in these days: his first email to me this morning was at 8.20 am. He has worked with terrific courtesy, particularly on this issue, which is a very difficult one given the poor state of relations between our Parliament and Holyrood. It will be very helpful, because working on this is greatly to the benefit of people both sides of the border.

Your Lordships will recall that I had two beefs with the law as it is. The first is my beef about arbitrage: companies can set up in unregulated Scotland and aim their activities at England. I felt that any form of arbitrage within the United Kingdom was against the general principle of having a single market in the United Kingdom and was wrong. The second beef I

had was that as one looked at the statistics—we have drowned in really depressing statistics in this area—one saw that Scotland had it worse than England in terms of the activities of these very unpleasant companies. So I thought it was time for Scotland to do something about it. The Justice Committee at Holyrood has been studying the problem and feels the same—we had various quotes from various Scottish Ministers feeling that.

I should also say that this is another piece of Meccano, because the trigger in my mechanism would actually be held by Scottish Ministers. Tantalisingly, the good news is that last night a letter surfaced that was being sent by Annabelle Ewing, the relevant Scottish Minister, to the Justice Committee at Holyrood, saying that the Scottish Government were now keen to regulate CMCs in Scotland and that officials were in active discussions with equivalent officials down south to do that. Accordingly, I am hoping that in a minute we will hear some very good news from the Minister. I do not know what happened next, but he does. I beg to move Amendment 43.

Lord Young of Cookham: My Lords, the end is in sight. I am very grateful to the noble Earl, Lord Kinnoull, for his amendment and for the kind words he said about me. It has been a very constructive dialogue to seek to get this bit of the Bill right.

The amendments in his name seek to extend Part 2 of the Bill to Scotland. As noble Lords will be aware, the Government worked closely with the Scottish Government during the development of this policy to ensure that the FCA's regulatory regime not only achieves the aim of strengthening claims management regulation but is proportionate to the needs of the sector and its consumers. Having sufficient evidence of malpractice by CMCs in Scotland is essential to justify extending regulation across the border. Our initial discussions with the Scottish Government revealed that they did not want regulation of CMCs to be extended to Scotland. Their view was that there was limited evidence of malpractice. We had powerful contributions in our debate in Committee which put forward a contrary view.

Because CMCs in Scotland have tended to be solicitor led, they are often regulated by the Law Society of Scotland. The decision was therefore made to replicate the current scope of claims management regulation to England and Wales only. However, following the very useful debate which we had on this issue in Committee, we have continued discussions with the Scottish Government, and their views are evolving.

The Scottish Government have not yet requested that claims management regulation is extended to Scotland, but I say to the noble Earl that, should we receive ministerial confirmation that the Scottish Government wish to extend claims management regulation to Scotland, we would be ready and willing to table a government amendment to that effect. So we will continue to engage with the Scottish Government and we will keep our position on claims management regulation in Scotland under review.

7 pm

On the issue of arbitrage, under the current regulatory regime the requirement to be authorised is not dependent on where the CMC is located but on where it carries out the regulated service—for example, a CMC based abroad will still be regulated for the services that it provides in England and Wales. We intend to replicate this approach as far as possible under the new regime.

It seems churlish to end by noting that the amendments tabled by the noble Earl would not have the effect of extending FCA regulation of claims management to Scotland; they would amend only the extent of the claims management provisions and would not amend the regulation to encompass claims management services provided to consumers in Scotland. Given that somewhat technical objection but, more importantly, against a background of the ongoing conversations with the Scottish Government, I hope that the noble Earl will feel able to withdraw the amendment.

The Earl of Kinnoull: I thank the Minister for his typically courteous and thorough response. It is incredibly important that the discussions that are currently taking place between UK and Scottish officials progress. I think I am right in saying that what I have heard gives us more than sufficient proof that that is the case and that both Ministers here today have their shoulders behind this one—because it is a very important feature. On that basis, I beg leave to withdraw the amendment.

Amendment 43 withdrawn.

Clause 19: Commencement

Amendments 44 and 45

Moved by ***Baroness Buscombe***

44: Clause 19, page 16, line 11, after "11" insert "and section (FCA general rules: information about the availability of guidance)"

45: Clause 19, page 16, line 12, after "11" insert ", section (FCA general rules: information about the availability of guidance)"

Amendments 44 and 45 agreed.

Amendment 46 not moved.

Railways: Reliability

Question for Short Debate

7.03 pm

Asked by ***Baroness Randerson***

To ask Her Majesty's Government what measures they intend to take to improve the reliability of railway services.

Baroness Randerson (LD): My Lords, with perfect timing, the Rail Delivery Group published a report yesterday that seeks to address all the key issues that I had in mind when tabling this topic for debate. Our railways are under severe pressure but I do not support the renationalisation of the railways. They say that if you can remember the 1960s, then you were not there. Well, if you think the answer to the problems of our rail system is to bring back British Rail, you probably did not use it when it existed.

There has been enormous change in our rail system in the years since the introduction of franchises in the mid-1990s, when passenger numbers and revenue were falling. The number of people travelling by rail has effectively doubled. We have the most rapidly expanding railways in the world, while elsewhere in Europe railways

[Baroness Randerson]
are in decline. Anyway, we already own most of the rail system via Network Rail. The Government also set the terms and conditions for franchise operators and regulate the fare structure.

However,passenger satisfaction is falling—down to 81% last autumn, especially among commuters. Poor perceptions deter people from using the railways despite intense congestion on the roads. Recently passenger numbers have fallen back slightly, which is possibly a sign of a crisis of trust among passengers, too many of whom are plain angry. A network built in the 19th century, and neglected and partially dismantled in the latter half of the 20th, is now creaking at the seams. It needs modernisation, much better maintenance and expansion. All these problems affect reliability and punctuality, which is down from 91% to 89% in the last four years, and the Government are not proving good at tackling any of these factors.

Even the easy bits to modernise within the current system, such as the franchise model, the ticketing system and the complaints system, have not been energetically tackled. The headline measures of passenger satisfaction and performance used by the rail industry do not reflect real-life experience and underestimate punctuality and reliability problems. For instance, a long-distance train can arrive almost 10 minutes late and still not be considered to be delayed, so definitions of "on time" are, at the least, generous. I was pleased to see that yesterday's report attempted to tackle that in future plans, but currently the system positively encourages train operators to skip stations in order to make up time and avoid a late arrival at the final destination.

