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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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

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House of Lords

Thursday 14 December 2017

11 am

Prayers—read by the Lord Bishop of Carlisle.

Budget: North East of England Question

11.07 am

Asked by **Lord Beith**

To ask Her Majesty's Government what assessment they have made of the likely impact of measures announced in the Budget on the north east of England.

Lord Young of Cookham (Con): My Lords, the Budget has provided a significant and very positive impact for the north-east of England, with more than £300 million to replace the Tyne and Wear Metro fleet, Transforming Cities funding for Tees Valley and an investment fund of £600 million over 30 years as part of the “minded to” devolution deal for the north of Tyne.

Lord Beith (LD): My Lords, the funding for the Tyneside metro is welcome, but the big announcement in the Budget was the half-baked devolution deal. Does the Minister realise that the region has none of the transport, health and social care powers and still less the level of funding which other regions such as Manchester and Birmingham are getting? It has a boundary cutting right through the middle of Tyneside and it focuses on the creation of an expensive elected mayor who nobody asked for and very few people want. What, if anything, will this deal do for the low-wage rural areas of north Northumberland, so often outvoted by the Tyneside areas on which this deal will focus?

Lord Young of Cookham: My Lords, I welcome what the noble Lord said at the beginning about the metro. The rolling stock is some 40 years old and is not as reliable as it should be, and the new rolling stock will make the north-east an even better place in which to live and work. So far as what the noble Lord calls the “half-baked deal” is concerned, for those not familiar with the story so far, seven local authorities in the north-east approached the Government, under the umbrella of the North East Combined Authority, for a devolution deal. This was in accordance with the Government's wish to decentralise decision-making and give local areas more powers and resources. Half way through the discussions, four of those local authorities withdrew. Those who understand the socio-political dynamics of the north-east and the tribal tensions of the Tyne may understand why—but I do not. The decision for the Government was whether the three remaining local authorities of Northumberland, Newcastle and North Tyneside should go ahead. Those authorities want to proceed, as do the business community and the local enterprise partnership. For those reasons, the Government are minded to proceed and the ball now rests in the court of the three local authorities to go through the statutory consultation and pass the local orders.

Lord Beecham (Lab): My Lords, I should declare my interest as a member of one of the tribes in question. Educational attainment is a key contributor to economic development. In Newcastle—this will be true of the region as a whole—27% of children are living in poverty; that is 50% more than the national average. Will the Government now seek to improve the life chances of these children by replicating in the north-east the very successful London Challenge that transformed education in the capital?

Lord Young of Cookham: I have no objection at all to rolling out successful experiments in London, or indeed anywhere else, to other parts of the country that could benefit from them. There is quite a lot in the Budget to help the north-east on housing, health, transport and technology. Under the proposed deal on education, adult education would of course be devolved to the new combined authority. On the noble Lord's specific question on education, perhaps I could take advice from colleagues in the respective departments and then come back to him.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend agree that there is a lot in the Budget and the industrial strategy to improve connectivity, particularly in rural areas? Will he ensure that these measures are used in rural communities across the whole of the north of England—the north-east, north Yorkshire and the north-west—to ensure that access to and the speed of rural broadband are improved, to enable rural businesses to compete?

Lord Young of Cookham: I entirely agree with my noble friend. She will know that the industrial strategy, which was launched at the same time as the Budget, promised, among other things, to make the UK a more connected country, with high-speed fixed-to-mobile access available in all areas including rural ones. It also aimed to make decisions on infrastructure more geographically balanced. That is at the heart of the industrial strategy. My noble friend will have an opportunity to develop her arguments after Christmas, when there will be a whole day's debate on the industrial strategy.

Lord Blunkett (Lab): My Lords, the Minister may not have a handle on the tribal conflicts in the north-east, but I have a slightly better handle on the tribal conflicts in Yorkshire. There is a real worry that the whole of the east Pennines is losing out in relation to resources which would otherwise be available if the plans for elected mayors in the city regions there had actually been carried through. If they do occur in the months ahead, will the noble Lord give an assurance that the resources earmarked for authorities with elected mayors will be available, and backdated, for combined authorities that move forward with an elected mayor in the way he has described?

Lord Young of Cookham: The noble Lord will know that there is a Sheffield regional city devolution deal with an elected mayor. That is being set up, with an election scheduled I think for May next year. If other parts of Yorkshire want to approach the Government and offer a similar devolution deal, of course we

[LORD YOUNG OF COOKHAM]
would listen. When it comes to backdating resources, my colleagues in the Treasury might just pause before signing up to that one. But what we do not want to do is have an all-Yorkshire deal which then unwinds the deal that is already going ahead with the Sheffield City Region. The Government would listen very warmly to any work the noble Lord can do to encourage more authorities to come forward with devolution deals and elected mayors.

Lord Wrigglesworth (LD): The Minister is quite right to welcome the support that has been given to the north-east, in particular the support for Teesside, where the steelworks have been closed and where a Conservative mayor has been working very closely with the Labour authorities to ensure the success of the Government's approach. The position on Tyneside is quite disastrous. I was chairman of the Port of Tyne Authority for a number of years, and with an international passenger terminal on one side of the river and docks on the other, working with different authorities across the river is going to be most difficult. Will the Minister therefore seek to do whatever he can to get the Labour authorities on the south side of the river to join their colleagues north of the river in order to set up a single authority for the whole area?

Lord Young of Cookham: I am grateful to the noble Lord. He may have more influence than I have in seeking the reconciliation that he promotes, in view of his knowledge of and commitment to the area. On Tees Valley, as he referred to, the Chancellor announced £123 million of new funding to ensure the ongoing safe and secure management of the former SSI steelworks, and I welcome the close working between the mayor, Ben Houchen, and the local authority. On the north-east and Tyneside, whether it is too late for the four authorities to change their mind I do not know, but obviously we would like to go ahead with the previously proposed authority with all seven local authorities involved.

Paradise Papers *Question*

11.15 am

Asked by Lord Anderson of Swansea

To ask Her Majesty's Government what assessment they have made of revelations contained in the Paradise papers, particularly in relation to the British Overseas Territories and Crown dependencies.

Lord Anderson of Swansea (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper, and have no interest to declare.

The Minister of State, Department for International Development (Lord Bates) (Con): Very good. My Lords, HMRC takes allegations of non-compliance on tax seriously regardless of where it takes place in the world. HMRC is looking closely at all the information the ICIJ has publicly released in the Paradise papers to see whether they reveal anything new that could add to its existing leads and investigations.

Lord Anderson of Swansea: My Lords, the Government may be looking closely, but they have been looking closely at this issue for a long time with very limited action. When will the Government accept that there is deep anger among taxpayers in this country about the revelations that the rich and powerful are able to get away with aggressive tax avoidance, and that transparency is the best antidote? Will they give a fixed date by which the overseas territories and Crown dependencies will have to open a public register of the beneficial ownership within their jurisdictions?

Lord Bates: The noble Lord is right that we have been looking at this for a long time, but we have also been acting for a long time. Since 2010, we have introduced almost 100 measures that have raised £160 billion in tax revenue. That is more than the combined health budget for England, Wales, Northern Ireland and Scotland. We have one of the lowest tax gaps in the world—certainly the lowest on record in this country. We have been working very hard and taking this very seriously and will continue to do so.

As regards the overseas territories and Crown dependencies, again, this has been taken very seriously. Just two weeks ago at the joint ministerial council, the Prime Minister stressed the importance of this. We already have central registers in four of those authorities, including the Cayman Islands, Bermuda and Gibraltar. Montserrat and Anguilla will have registers by April of next year. The Turks and Caicos Islands have been particularly affected by the hurricane, so they have been given a little extra time, but we are very clear that action needs to be taken.

Lord Thomas of Gresford (LD): My Lords, the Council of the European Union, meeting in Brussels a week last Monday, issued its blacklist of tax havens. Its conclusions reveal that a number of British dependencies and overseas territories on the grey list have entered into commitments with the EU to implement tax good governance principles. Specifically, Bermuda, the Cayman Islands, Guernsey, the Isle of Man and Jersey have undertaken to address concerns about their tax regimes, which produce profits without real economic activity. Do the Government support the EU in this initiative, and will they impose the same sanctions on non-compliant countries after Brexit as the EU proposes?

Lord Bates: We certainly support the work that ECOFIN has undertaken in producing this report. We have been at the forefront of the whole process. We recognise the statements on, and identification of, those jurisdictions that are co-operative. That is an important point to stress: none of the Crown dependencies or overseas territories was listed as non-co-operative; they were all on the co-operative list. Areas in which the Council wants activity to take place have been identified, and we fully support that.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, the disinformation generally surrounding this issue is just staggering, as is the conflation of illegal tax evasion, lawful tax avoidance and money laundering. Does my noble friend agree, particularly in light of his previous answer, that the new gold standard of proactive

reporting and transparency in favour of tax authorities in respect of the capital and income of any legal person, trust or individual using its financial services industry, is in fact the Cayman Islands?

Lord Bates: The Cayman Islands has work to do, as have all jurisdictions to meet the standards that have been set down. However, it is true to say that with its centrally held register, the Cayman Islands at the moment is going above and beyond what is required by the Financial Action Task Force. We are absolutely resolute about making sure that all UK citizens pay all tax due by them, wherever it is held in the world. That is a very important commitment, and we intend to ensure that all jurisdictions hold to it.

Lord Davies of Oldham (Lab): My Lords, given the level of public shock at what was revealed in the Paradise papers, the Minister's answers today follow the same mollified pattern of recent years, in which it has been said, "We are doing what we can and we are getting certain proceeds". Yet, the Paradise papers reflected that a whole range of individuals and companies owe tax on a massive scale, and are putting themselves under the jurisdiction of these islands and escaping taxation that is owed to this country. I ask the Minister to respond to my noble friend's Question with the degree of forthrightness it demanded.

Lord Bates: The question was about a public register. The UK is the first major economy to issue a public register of foreign-owned companies. We are leading in this; it was a landmark commitment given at the global Anti-Corruption Summit, which David Cameron initiated. So far, it is not required to make sure there is a public register in other jurisdictions. It has to be available to tax authorities and to security authorities in the case of counterterrorist finances. That is what is happening in those jurisdictions at present, but there is still more to do and we are far from complacent.

Lord West of Spithead (Lab): My Lords, does the Minister think the problem might go away because we have responsibility for defence and security of our overseas territories but so few ships that we cannot do it? If we are unable to defend them, maybe they should no longer be British Overseas Territories.

Lord Bates: The overseas territories and the Crown dependencies are a very important part of the British family and will be a very important part of global Britain going forward. It is important that, as part of that family, everybody works together to ensure that people who have assets held overseas make sure that they report them in an accurate and timely way to the tax authorities of their countries.