Then there is the process of applying for compensation. The system remains too complex. In the last two weeks I have made eight separate railway journeys and, sadly, only two of them have been without delay, disruption or cancellation. Okay, I have hit a bad patch, but it took me an hour and five phone calls to make one compensation claim—and I think I understand the system. Why is it that six out of 17 railway companies will accept compensation claims via third-party apps but the rest refuse to do so? This would make it simpler for passengers wishing to claim. We need a single standardised form, leaflets available at the gate on arrival and on the train, and announcements on the train to make all passengers aware of their rights. Is it any wonder that at the moment, only one-third of eligible passengers claim compensation, and £100 million a year goes unclaimed?

The ticketing system needs modernising and simplifying. When I put my usual journey into the website each week it comes up with nine options, and that is at one point in time and for a specific timetable slot. Factor in advance-tickets and those people savvy enough to artificially divide their journey by buying two tickets for a single trip, and you have an unfriendly and, frankly, ridiculous system—all the more unacceptable because it is the most expensive in Europe.

I read yesterday's report very carefully. Although the rail industry says it can create a simpler structure, it puts the ball very firmly in the Government's court. Next January, passengers who are already under strain because wages have not kept pace with rising inflation will face above-inflation fare rises. The Government should step in, as they have done year after year with the fuel duty escalator, and freeze rail fares this year while the system is reformed. The modernisation of the ticketing system was promised a long time ago, but very little progress has been made so far with electronic and smart ticketing. I welcome the commitment in yesterday's report to tackle this issue, but we are still talking about limited improvement.

Too frequently trains are desperately overcrowded, a victim of their own success. This discourages passengers and reduces punctuality. Add to this the fact that many of our existing lines are full and there are simply no more slots available. We need more consumer-friendly franchises and more emphasis on things that passengers value most highly, such as flexibility. Devolution seems to be popular with DfT and Network Rail. I strongly support that but, for the concept to be meaningful, local authorities should be able to bid for franchises designed around the needs of their citizens and the local economy.

Yesterday, the rail industry pledged major improvements to the network, with extra services and new carriages. But there is a big gap between the investment needed—on the east coast main line and the trans-Pennine routes, for example—and what the Government have committed to.

We on these Benches support HS2 because existing lines are full, but it will not be ready until the mid-2030s, so what about the upgrades and repairs needed now to the existing lines serving those cities? They are desperately in need of maintenance and repair.

The Government's approach to electrification is confused and incoherent. Cardiff to Swansea, Oxenholme to Windermere and midland main line are all cancelled. I agree that Network Rail has to improve its performance, but instead of taking action to deal with that, the Government simply seem to have given it less to do. I fear that we will end up with a patchwork approach of bi-mode trains switching mid-journey from electric to diesel. They cost more to buy, and it is obviously less fuel efficient to carry a spare diesel engine around. It will soon be unacceptable to run diesel engines on city centre roads, so why is it okay to be planning to have diesel trains in the future?

Despite recent promises of increased government funds and private investment, there is still a shortfall at the end of this control period. The industry needs an end to the feast-and-famine approach to investment cycles, with more certainty and a longer term view. Without this, our overstretched rail infrastructure will fail increasingly frequently.

In the economic uncertainty we now face as a country, the railways are a core part of joining up our country once again. So we need ambitious investment, particularly in the parts of the country that have been neglected for too long. Are the Government far-sighted enough to do it? So far, we have seen little sign of it. I welcome this evening the Minister to her new role and I look forward to her response.

7.13 pm

Lord Patten (Con): I hope I will not alarm the noble Baroness too much if I say that I agree very much with what she said. I also rise with some temerity to speak before the noble Lord, Lord Snape, who knows so much more about railways that I ever will. I well remember as a very green new Member meeting him on my first night in another place in the Strangers' Bar, when he asked me what I did. I 'fessed up to what I did, and asked him, "What do you do?". He said, "I used to be with the NUR". "What's that?", I asked. He said, "It stands for no use rushing". I am sure that he remembers it as well as I do.

Before punctuality and reliability, connectivity comes to my mind, and the ease of finding stations and lines alike. This remains a great problem for many of our people, often still because of the closures for ever written against the name of Dr Beeching, whether fairly or unfairly, who in the late 1950s and early 1960s, helped by a supporting cast of experts, forecast the coming decline of our railways, which, of course, never happened.

Now, rather, there is pressure to reinvent passenger connectivity by reopening old lines, often by micromanagement. After some 50 years, for example, there has been the recent reopening in 2015 of links between two stations in Yeovil in Somerset, which are almost adjacent to each other, thus giving back local and welcome connectivity to Westbury and Weymouth. It is a little move but much welcomed locally.

On a larger scale we have the north-western powerhouse which may well soon be stimulated a bit by the north-south grand project of HS2, but in Lancashire, I am told there are groups pressing for more localised east-west reopenings or electrifications to bring back connectivity locally as well. That said, I am a very strong supporter of privately run railway operating companies. In saying that, I know that I may well be an endangered species. I think it is right, but I also recognise that they have a big responsibility to do better over reliability and timeliness, as do Her Majesty's Government in writing new line contracts and renewal of contracts for franchises on our creaking railway infrastructure.

My weekly commute is on the Exeter-Waterloo so-called main line that is one of the mercifully few that still has substantial lengths of single track railway with attendant passing places—too often in my experience true loops of doom. Passengers, I know, long to have back the time in their lives that they have sat near Salisbury in the dreaded Tisbury loop—a kind of railway Bermuda Triangle in my experience. It is a black hole waiting for the delayed up or down train to pass, held up successively by maybe the wrong kind of leaves, the wrong kind of ice, or—once, late at night, it being dairy country—the wrong kind of heifers on the line.