Disabled Students' Allowance Question

11.22 am

Asked by *Lord Addington*

To ask Her Majesty's Government, following the transfer of responsibilities relating to Disabled Students' Allowances for some students to higher education

providers, whether they intend to publish a best practice guide for those institutions; if so, when; and if not, why not.

Lord Addington (LD): I draw the attention of the House to my declared interests.

Viscount Younger of Leckie: My Lords, the transfer of responsibilities is designed to encourage higher education providers to fulfil their duties under the Equality Act. Much guidance already exists on the specific duties of higher education providers under that Act on inclusivity and good practice. The experience of disabled students in higher education is of equal importance to that of non-disabled students, and we will continue to review the need for best practice guidance as necessary.

Lord Addington: I thank the Minister for that reply. Has the situation improved from what it was when we debated the Higher Education and Research Act? The *Inclusive Teaching and Learning in Higher Education as a Route to Excellence* paper had no guidance in it. When I asked where it was, I was told by an official to trust the courts to sort it out. In a subsequent meeting, I was told by the Disabled Students Sector Leadership group, under Professor Layer, the author of its report, "Don't worry; almost half the institutions have a policy in place". How can a student navigate that system? If something goes wrong, what can they do to avoid having to take the full weight of a legal challenge on their shoulders?

Viscount Younger of Leckie: I know that the noble Lord has been pretty exercised about this since the debate on the Bill, but there are a number of good pieces of guidance available, including from the Disabled Students Sector Leadership Group and the Office of the Independent Adjudicator. The QAA has also issued guidance for inclusivity across teaching, learning and assessment, and HEFCE has undertaken its own review, with a 76% response. Of course, there is more to do, but higher education providers have got the message and they are looking at what more they need to do to provide the right facilities for disabled students.

Lord Touhig (Lab): My Lords, there is evidence that schoolchildren with disability and autism are excluded by many of their peers throughout their school lives and teachers are often not equipped to be able to help and resolve problems. What are the Government doing to ensure that that experience does not continue when those young people enter higher education?

Viscount Younger of Leckie: As mentioned before, specific duties are laid out under the Equality Act 2010. I think that the noble Lord was referring to schools, but let us talk about schools and higher education institutions. There are clear remits for them to adhere to for ensuring that all students are looked after properly.

Lord Low of Dalston (CB): My Lords, one of the challenges to students with disabilities such as dyslexia, low vision and blindness is the accessibility of academic textbooks and journals. With the advent of digital

[LORD LOW OF DALSTON]
 technology, this problem is now solvable. Indeed, in the United States, universities now require publishers to provide textbooks that meet accessibility standards. The problem with the transfer of responsibility for student support is that UK universities do not know what is possible or how to make it available. Would the Minister be willing to convene a round table involving the university authorities, publishers and representatives of disabled people with knowledge of good practice in this area to put in place a system that would provide a final solution to the problem of making academic material accessible?

Viscount Younger of Leckie: The best answer that I can give to the noble Lord is that I shall pass his question and request on to Jo Johnson in the other place, and I am sure that he will look at them very carefully. But one important part of our policy is to ensure that institutions can decide for themselves how best to look after the needs of dyslexic students. As the House will know, such institutions vary greatly in size and on the range and type of course that they offer. There is great variation in how the courses are delivered, and disabled students themselves vary greatly in the type and level of support that they need. So we think that the autonomy that this House debated so fully should be left to that extent.

Baroness Manzoor (Con): My Lords, it makes little sense if someone who has been clinically diagnosed with dyslexia through school then has to be reassessed at university for dyslexia. Therefore, I am very grateful to my noble friend Lord Agnew, who wrote to me to say that this would be reviewed. Can my noble friend the Minister tell us the terms of the review and when it will be completed?

Viscount Younger of Leckie: Yes, indeed, I am aware of the note that my noble friend Lord Agnew sent. The review will start to take evidence from those invited early in the new year, and we hope that it will report within a few months. I have a little more detail, in that it will consider the evidential requirements for students applying for disabled students' allowances with specific learning difficulties, and particularly for those with dyslexia.

Lord Hunt of Kings Heath (Lab): My Lords, with the greatest respect to the Minister, he is relying on the autonomy of the universities and various bits of guidance. However, as the noble Lord, Lord Addington, said, by July barely half of universities actually had a policy in place, so the experience of disabled students will be very variable where they have special requirements. Because the universities are producing such a patchy performance, we need reassurance that there will be some kind of regulatory intervention if they do not get their act together.

Viscount Younger of Leckie: We do not think it is right to go for regulatory action or for legislation. This is not just because there is so much guidance, although there is, but there is also the HEFCE review, which had a 76% response rate. Nearly all respondents have recently carried out a review of support or have plans

to do so in the near future. Some providers have made significant progress, particularly in lecture capture and accessibility audits, but the research also highlights the need for sustained investment in infrastructure by these institutions to support disabled students and for a continued and accelerated effort by providers to make the necessary changes. So there is more work to be done.

Grenfell Tower *Question*

11.30 am

Asked by Lord Kennedy of Southwark

To ask Her Majesty's Government what action they are taking to ensure that survivors of the Grenfell Tower fire do not spend Christmas and New Year in temporary accommodation.

Lord Young of Cookham (Con): My Lords, the Government are supporting the Royal Borough of Kensington and Chelsea in rehousing survivors of the Grenfell Tower fire as quickly as possible. Rehousing must proceed at a pace that respects the needs, wants and situations of survivors, but bureaucratic inertia must not add to delay. In line with the recent task force report, I expect the council to do whatever is necessary to ensure that households can move into settled homes as swiftly as possible.

Lord Kennedy of Southwark (Lab Co-op): My Lords, today is six months since the tragedy at Grenfell Tower, and we remember the victims and survivors of that terrible night. I pay tribute to the emergency service workers, the public sector staff, the voluntary sector and the faith communities for working up to this very moment to get the community back on its feet. Six months is a very long time in these circumstances, and to be living in hotel accommodation, vulnerable, unsettled and traumatised, is no way to spend Christmas. Can the Minister tell the House what specific action the Government are taking to get these families into accommodation in the new year? On the anniversary of this terrible tragedy, we want to be talking about going forward, not still talking about housing families in permanent accommodation. Despite what the noble Lord has said, the situation today for the majority of these families is just unacceptable.

Lord Young of Cookham: I endorse what the noble Lord said about the response of the fire service—it was on the scene within six minutes—and about the community response. The most reverend Primate the Archbishop of Canterbury paid tribute to and spoke very movingly about that response on the "Today" programme.

To bring the House up to date: 151 homes were lost in the fire; some of those homes were overcrowded and others had multi-generational households which now wish to divide, so 210 households that formerly lived in Grenfell Tower and Grenfell Walk need to be rehoused. One hundred and forty-four households have accepted an offer of either temporary or permanent accommodation; 99 have moved in—54 into temporary housing and 45 into permanent housing—and 111 are

in emergency accommodation, of whom 66 are yet to accept an offer of either permanent or temporary accommodation.

The noble Lord asks, quite rightly, what action is being taken. The Royal Borough of Kensington and Chelsea plans, by Christmas, to have acquired 300 homes, set against the 210 that are needed. It is acquiring two homes a day. I quite agree that Christmas is no time to spend in emergency accommodation; the Government are acutely aware of that. In the four hotels where most of the families are, specific arrangements have been made for the families to have space of their own to meet each other and to entertain their wider families, if they want to. A lot of services are being put on by voluntary or faith groups over the Christmas period to help and support those families.

We very much hope that by June next year everyone will have moved into permanent accommodation, but families need to move in their own time. Some who are in emergency accommodation do not want to move into temporary accommodation because they might have to move twice. The Royal Borough of Kensington and Chelsea is doing intensive work alongside the families, finding out what accommodation they need and where they need it, and seeking to match that with the 300 houses that it is acquiring. I very much hope that by June everybody will have been offered and accepted permanent accommodation.

Lord Shipley (LD): My Lords, I join the Minister and the noble Lord, Lord Kennedy, in paying my respects to those who died in the Grenfell fire six months ago. I remind the Minister that this Question is about what the Government are doing. Does he accept that local people have now lost confidence in their local council? I remind him that in the Government's Statement on the Grenfell fire on 19 October, it was said that there were expected to be 300 suitable local permanent properties by Christmas, yet only 45 households have moved in. Does he have confidence in the local council to deliver, or may it be time for the Government to intervene more directly?

Lord Young of Cookham: The Government have no plans to put commissioners into the Royal Borough of Kensington and Chelsea. It has a new leader and a new chief executive and the Government have established a task force to make sure that that royal borough lives up to the expectations that everyone has of what it plans to do. Some of those in temporary accommodation want that to become their permanent home. The Royal Borough of Kensington and Chelsea is approaching the relevant landlords to see whether that can take place. Some of those in emergency accommodation have already accepted permanent accommodation but it takes time to complete, fit out the house and put in the white goods to enable the families to move in. I am conscious that your Lordships are impatient for progress to be made but I am confident that the Royal Borough of Kensington and Chelsea, which plans to spend nearly £250 million acquiring property, now has the message, and I think the former lack of emotional intelligence and empathy is now behind us. It is now getting on with the job.

Lord Tebbit (Con): My Lords, were any of those who are now claiming social housing tenants of Grenfell Tower who had moved out and unlawfully let their accommodation to more than one family? I do not think we need have too much sympathy for people who behave like that.

Lord Young of Cookham: I am not sure that I fully understood my noble friend's question. The assistance that the Government and the Royal Borough of Kensington and Chelsea are seeking to extend is to those who were living in Grenfell Tower or Grenfell Walk at the time who are now homeless, or who were homeless shortly after the fire. Therefore, anybody who was living there at the time is now being assisted by the Royal Borough of Kensington and Chelsea. My noble friend has lived through tragic circumstances where people have lost their lives. He will know better than anyone else in this House the trauma that those people have been through. We ought to allow them the time and space to find suitable accommodation to move into.

Baroness Crawley (Lab): My Lords, in the aftermath of the Grenfell tragedy, why are the Government continuing apace with their deregulation agenda?

Lord Young of Cookham: So far as Grenfell Tower is concerned, the noble Baroness will know that the Hackitt review is shortly to produce its interim report on fire regulations and fire safety. She will know that after the tragedy at Grenfell Tower, advice was given on two occasions by the DCLG to owners of property that might not have the appropriate cladding on how to make safety measures appropriate for those blocks. The whole thrust of the inquiry under Sir Martin Moore-Bick and of the Hackitt inquiry is to make sure that nothing like this ever happens again.

Probation Service

Private Notice Question

11.38 am

Asked by Lord Laming

To ask Her Majesty's Government what is their response to the report of the Chief Inspector of Probation on the performance of the probation service.