There is no solution to this sort of thing from HMG. I am sorry to land these thoughts with my noble friend in her early outings on the Front Bench. The franchise was switched from the boringly named old South West Trains to the new, exciting and snappily named South Western Railway just last month. I went into it in some detail and it turns out to be a Sino-British outfit, promising in its franchise bid if successful, among much else,

"improved service frequencies and quicker journey times".

I quote what it promised exactly.

Do Her Majesty's Government have a well enough written contract with the means to claw back the franchise if these promises are not kept? I hope that they have, and I seek reassurances, not necessarily tonight, but in writing from my noble friend the Minister whom I am so pleased to see on the Front Bench.

The dualling of the whole of the Exeter-Waterloo railway is vital to the economic growth and social cohesion of the south-west, but in the meantime, it will be a Sino-British management failure if these promises are not kept. Above all else, it will be a central government failure if, together with the railway industry, and the new rail delivery group, we do not hammer out something that is more relevant to passengers than the currently imperfect public performance measure, rather concentrating much more, as the noble Baroness, Lady Randerson, said in her most interesting speech, on an "on time", or as some would prefer a "right time" metric, measuring real performance.

I am sure that this will be a central issue for the new pan-industry Rail Delivery Group, set up so recently to represent private companies and the publicly owned Railtrack, to stress their public-private partnership. I hope that this will not be just a spokesperson-driven lobbying group, blaming the wrong kind of Brexit on the line, or whatever, but I particularly welcome the proposal to have a rail complaints ombudsman by the summer of 2018. I regard that as of fundamental importance. I hope that she or he will be truly independent and have teeth. I hope that the Rail Delivery Group will be circulating all noble Lords with details of where to raise issues, if they emerge. I shall certainly while away the time when stranded in the Tisbury loop by composing my thoughts.

7.19 pm

Lord Snape (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Patten. I cannot say that I actually remember the conversation in the Strangers' Bar all those years ago to which he referred. It seems to be a much more exciting place these days from what I read in the newspapers. There is not very much discussion of the railway industry there now.

I am grateful, too, to the noble Baroness for the opportunity of speaking in the debate tonight. We like complaining about our railways. The noble Baroness talked about the PPM, as did the noble Lord, Lord Patten, and the fact that trains that arrive 10 minutes late are theoretically on time. The problem with changing the system—I speak with some degree of operating experience—is that there is no such thing as an on-time arrival. If every train runs on time, it means that the person in the wheelchair does not get on at the last minute and neither does the elderly gentleman who is not quite as fast on his feet as he used to be. We will see the failings of trying to run trains exactly on time when the new Thameslink service starts, on which there will be a two-minute headway. The first driver who inadvertently releases the driver safety device and brings his train to a stand will paralyse the railway for the rest of the afternoon. Human nature being what it is, that may well happen.

The noble Baroness started off by saying that only 81%—I wrote it down—of railway passengers were happy with their journey. A lot of retail organisations

[LORD SNAPE]
in this country would be more than happy if 81% of their customers expressed such satisfaction. If any of us left the Chamber now, we could pretty well guarantee being able to get one of three trains an hour to Birmingham, which would arrive in around 90 minutes, or three trains an hour to Manchester, which would arrive in two hours and 10 or 15 minutes. I do not know any other method of surface transport in the United Kingdom that could match that, whether or not those trains were up to 10 minutes late and declared to be on time when they arrived. The coach industry does not run timetables to the same times as the rail industry. When it comes to swift and on-time journeys, it is difficult to find a system of surface transport that matches the railway industry.

I shall return for a moment to the sojourn of the noble Lord, Lord Patten, in the Tisbury loop. During my time on the railway, that line was regarded as one of the southern region's premier lines. It was singled when the railway industry was suffering from the 12-monthly financial arrangements laid down by Her Majesty's Treasury. When the halcyon days come and the railway industry returns to being a nationalised one, I am sure that we will not return to that; there will be plenty of money, the Tisbury loop will be extended, and the double track between Waterloo and the south-west of England will presumably be restored—but I would not risk much money on that. I have to tell him that the Tisbury loop was added only comparatively recently. I do not know where he spent his time before it was installed, but timekeeping was a lot worse.

I wish to draw the attention of your Lordships' House to a couple of matters that are slightly off the beaten track—no pun intended. Certain matters affect punctuality on our railway industry that Network Rail and the train operating companies do not have much power to correct. The first is the number of bridge bashes, when heavy goods vehicles hit bridges. The latest statistics are for about 10 months in 2016-17, in which there were 1,753 such incidents. It is difficult to know what else Network Rail can do to prevent those bridge strikes. It paints the bridges, puts up signs that say "Low bridge ahead", prints the heights of the bridges on the signs, and often puts metal girders underneath the bridges to prevent damage to the bridge structures themselves. Yet almost 2,000 heavy goods vehicles hit those bridges every year. As ever, it is Network Rail or the taxpayer that picks up the bill, and the passengers who suffer delays.

It is scandalous that bridge strikes occur with such monotonous regularity. The road haulage industry ought to be held to account if we are to prevent them. The average delay is around two hours, and the cost of the repairs and delays over a year is about £23 million, according to Network Rail—all paid by the taxpayer, not the road haulage industry. But we are not talking just about delay to passengers, serious though that is, because bridge strikes are dangerous. Sooner or later, one of those 2,000 bridge strikes that takes place every year will displace the railway track above the road network. I need hardly overemphasise the danger that that would cause to a train travelling at a maximum speed of 125 miles an hour. I hope that the Minister will persuade her department to hold proper talks with the road haulage industry to see what can be done to prevent, or at least reduce dramatically, the number of bridge strikes.

Not all road hauliers shrug their shoulders, but the sad thing is that Network Rail estimates that over 50% of drivers of heavy goods vehicles do not know the height of the vehicle that they are driving. With the exception of three major companies—Stobart, Wincanton and DHL, all of which insist that their drivers know the weight and height of their vehicle before they leave—the road haulage industry as a whole appears not to take any great interest in such matters. Perhaps if it was forced to pick up the bill and a few serious prosecutions followed, it might do so.