Lord Laming (CB): My Lords, I beg leave to ask a Question of which I have given private notice.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, the Government are committed to delivering a probation service that strictly enforces sentences, reduces reoffending and protects the public. It is reassuring that the National Probation Service, which supervises high-risk offenders, is doing a good job overall, and we will use this incisive report to continue improving it. We have changed community rehabilitation companies' contracts to better reflect their costs and are clear that CRCs must deliver a higher standard of probation services.

Lord Laming: My Lords, I thank the noble and learned Lord. However, does he agree that this well-researched report, which I commend to the House as of interest to us all, presents a thoroughly dispiriting account of just how great has been the deterioration and the effectiveness of the probation service in the past three years? It is now clear that the so-called innovative programme has resulted in a disjointed and incoherent system despite the hard work of the staff. I hope the Minister will agree that the victims of crime, the courts of this country and local communities deserve better, and I hope urgent action will now be taken to recover what has been lost in these recent changes.

Lord Keen of Elie: My Lords, we recognise the concerns identified by the inspectorate and are working hard to address these problems. Many of the performance issues with CRCs stem from the financial challenges that providers are facing, which has meant that we have addressed those contractual terms. However, I observe that nearly two-thirds of CRCs have reduced the number of people reoffending.

Lord Beecham (Lab): My Lords, this report is another legacy of the unlamented tenure as Lord Chancellor of Chris Grayling. The chief inspector states:

“Regrettably, none of government’s stated aspirations for *Transforming Rehabilitation* have been met in any meaningful way ... I question whether the current model for probation can deliver sufficiently well”.

She identifies a number of deep-rooted organisational and commercial problems and says:

“We find the quality of CRC work to protect the public is generally poor and needs to improve in many respects”.

She adds that,

“unanticipated changes in sentencing and the nature of work coming to CRCs have seriously affected their ... commercial viability, causing them to curtail or change their transformation plans”.

They have reduced staff numbers, some to a worrying extent. Is it not time for the Government to review their ideological commitment to private sector organisations playing a major role in criminal justice, with results often as disastrous as these?

Lord Keen of Elie: My Lords, this is not an issue of ideology. Many of the CRCs’ performance issues stem, as I say, from the financial changes they have faced because of the limited number of referrals they have received, and that has impacted on their performance. We hold CRCs to account for their performance through robust contract management. Where that performance is not good enough, we require improvement plans to be put in place.

Lord Paddick (LD): My Lords, one of the important issues that the chief inspector raises in her report is the fact that low-risk people, who are supposed to be supervised by the probation service, can become high-risk. She gave the example of someone convicted of driving while disqualified, who was receiving telephone supervision—one call every six weeks—and who eventually assaulted a previous partner. Does the noble and learned Lord accept that a phone call every

six weeks is no way to supervise people who are supposed to be under the supervision of the probation service?

Lord Keen of Elie: My Lords, supervision of offenders needs to be proportionate to the risk they present. In some cases, remote contact may be appropriate for lower-risk offenders who are complying with their orders. However, we recognise that best practice is for probation officers to work with offenders face to face.

Lord Ramsbotham (CB): My Lords, can the Minister please tell the House what the case loads are for individuals in the National Probation Service and in the community rehabilitation companies? A case load of 200 is simply unacceptable, and it is unbelievable that anyone can exercise any form of supervision of that number of people.

Lord Keen of Elie: My Lords, I do not have the current figures in respect of case loads for the service but I undertake to write to the noble Lord and will place a copy of that letter in the Library.

Lord Rooker (Lab): My Lords, the Minister has been meticulous in not thanking or supporting the inspector for her report. I invite him to do so. During my 12 years in government I came across Dame Glenys Stacey, and she is one of the finest public servants I had contact with during my time as a Minister. She deserves incredible support and the thanks of the House for the report, and I should like to hear it from the Minister.

Lord Keen of Elie: My Lords, I am perfectly happy to endorse the observations made by the noble Lord. Had I been asked about that point earlier, I would have responded in the same way.

Lord Birt (CB): My Lords, I declare an interest as the spouse of the founding director-general of the National Probation Service. This is a devastating report and the Minister will find some of the statistics that he is unaware of in it. These reforms were ill framed and speedily and poorly implemented. Does the Minister accept that it is time to go back to the drawing board?

Lord Keen of Elie: We do not accept that it is necessary to go back to the drawing board. It is, however, necessary to address the shortcomings in the delivery by CRCs. That is what we are in the course of doing.

Lord Ponsonby of Shulbrede (Lab): My Lords, is the Minister satisfied that the CRCs are properly breaching people, given that they are not fulfilling the requirement of their orders? Does he accept that it is extremely important that the judiciary and the magistracy retain their faith in community sentences? If the orders are not properly administered and people are not properly breached, it will undermine faith in those sentences.

Lord Keen of Elie: My Lords, I endorse entirely the observations made by the noble Lord. It is for the courts to impose programme requirements as part of the community or suspended sentences orders that

they make. Clearly, we have to ensure that they continue to have faith in the system when they are making those orders.

Lord Beith (LD): My Lords, surely the case is overwhelming for a careful review of what the Government were warned about by the House of Commons Justice Committee and others: not providing the resources for Through the Gate supervision of prisoners, which was the purpose of the reform, would ensure that it would fail. Given that the structure has not worked either because, as the Minister has indicated, far more people have been referred to the National Probation Service because of the level of their offence, it is surely time to review the operation of the scheme.