The other matter that I want to raise in the next 30 seconds is the number of suicides on our railway, which again cause enormous delay to passengers as well as great suffering to the relatives of those involved. There were 252 suicides in the last year for which statistics were available on our mainline railways, amounting to 400,000 minutes of delay. I am not callous enough to say that no action should be taken when a suicide occurs. I saw my first one as a 16 year-old when I worked for the railway. In those slightly more cavalier days—that is the wrong term, but I cannot think of a more appropriate one—the stationmaster or appropriate officer covered the corpse with a tarpaulin and trains passed at reduced speed. Last week, there was a suicide at Harrow and Wealdstone. There are six tracks through it, all of which were closed for up to four hours following that suicide. Thousands of people using Euston station suffered delay. Again, perhaps the Minister could raise that with Network Rail. Its procedures, which I obviously cannot go into because of time, are far too protracted and ought to be speeded up.

7.27 pm

Lord Greaves (LD): My Lords, I congratulate my noble friend Lady Randerson on introducing this short debate. Unlike previous speakers, who have talked about the whole country—and the Tisbury loop—I want to talk about just one example in Lancashire, on eight miles of track and serving three stations. These are the Northern local services from Preston to Colne, notably those to the last three stations on the line, Brierfield, Nelson and Colne in the borough of Pendle. The problem is the number of trains that simply do not turn up.

In addition to all the ordinary reasons for that, such as staff not turning up, the problem is that, from where it leaves the main line over to Yorkshire at Gannow Junction in Burnley, the line is just an eight-mile-long single-track siding that ends in the buffers at Colne station. There is one train an hour. If a train to Colne is late or if the previous train was late and is still blocking the siding, the train turns back at Burnley. Passengers are left on the platform at Colne, Nelson and Brierfield, and incoming passengers from the Preston and Blackburn direction are turfed off the train at Burnley and left to their own devices.

I have some recent examples of that, as reported on the Facebook group "Colne Talk". Andrew from Trawden said that on 12 July 2017 he caught the 1800 from Preston to Colne. It was about 20 minutes late leaving Preston and, just after Bamber Bridge, the passengers were informed that it would terminate at Burnley Central.

Helen Margaret reports:

"In the last six weeks, I've had two last minute total cancellations, one mad dash to Burnley in the morning last minute as not coming to Colne and been terminated at Burnley twice".

She goes on to say:

"For me, the train is essential. As a nursing student at UCLAN"—

the University of Central Lancashire, in Preston—

"the option of living on campus is out of the question, as I am married with three children. Without this service, I simply could not undertake my degree, as I don't drive".

Steven reports:

"Today my son on his way back from Preston University had to get off at Burnley after buying a return ticket to Colne—no explanation and no refund offered. This isn't the first time this has happened".

Andrew from Brierfield reports:

"On Wednesday 18th October, the 7.29 arrival at Brierfield had terminated at Burnley Central on its way to Colne. It was supposed to leave Colne at 7.20 but never made it up there".

Indeed, we are up in the Lancashire Pennines.

Sarah reports:

"My other half missed two last week from Nelson to Preston due to last minute cancellations".

Helen Margaret, again, said:

"I got about £1.70 compensation for having to get a bus from Burnley to Colne. So the compensation does not even compensate for the bus fare. There have been days I haven't had the spare cash and had to wait for the following train an hour later. I'm a nursing student trying to provide for a family at the same time".

Patricia Hall, from Colne, reports:

"My son started a new job at Burnley College Monday 9th Oct. Train fine on the day. Tuesday got to the station train cancelled had to leg it to the bus and was late on his 2nd day through no fault of his own … not a good start to a new job".

Karen Hillary Starkie reports that on,

"27 September they cancelled 2 early morning trains from Colne. Finally got on the train at 8.15 which meant I got to work in Blackburn 3 hours after I set off from home!".

That is about 15 miles away. She goes on to say:

"Have claimed for train delay but doesn't help to keep me in a job … I'm now at risk of redundancy as I cannot guarantee getting in on time when my job moves to Blackburn soon".

She went on:

"After eight and a half years in my job and 18 months short of retirement age, I am now in the precarious position due to this unreliable service".

Tony—not me, somebody else—reports:

"My wife works in Oswaldtwistle and regularly has trains cancelled or terminate at Burnley … A rough guess her train has been affected at least 10 times".

She adds:

"The service is terrible and needs a complete upgrade, including link through to Skipton",

one of the east-west links that the noble Lord, Lord Patten, mentioned.

Ben reports:

"Three times in the last two weeks I've had to take/pick up my Mum from Burnley/Blackburn as the service hasn't run to Colne. One of those times we brought a group of young girls back who lived in Colne and had been kicked off late at night in the dark and expected to wait over an hour for the next train".

Nobby reports:

"I was there that night. My wife was trying to organise taxis for everyone".

Indeed, she did so. He adds:

"It's disgusting that young girls of 13 or so are being kicked off miles from home, bad enough adults but kids!!!".

I could go on and on with these.

One of the clear results is that it is having an effect on the number of people using this service. I have here the numbers of people in and out of these three stations over the past 20 years. They were going up and up until about three to five years ago. I have the figures from 2012 to 2015. Brierfield is down from 35,366 to 31,504; Nelson is down from 146,768 to 129,762; and the three stations together are down from 279,892 to 258,212. So in the light of the general increase in people using the railways, clearly, if trains do not turn up, people will not use them—and there is no suitable alternative bus service for those particular journeys.

In the medium term, the noble Lord, Lord Patten, says that he has a passing loop. If he does not like it, he should give it to us; we would love a passing loop. There used to be one at Nelson station; British Rail in its stupidity took it away. It will cost a great deal more to reinstate it than it cost to take it away. In the very long term, we want our railway back to Skipton and a proper double-track railway from Burnley to Skipton but, in the short term, Northern, which runs this service, needs to take its responsibility seriously and put on replacement transport, whether that means buses, mini-buses, taxis or whatever. There is a motorway between Colne and Burnley that can fill in when necessary. Northern needs to do it, and I call on the Government to put pressure on the new franchise to make sure that it provides a proper rail service to people in the Pendle area who want to use it.

7.35 pm

Lord Berkeley (Lab): My Lords, I declare an interest as chairman of the Rail Freight Group. I welcome the Minister to her exciting new post. I hope that she lasts longer than the previous Minister, because we have had a lot of musical chairs in the last week or two—but that is life. I congratulate the noble Baroness, Lady Randerson, on getting this debate.

Noble Lords have spoken already about the importance of reliability and the disasters that happen when things go wrong. Given the growth in passenger and freight traffic in recent years, which is of course very welcome, one of the major issues must be maintenance of the track. When things go wrong, it is quite often due to maintenance—more of the track than of the trains. So it is worth examining whether Network Rail, now owned by the Government, so they can answer for it, has the right equipment to maintain the network to modern standards.

Somebody recently drew my attention to the one train that monitors the electric overhead lines—we need more, but we have quite a lot at the moment—which is based on a 1973 converted coach. That makes it 44 years old, and there is only one of them. So it would be very interesting if the Minister was able to let me have, although I do not expect it from her now, a list of how many track measurement trains there are monitoring the gauge and the railhead conditions. Some noble Lords will remember the gauge and head cracking that happened probably 20 years ago. It is also about how old they are.

[Lord Berkeley]

Now that Network Rail is divided more into separate routes, it would seem reasonable that each group could actually have its own equipment and be able to buy some decent modern equipment, then be benchmarked by the regulator and its own management as to who did the best maintenance, and who had the least delays due to things going wrong with the track or the signalling. That would be reflected in their bonuses, in the money that they got from central government—and on the performance of the trains. I am convinced that a little bit of incentive among the routes would bring enormous benefits improving the performance of the whole network, and therefore the performance of the trains.

I want to say a little bit about freight. We have talked about it quite often here. The support for rail freight comes from the Government's rail freight strategy, the Scottish Government's rail freight strategy, and the *National Policy Statement for National Networks*. Certainly, in many parts of the country, the encouragement that Governments are giving to freight is really good. A week ago, I was in Scotland trying to encourage Network Rail to allow timber to be loaded on to the tracks in Rannoch Moor and taken by rail, rather than across the bog, to the local sawmills in Corpach. It was very good to see the way that the Scottish Government and Network Rail were working towards a great solution, and I think they will get it. The Treasury has confirmed investment plans for rail freight in control period 6, which starts in a couple of years' time, and the Scottish Government have done the same. Rail freight was also mentioned in all the three major parties' manifestos for the last election.

Growth in rail freight is mainly in the container market and in aggregates and other building materials brought into city centres. The containers need terminals or interchanges where big loads can be made into small ones or transferred to road for the last few legs. I was pretty surprised and distressed last week to see the National Infrastructure Commission's report, *Congestion, Capacity, Carbon: Priorities for National Infrastructure*, which said that the commission believes that,

> "the pilots of 'platooning' truck convoys on motorways … may open the way to radical improvements in the efficiency and capacity of major freight distribution by road in the future … This would free up rail capacity for enhanced commuter and inter-city passenger services".

The National Infrastructure Commission seems to be contradicting not just the policies in the documents I have mentioned but current thinking across the industry. In so doing, it is putting at risk a very large amount of private investment which is going into these terminals, on the basis of absolutely no evidence that I can see. They just thought it was a good idea and they would mention it. The people who live near some of these terminals do not like it very much. They have already cottoned on to this and are putting tens of millions of pounds of investment at risk. I hope that when the Minister responds she will be able to confirm her support for rail freight and for these investments. If the National Infrastructure Commission is going to come out with statements like this, it would be quite nice if it could provide some supporting evidence for a complete U-turn in policy. I hope the Minister will say something like, "They are independent and would say this, wouldn't they".

The railways have a really great future, for passengers and freight. The traffic is growing in a way that it is not doing anywhere else in Europe. We may sometimes worry about reliability, but the quality of service in most places is fantastic. I conclude by commending the Government's suggestion that there should be contestability for some of the things that Network Rail does. We could try out new ways of reopening lines or enhancing them, such as the east-west rail or some of the enhancements which the noble Lord, Lord Greaves, was talking about. By having it done a different way, possibly with the private sector taking the lead, designing, getting the permissions, building and even operating the infrastructure, you can then contest whether it is more efficient than Network Rail or not. That could be a very useful way forward.

7.44 pm

Lord Astor of Hever (Con): My Lords, I also congratulate my noble friend on her appointment and wish her the very best in her new role. Rail is fundamental to the country's prosperity, and I am delighted that the Government have a clear mission to put the travelling public first and to improve the passenger experience. I declare an interest as an occasional customer, with my children, of Southern Rail. My wife is a much more regular user, often with our disabled daughter. Using the words of the noble Baroness, Lady Randerson, my wife definitely has a "crisis of trust" in Southern Rail.

Southern Rail's industrial dispute has been catastrophic for passengers and our local community. In a Written Statement last month, the Secretary of State said that the Government are determined that the railway becomes more focused on issues that matter most to passengers, such as punctuality and overcrowding. My family's experience is that Southern trains hardly ever arrive on time. I was amazed at my noble friend's predecessor's answer last month to the noble Baroness, Lady Smith of Basildon, saying that the punctuality of Southern Rail is currently 82%. Locals take these figures with a pinch of salt. How are these barely believable figures arrived at? Are they provided by the train operator, and who monitors them?

There is a strong case for more clearly identifying, and taking action to alleviate, substantial overcrowding on specific services across the network. At peak hours, Southern has some of the worst overcrowding in the country, and this can be a serious health and safety issue. What strategy do the Government have for tackling overcrowding? Have they considered incentivising train operators, through franchise agreements, to alleviate the worst examples of persistent overcrowding? Will the Government encourage train operators to publish reliable and informative information about delays and disruption in a format that will allow passengers to make informed decisions about their journeys and avoid crowded services where possible?

The department recently announced that £20 million will be allocated to address the problems on Southern Rail. What outputs do the Government expect this money to achieve? When will we see a timetable for the publication of the project board's plan and the

implementation of its actions? Hopefully, Southern's service will improve, but if it does not, has the department worked up a plan to terminate GTR's franchise and transfer some, or all, operations to one or more operators? The department should, for example, be working with Transport for London to develop plans, in the event of a default, for the transfer of Southern's suburban rail services to Transport for London before the scheduled end of GTR's agreement in 2021.