Lord Keen of Elie: My Lords, we do not consider that a root-and-branch analysis or going back to the drawing board is required at this time. However, we are taking active steps to address the very point that the noble Lord raises. Indeed, we are paying CRCs significantly more in the way of funding to ensure that they can deliver the services required, including, critically, Through the Gate services.

Lord Cormack (Con): My Lords, if the whole purpose of prison and the probation service is rehabilitation, which it must be, is it not essential that whether you live in Lincoln or Bootle or Bognor or Bath, you get the same service? Will my noble friend reflect on that and on the wisdom, or lack of it, in farming out responsibilities of the state to private concerns?

Lord Keen of Elie: My Lords, responsibilities have not been farmed out. Contracts have been entered into and they are properly supervised.

Baroness Butler-Sloss (CB): Is the noble and learned Lord really saying that the Government are satisfied with a telephone form of probation, because I do not believe anybody in this House is?

Lord Keen of Elie: My Lords, we are not satisfied with the telephone form of probation but, as I said, contact with offenders has to be proportionate to the risk they present.

Lord McNally (LD): My Lords, I assure the Minister that when these proposals were put through by the coalition Government they were ideologically driven, and some of the flaws that have emerged reveal the kind of compromises that were created in the probation service. Before these reforms, the probation service had an excellent report; we now have this disastrous report. If the Minister is approaching this ideologically, I put it to him that there is now a strong case for handing probation over wholly to the National Probation Service.

Lord Keen of Elie: My Lords, I am not approaching this matter as an ideologue. I am approaching it as a Minister with responsibility for the implementation of the existing system of probation, in which we continue to have faith.

Business of the House

Motion on Standing Orders

11.49 am

Tabled by Baroness Evans of Bowes Park

That Standing Order 40(1) (*Arrangement of the Order Paper*) be dispensed with on Tuesday 19 December to enable the debate on the motion in the name of Lord Burns to begin before Oral Questions.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, in the absence of my noble friend the Leader of the House, I beg to move the first Motion standing in her name on the Order Paper.

Motion agreed.

Business of the House

Timing of Debates

11.49 am

Tabled by Baroness Evans of Bowes Park

That the debates on the Motions in the names of Baroness Dean of Thornton-le-Fylde and Lord Bach set down for today shall each be limited to two and a half hours.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, in the absence of my noble friend the Leader of the House, I beg to move the second Motion standing in her name on the Order Paper.

Motion agreed.

Vulnerable Children

Motion to Take Note

11.50 am

Moved by Baroness Dean of Thornton-le-Fylde

That this House takes note of the report by the Children's Commissioner for England, *On measuring the number of vulnerable children in England*, published in July.

Baroness Dean of Thornton-le-Fylde (Lab): My Lords, I apologise to the House for not speaking from my usual place. Unfortunately, my back and the rest of me are not getting on very well together at the moment, although it is only temporary. I thank Black Rod's office, our marvellous attendants and the usual offices for enabling me to introduce this debate from a sedentary position.

As a former trade union general secretary in the printing industry and the one face to face with Rupert Murdoch at the time of what was known then as the Wapping dispute, I became used to the harsh things that newspapers said about me over the years, especially at that time. I sometimes used strong words against them, too. So I found myself somewhat embarrassed when I told a journalist at the *London Evening Standard* that his series of reports on the Children's Commissioner's report on the number of vulnerable children had reduced me to tears. It was to the credit of the *Standard* that

[BARONESS DEAN OF THORNTON-LE-FYLDE]
 the report was given front page coverage and, following that, every night of the week brought to the attention of readers what is happening to the lives of so many of our children in England.

David Cohen's penetrating journalism brought out so clearly this current disgraceful problem—not only in London but throughout England—the commissioner's remit and the ghastly failure of our society today. It equates with the kind of investigative journalism into similar social failure that Charles Dickens pioneered. I hope that David Cohen's profession acknowledges that. It is a timely reminder that, in the era of instant tweets and fake news, the pen can still be mightier than the sword. The *Standard* coverage and today's debate are a good demonstration of that.

The commissioner's report was published in July—but with little impact so far as I can ascertain—to galvanise government into action. Today gives us the opportunity to question the Minister on what the Government are doing to engage with the issues that this huge piece of research identifies and to address them. Let us hope that the Government are not so fixated and overwhelmed with Brexit that the welfare of our children does not get the attention and resource that it needs and deserves.

The Children's Commissioner's report draws together for the first time the numbers of vulnerable children in England. It has done this by using 12 experts, working solidly for four months, to research the numbers of children reported by the whole spectrum of all government departments, voluntary agencies and others, and for the first time bringing the numbers together to form one picture. Until this report we had separate individual figures from each government department on the number of vulnerable children in its care only. It was a fragmented, incomplete picture. Now there is no excuse and the total figures are horrific.

The detail is in the numbers, but we must not forget that every single number is a child—a child who should be able to enjoy their early years, feel safe, have a home, be free of abuse in all its forms and not have their childhood stolen from them. Yet this is happening to so many children and one cannot escape the fact that it is what the commissioner's report reflects. It is a sad indictment of our society today.