7.48 pm

Lord Faulkner of Worcester (Lab): I join other noble Lords in thanking the noble Baroness, Lady Randerson, for securing this very interesting debate. I too welcome the Minister to her first railway debate. I am sure there will be many more and I hope she will be here to take part in those as well. There can be no one in your Lordships' House who disagrees with the aspiration to improve the quality of Britain's rail services. I remind the House of my railway-related interests as declared in the register, particularly my chairmanship of the Great Western Railway advisory board. I am also president of the Cotswold Line Promotion Group, and chair of the North Cotswold Line Task Force, which has been set up by Worcestershire County Council and is supported by all local authorities and local enterprise partnerships in the area to act as the catalyst for a better and more reliable train service.

As the noble Lord, Lord Patten, may remember from his days as the Member for Oxford, the principal obstacle to achieving this is the infrastructure, as there are still substantial lengths of single-track railway at both the Oxford and Worcester ends of the line. Short of closing the route altogether, which was talked about in the immediate post-Beeching era, no single decision damaged the reliability of rail services—not just on the Cotswold Line but on routes such as the noble Lord's South Western Main Line to Exeter—as much as that to reduce a double-track main line railway to single track, because of the delays that inevitably creates at the passing points.

Apologists for the Governments at the time—both Labour and Conservative—argued that, as the railways were thought to be in terminal decline, taking out excess capacity and eliminating alternative routes were inevitable and necessary cost-cutting measures. What utter nonsense that was, and how short-sighted. While none of us who were working in the industry then could have foreseen the astonishing growth in passenger demand over the past two decades, just a small degree of foresight in the 1970s and 1980s—particularly leaving infrastructure in place rather than ripping it out—could have saved hundreds of millions of pounds today as Network Rail battles to restore capacity and reopen routes such as that from Oxford to Cambridge through Milton Keynes.

That leads me to High Speed 2, the project conceived by my noble friend Lord Adonis and supported steadfastly by all transport Ministers after him, and by an overwhelming majority of Members of this House and the other place. In my view, the argument in favour of High Speed 2 has now been comprehensively won, and we look forward to the publication of the hybrid Bill which will take the railway north from Birmingham towards the end of the next decade. When we weigh up the arguments, we should take account of what we know about High Speed 1, Britain's first high-speed line, from London to the Channel Tunnel through Kent. As recently as last September, Visit Kent published a report to mark the 10th anniversary of the line. It found that since 2010, leisure journeys to Kent via High Speed 1 had increased ninefold, from 100,000 to 890,000 in 2016, and that the total economic impact of HS1 on the visitor economy in 2016 alone was valued at £72.7 million. For every High Speed 1 leisure journey made to Kent in 2016, £81.65 was added to the local economy. Since 2010, High Speed 1's activity has led to the creation and support of 5,766 tourism sector jobs in Kent. These are real facts relating to a real railway, so when we hear about projections for High Speed 2 we need to take those into account and realise what the benefits to the Midlands and the north of England will be when the railway gets there.

The other really significant point to make about High Speed 1 is its astonishing reliability. In 2017, the average delay affecting all operators, including the high-speed domestic Southeastern services as well as Eurostar, is just six seconds per train—the sort of reliability figure that the Japanese railways achieve regularly with their high-speed trains. So, the lesson for High Speed 2 is that a new railway is a reliable railway. It is also a popular railway which attracts customers in greater and greater numbers and provides the capacity which our conventional main lines can no longer offer because demand has grown so much. Above all, these railways demonstrate, and provide the proof, that railways are central to economic growth and prosperity.

We have had a number of briefings for this debate. I particularly commend that of the Railway Industry Association, which points out that passenger numbers have doubled in the last 20 years, that the rail industry employs 240,000 people and contributes £11 billion gross added value to the economy, and that with a vibrant rail industry at home, we are now again able, as we did in the past, to sell our railway expertise abroad. As the Prime Minister's trade envoy to Taiwan, I have had the privilege of leading a railway industry delegation to Taiwan, where there is huge interest in buying British expertise. I anticipate that I shall do that again in January. However, you need a vibrant rail industry at home before you can be credible when you are selling your expertise abroad.

This has been a good debate, and everybody has been reasonably positive. I learned more about the railways of north-east Lancashire than perhaps it was necessary to know, but it was great all the same to listen to the noble Lord, Lord Greaves, speak about that. I support his aspiration to take the Colne line through to Skipton. Indeed, I am a member of the pressure group that is attempting to do that. I look forward very much to hearing what the Minister has to say on her first outing at the Dispatch Box.

7.54 pm

Lord Bradshaw (LD): My Lords, I am very grateful to my noble friend for this debate. I, too, extend my welcome to the Minister. She will have quite a lot to contend with, not just with railways but with transport as a whole. I am not going to take a tour of my local railway line but talk about a very important railway line on which I rarely travel.

[Lord Bradshaw]

The business case for extending the electrification north of Bedford to the east Midlands was stronger than that of the Great Western, but the Government of the day decided otherwise. Subsequently, an expensive scheme of electrification was initiated on the Great Western when skills were at an appallingly low level. The trains themselves were developed by the Department for Transport, rather than by railwaymen. The result has been an extraordinarily expensive electrification scheme on the Great Western that has absorbed all the money which it had been hoped was available for electrifying the midland main line. The east Midlands cities of Derby, Leicester, Nottingham and Sheffield have paid a high price, and they are justifiably furious that this is so.

There is a way out of this if the Government will listen. As the noble Lord, Lord Berkeley, mentioned, Network Rail has recently stated that it would let private contractors bid for and deliver "big schemes". A competition put to the market would allow a contractor to bid for the whole of the electrification scheme, including any modifications to the signalling. I am quite sure that this would attract bids from a number of multifunctional operators, or even from the regions in Network Rail itself if it were freed from the cloying influence of the infrastructure section of that company. The risk would be mitigated by coming to a long-term contract with the bidders, who would be responsible for delivering and maintaining the system, and who would, of course, be paid only on the results that they achieved. As a railwayman of long standing, although I have no interest to declare, I am absolutely certain that the whole scheme would come in at a price very much lower in unit cost terms than the Great Western, and it would avoid the expense and poorer performance of producing bi-mode trains. The plain fact is that straight electric trains are lighter, provide a more reliable railway, use less power, are cheaper to run than bi-modes and require less maintenance. They benefit far more than bi-modes from regenerative braking and I am quite certain they will make a significant reduction in journey times. I estimate a reduction of six minutes in the London to Sheffield journey time, which is very significant.

If this option were on the table, it would come in at a price level that would prove an attractive proposition—one that Ministers would be willing to accept—and it would give the east Midlands community something that it would accept. I beg the Government to look at this proposition very seriously, and I am willing to help deliver it. As the east Midlands franchise is now in course of development, now is the time to take a completely new look at this.

7.59 pm

Lord Rosser (Lab): My Lords, I too extend my thanks to the noble Baroness, Lady Randerson, for securing this debate. I also take this opportunity to welcome the Minister to her new and enhanced role, and extend to her my congratulations. I also extend my best wishes to the noble Lord, Lord Callanan, in his new role. Clearly, he is not looking for a quiet life. The Minister's two most recent predecessors have moved on to departments dealing with people and issues outside our national boundaries; clearly, being a Transport Minister produces a desire to travel beyond our shores.

The noble Baroness, Lady Randerson, made reference to her lack of enthusiasm for seeing train operating companies in the public sector, so it would appear likely that the Government will be rather more in agreement with what the noble Lady, Baroness Randerson, had to say than they will almost certainly be with my contribution to this debate. Railway operation being in the public sector is not something new or original in this country, even today. London Underground is in the public sector, and it carries quite a few passengers. Even the previous Mayor of London did not seem to think this was an unacceptable state of affairs that had to be changed. There also seems to be quite a wide measure of public support for having the railways in public ownership, judging by opinion poll data.

However, I will use the time I have—indeed, I shall not take up all the time I now have—to raise a few specific questions with the Government on issues that potentially affect reliability and quality of service. In so doing, I make it clear that I would be more than happy to receive the responses in a letter following this debate.

Recently the Secretary of State wrote—as set out towards the end of the helpful House of Lords Library briefing for this debate—that, while one of his "biggest priorities" was northern transport projects,

"they must be designed and managed by the North itself",

and that:

"It is not up to central government to grasp these opportunities".

He said this despite the fact that Transport for the North is dependent on central government for the necessary resources to carry out projects of substance. In the light of rumours—let us hope that that is all they are—that seem to be circulating, can the Minister give a clear assurance that the Government are not contemplating or considering any change in the status, role or powers of Transport for the North?

I would also be obliged if the Minister could clarify—I sometimes get confused by this—which electrification proposals or schemes, or parts of electrification proposals or schemes, have recently been abandoned and which have been officially paused or deferred. I refer in particular to the Great Western electrification, the Midland Main Line electrification, the electrification of the trans-Pennine route and the Oxenholme to Windermere electrification.

On the Great Western electrification, when will the electrification of the route into Bristol now be completed—assuming that this part has been deferred or paused and not abandoned? As has already been said, at a time when the Government are seeking to reduce the use of diesel fuel and vehicles on our roads, they have just made a decision on railway electrification which will increase the expected future use of diesel power on our railways. The Government's left hand does not always seem to know what their right hand is doing.

As is clear from this debate, we all want to see the railways expand and progress and have a successful future. However, this Government have almost certainly

cancelled or deferred more electrification projects than any previous Government, on top of their record of hitting passengers by increasing fares faster than the rate of inflation at a time of austerity and no or low pay increases.

To come back to the Great Western electrification, what aspects of the contracts with Hitachi are having to be revised or renegotiated in the light of the Government's decision to delay or abandon parts of the electrification scheme? Since the new bi-modal trains will now have to be used more than expected in diesel rather than electric mode, running costs and maintenance costs are likely to be even higher. That is on top of the fact that the bi-modal trains are presumably heavier than all-electric trains, since they have a diesel engine to carry around, which in itself already makes them more expensive, with higher running costs. Electric trains are usually regarded as being more reliable and cheaper to run than diesel trains. Do the Government accept that view?

There has recently been a change to the operation of the south-western franchise. Is the introduction or extension of driver-only operation included as part of the contract signed by the new operator of the south-western franchise?

On the issue of reliability, how much of the network grant to Network Rail, both in the current period and the next, is needed to meet contractual commitments to franchise operators under franchise agreements covering, for example, infrastructure improvements and levels and standards of maintenance—and thus presumably is not an amount that can be cut by central government—and how much of the network grant to Network Rail is potentially vulnerable since it could be cut by the Government without adversely impacting on contractual commitments with franchise operators under franchise agreements?

Talking of franchise agreements—this relates to something that the noble Lord, Lord Astor of Hever, said—how much have train operators been fined or otherwise penalised under the terms of their franchise agreements, and how many operators, for poor performance?

The Government's statement of funds available in the period from April 2019 to March 2024, states that the Secretary of State is,

"looking to the ORR to ensure a strong and robust challenge on cost and deliverability. An important part of this will be to support an ambitious implementation of route devolution to deliver the benefits of competition and improved understanding of costs through better benchmarking".

Can the Government say what precisely "route devolution" means in this context and what it is expected to deliver, and what is the nature and extent of the competition that will be created, as referred to in the statement of funds available?

I repeat that I would be happy with a written response to the questions I have asked, and I look forward to the Minister's response to the many interesting and different points and issues raised during the course of this debate.

8.08 pm

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, I thank noble Lords for their enthusiastic and expert contributions this evening, and in particular the noble Baroness, Lady Randerson, for providing us with the opportunity to discuss this important issue. I also thank noble Lords for their kind words of welcome, and I look forward to working with all noble Lords on all issues around transport. It is a great pleasure that my first speaking duty as Transport Minister is to debate one of the most important challenges for every transport mode: reliability. I hope that noble Lords will bear with me if I am not able to answer all questions on day two of this brief. If I am unable to answer everything tonight, I will write.