My objective for this debate is to secure an undertaking from the Government for urgent action in at least three areas. No doubt noble Lords will have others. The first, so clearly demonstrated to be needed, is what some might call “joined-up thinking”—a common phrase but so hard to deliver in national and local government, although many have tried. It needs more than that. It needs a high-level response—the highest, from the Prime Minister. It is only by Mrs May expressing her determination that this scandal—for that is what it is—will now be solved that government departments will work together, pooling ideas and resources. Is there any chance that progress will be made? These children deserve it and they have the right to expect it.

Secondly, we know that local authorities are struggling financially, but is it widely known that the Local Government Association has produced its own analysis indicating that by 2020, there will be an annual shortfall

of £2 billion in funding for children's social care services? What does that mean? It means that the reduced funding will go on crisis interventions—emergencies rather than the earlier intervention that would help. The Children's Society has found that between 2010 and 2016 local authority early intervention funding was reduced by 40%, with a projected further reduction of 29% by 2020. The impact of these cutbacks is already coming through, with more children in need and more being referred to social services, some 52% of them for abuse or neglect.

The most common assessment is domestic violence, at just under 50%. It is a dreadful picture of so many young lives being brutally damaged and carrying the impact throughout their adult lives. The figures are horrendous. More than 500,000 youngsters in our country are so vulnerable that the state has had to intervene. Some 670,000 children in England alone are growing up right now in what are deemed to be high-risk family situations. Sadly, many more children are just not being seen—although the Children's Commissioner, Anne Longfield, and her team tell me that they are certainly out there.

The report contains many more figures like that, but it is the individual cases, described so well by David Cohen in his series of articles published in London's evening paper, that bring home what the daily grind and living reality are for individual children. Noble Lords taking part in this debate have great experience and expertise in this area—far more than me—and will cover different aspects, but I should like to address two of them in the time available. The first is that of children who are carers and the second is children who are homeless or living in temporary accommodation. The commissioner's report cites an enormous figure of 171,000 children between the ages of five and 17 who are unpaid carers. What does that mean for each of those children? It means taking daily responsibility for shopping, cooking and cleaning, as well as often ensuring that the adult they are caring for both gets and takes their medicine when they should. These young people's childhoods are slipping away.

Young Beau is an eight year-old boy living in Richmond. He has the job of looking after his seriously ill mother because the local council has not succeeded in getting an adult carer for her. Quite apart from his domestic responsibilities, what impact is that having on Beau's life at school and his future life? Although he is only eight years of age, he is not the youngest. The Honeypot is a charity that does great work giving respite every year for 2,500 child carers between the ages of five and 12 in one of its two homes in the New Forest and Wales. It has an outreach programme visiting children in their home, yet it gets no government funding at all for its work.

The second group I want to refer to specifically is the 119,000 children who are homeless or living in temporary accommodation. An example is a little girl of eight called Hannah. She lives with her mother and younger sister. Their father, who has an alcohol problem, has left the family, but when he was drunk he sometimes returned. When he did, Hannah knew that her responsibility was to take her younger sister upstairs to the bedroom and hide under the bed. However, that

did nothing to protect them from hearing the beating their mother was getting from their father downstairs. When it was over, the little girls would see their mother's face pouring blood. This is not drama but real life for Hannah. The police were called and eventually the mother and children were told that they would have to move, so they went to a homeless refuge. That was not the end of their nightmare; in many respects, it was just the start. Hannah's problems increased. First, she had to change school, so she lost the teacher she knew and the friends she had made. She was not allowed to give out the new address where she was living, nor could she invite any new friends she made at school home for tea.

All too often in that situation, when a child appears different to others, the bullying starts. So we have a child who has been exposed to domestic violence, at eight years of age; she has lost her home; she has had to change school in difficult circumstances and without any preparation; and now she might be bullied. That is what the commissioner's report is bringing into the open. It is putting the issue before the decision-makers. We are part of this process: all of us have a responsibility to do what we can in our own way.

I cannot leave Hannah just yet. I am told that the maximum stay in a domestic abuse centre is six months. At the end of six months, with her mother and sister, Hannah had to leave—or more correctly, “present again as homeless”, probably to be moved to another area, another hostel, another short-stay accommodation, another school and another scarring of her childhood experience and life chances. If the family do not accept the short-stay accommodation they are offered, they have technically “made themselves homeless” and are treated as such. Is this what we are prepared to put up with in our “civilised” society? It makes me ashamed—and I suspect it makes noble Lords ashamed, too.

I put one further question for the Minister to respond to in this debate. Will he undertake to go back to the Prime Minister and urge—plead for, if necessary—increased government efforts and resources for our children where they are needed, to ensure that local authorities work with families in homeless centres while they are there to find them alternative accommodation, rather than leave the process until the end of their permitted stay?

Sadly, these human life true stories go on. Marvellous charities are doing all they can and I am not saying that local authorities are lacking in compassion. They are not; the problem is that they do not have the resources to cope—only national government does. This is a Dickensian situation in 2017 with which we must come to terms and to which we must respond in a more considered and profound way than we have done until now.

I am indebted to noble Lords who have put their names down for the debate; they are far more experienced than me and I very much look forward to their contributions. I hope that together we can make a substantial impression and have an impact on the Government to do more than they are doing at the moment. This issue affects us as a nation; it is up to us as a nation, not just as a single party, to address the appalling circumstances of so many of our nation's

children. I am sure that the House and all Members, whatever side they sit on, will agree that it is an embarrassing disgrace to our nation.

12.02 pm

Lord Mackay of Clashfern (Con): My Lords, it is a responsibility to follow the noble Baroness. I hope that her temporary need for a special arrangement will soon pass, because I have had the greatest admiration for her over a long period in this House.