Other than safety, there is no more important goal for the rail industry than to deliver reliable services for passengers. This is why the Government are investing at record levels in all our rail services. In October, the Secretary of State announced our intention to commit some £47.9 billion to improve the reliability of the rail network in the next control period. This is on top of the current record levels of investment, which will see £50 billion spent on reliability and transformational infrastructure enhancements. All that is in addition to the £55 billion already planned for HS2. Of course, high-speed rail is not just about faster trains; it will add desperately needed capacity to a network that is already under unprecedented strain.

There is no denying the fact that, as trains vie for space on a network unchanged in size since 1996, reliability has suffered, as several noble Lords have mentioned. Therefore, although we are dealing with a problem that is associated with success, not failure, we recognise that passengers have not always had the high-quality service that they deserve. One of the most effective measures for improving reliability has already been introduced: namely, allowing the industry to forward plan with certainty by replacing annual industry funding cycles with five-year control periods.

We are also fully focused on what can be done in the shorter term and are taking steps to deepen the collaboration between Network Rail and train operators on a franchise-by-franchise basis. This alliancing will create a culture of shared responsibility with the aim of achieving one goal—a more reliable service for passengers.

I have many more examples of what the Government are doing to improve reliability across the country, but I am keen to answer as many questions from noble Lords as I can, so I will move on to those and perhaps return to the other matters.

The noble Baroness, Lady Randerson, and my noble friend Lord Patten raised the issue of better performance measures. We are working with the industry to improve the focus on right-time arrivals. The noble Baroness rightly explained that at the moment we rely on arrivals within five or 10 minutes of the due time, which is not ideal. For the next five-year control period we will be reporting on-time performance at each and every station—that is, arrival within a minute of due time. There will be a heightened focus on performance, and it is hoped that this will improve reliability as the industry becomes more accountable to passengers.

[Baroness Sugg]

The noble Baroness also asked about compensation. Again, we are working with the industry to try to improve this, most notably through the Delay Repay 15 scheme. However, we recognise that this is not always good enough and, as I said, we are working to improve it further.

My noble friend Lord Patten asked about the rail ombudsman. This was a manifesto commitment and we are working to deliver it as soon as we can. The ombudsman will help industry and government to identify issues of general consumer concern. I can confirm that we and the industry are very clear that the ombudsman must be independent.

I anticipated that my noble friend Lord Patten might raise the Tisbury issue. I am afraid to say that I understand that Network Rail's *Wessex Route Study* concluded that the forecast levels of growth between Salisbury and Exeter did not justify the need for additional sections of double track.

My noble friend Lord Patten and the noble Lord, Lord Rosser, asked about the remedies available if franchises fail to deliver. All our franchises include a provision to take enforcement action in the event that a franchise fails to deliver on the obligations to which it has committed.

The noble Lord, Lord Snape, provided me with an education on bridge-bashing incidents. I believe that Network Rail is currently running a campaign to educate haulier drivers, but I will certainly take that issue back to the department to discuss it further—as I will the issue of suicides on track.

I listened with interest to the noble Lord, Lord Greaves, talk about Colne, with his numerous examples from "Colne Talk". I was unaware of the issue but I certainly got the message, and we will take up his concerns with Northern Rail, including the need for bus substitution.

The noble Lord, Lord Berkeley, asked about the age of maintenance equipment. I am afraid that I will have to get back to him on that, although I can tell him that the example he gave was older than I am.

I can confirm that the Government are absolutely committed to working with the rail freight industry to support its continued success. I have not yet read the report from the National Infrastructure Commission but I will certainly do so. The noble Lord also made interesting points about Network Rail and I will reflect on them.

The noble Lord, Lord Astor of Hever, spoke about Southern Rail, I am very sorry to hear of his personal experience. We are of course all aware of the frustrations that passengers feel. I reassure all noble Lords that we are doing our best to resolve the issue. The performance of Southern is still not good enough. It has improved in recent months but, as the noble Lord mentioned, in the four-week period to 14 October only 80% of trains met the PPM target—which, as we discussed, is getting a train to its final destination within five minutes of its scheduled time.

We are determined to tackle overcrowding. A key aim of our investment strategy is to increase capacity for passengers, including with the new high-capacity 12-car trains on the Brighton route. We are working with train operators to improve the information available to passengers so that they can make an informed decision on how to locate the less busy services.

My noble friend referred to the £20 million announcement which we made in 2016 as an initial package. In January, the DfT also announced a £300 million package for work on Southern's routes. The funding will improve reliability and allow us to replace old track, old points and signals and deal with some of the structural repairs in tunnels. We are working very closely with GTR to hold it to account.

The noble Lord, Lord Faulkner, spoke in support of HS2. Of course, this will form the new backbone of our national rail network, providing new capacity and better connecting our major cities while creating more space for commuter and freight trains on our busiest lines. This will cut congestion and improve service reliability. I look forward to working with noble Lords when we take the next iteration of the Bill through the House.

The noble Lord, Lord Bradshaw, raised the issue of the East Midlands franchise. I would be delighted to meet with the noble Lord to discuss that in detail further. I am afraid that I do not have a more detailed response at the moment.

The noble Lord, Lord Rosser, raised a number of points on electrification and bi-mode trains. Our decision to not progress with some electrification was made in order to deliver benefits to passengers sooner than otherwise would have been possible. While I listened carefully to his detailed questions, I will take him up on his offer to respond in writing and I thank him for that.

I thank all noble Lords for participating in this evening's debate. Our railways are crucial to their daily users and to the UK's long-term economic prosperity. However, their success is determined predominantly by the reliability of the services they offer. We have a strategy for turning this round. We have a clear vision for change and industry collaboration; unprecedented investment, past and future, targeted directly at the causes of poor performance; transformative infrastructure schemes across the country that will reduce congestion and improve reliability; brand new trains for passengers across the north, south, east and west of the country; and investment in electrification, bi-mode trains and state-of-the-art digital technology where it will best serve passengers. All of this is aimed at one outcome: improving reliability.

The Government are committed to providing funding for the framework and the incentives that the industry needs to improve performance and give passengers the reliability they expect from a 21st-century railway.

House adjourned at 8.17 pm.