The commissioner's report is extremely important, not so much for the numbers in it—although I was a mathematician in my early days—as for the range of vulnerability it discloses. It is very difficult to see exactly how this range of difficulty can be encompassed, and I believe that each of the vulnerability types referred to—there is a large number of them in the report—require individual treatment, for the most part.

As far as I am concerned, the principal starting point in any discussion of this kind is the Children Act 1989, which I believe provides a system for dealing with the perceived needs of children and, as is sadly necessary all too often, for taking children into the care of a local authority; there is a threshold for that. A number of the vulnerability types set out in the report can be dealt with under that particular method.

I strongly support what the noble Baroness said about the need for the service provided by the local authorities to be adequately funded and supported. I have seen the Local Government Association's analysis to which she referred, in which the very grave funding shortfall is set out. I strongly support the view that that is one of the most important areas of government responsibility we have for the children of our nation. When I speak of “our nation” I have to think of the United Kingdom, but the report refers to England alone.

As I said, I do not regard the numbers as quite so important. There is a good deal of difficulty reconciling the various numbers, but I will concentrate for the time I have, which is not very long, on some of the types referred to. The mental health of the children is an extraordinary revelation so far as I am concerned. My schooldays are now a very long time past, but I do not remember in my junior or senior school—where all sorts of people and all levels of the community were represented—coming across anything like this mental health situation. I do not remember a single pupil in the classes I had having any kind of mental health problem.

This is a huge problem. What exactly is the reason for it? How does it come about? It is one thing to deal with it when it has come about, but what is the underlying cause of this very large rise in the mental ill-health of very young children? There are some trends for discussion in our present community that may have an effect on that. It is not for me to say—I am no expert in this area, but it is a very important one. I am glad that the Green Paper the Government have issued seeks to deal with this important aspect.

The next case the commissioner mentions is exclusion from school. It must be an absolutely awful thing for a child to be excluded from school with no proper provision for their education in that situation. These are undoubtedly children with some kind of problem.

[LORD MACKAY OF CLASHFERN]

It is very difficult to know exactly what because there are various problems that may lead to this, but it is extremely serious.

Next is missing children. What is done about them? There are many missing children. What has happened to them? Where are they? What efforts are being made to find them? There is no suggestion that the actions of the children themselves have necessarily led to their being missing—they may have, but they may not. How is that dealt with?

The final important type I want to mention—there are all sorts of others—is children in gangs. I have said before that I believe the issue here is a lack of company, particularly parental company, at home. These children find a gang, a unit, in which they can have social intercourse, and it is the only route that happens to be open to them. All these issues need special attention. The commissioner has done a valuable job in bringing them to our attention.

12.08 pm

Baroness Benjamin (LD): My Lords, I congratulate the noble Baroness, Lady Dean, on her passionate speech and on securing the debate. I am grateful for the opportunity to speak about this important report from the Children's Commissioner on the number of vulnerable children and young people in England. I declare an interest as a vice-president of the children's charity Barnardo's.

This report is crucial, shining a light on our ability to identify and support vulnerable children and young people. The definition of vulnerability is wide and children and young people can experience multiple vulnerabilities. So, first, we must recognise that there is a spectrum of vulnerability. Identification cannot be done by one agency alone. All services, including schools and GPs, need to recognise who the vulnerable children and young people are. There needs to be awareness training and procedures need to be in place so that children can be identified, supported and safeguarded as early as possible.

Ever more children are suffering from anxiety and depression. It is well known that half of all lifetime cases of mental health issues start before the age of 14. Shockingly, 800,000 children are suffering from mental health difficulties, so Barnardo's welcomes the Green Paper on children and young people's mental health provision, especially the recommendation of a designated lead in mental health in every school by 2025 and the trailblazing approach for testing different ways to reduce the waiting time for CAMHS to four weeks. However, there are concerns about the lack of detail on implementation, because a trailblazer approach starting in 2019 could make the current geographical inequalities even worse. Will the Minister provide more information about which areas these trailblazers will take place in and give more details of how they will be implemented, including the four week waiting period for CAMHS? What assurances can he give the House that funding will be kept under review? The Green Paper commits funding of £310 million only during the period of this spending review, until 2020-21, but the plans for a designated lead teacher in every school will not be complete until 2025.

Some of the most vulnerable children and young people are hidden. A new report from Barnardo's, *Still Hidden, Still Ignored. Who Cares for Young Carers?* illustrates how some young carers take on caring responsibilities aged as young as four and others do more than 30 hours of caring a week on top of attending school. These children and young people are more likely to have significantly lower educational attainment than their peers. More than 50% of young carers reported that their caring role impacted on their mental health, with many suffering depression and anxiety. Last week I saw a moving presentation highlighting this from the Lowry in Salford, which uses arts as a tool for social change. Six years ago the Lowry started a relationship with Salford Young Carers Service, a project that has given more than 1,000 young carers a voice.

Although the last census showed that there were some 166,000 young carers under the age of 18, experts estimate that it is more likely that there are around 700,000 hidden young carers in the UK, all of whom are children under the age of 18. One in 12 of these children are caring for someone at home for more than 15 hours a week, delivering significant caring tasks such as administering medication, toileting, bathing, domestic care and emotional support. Around one in 20 of these young people miss school because of their caring responsibilities. These young carers are one and a half times more likely than their peers to be from black, Asian or minority ethnic communities. They are also one and a half times more likely than their peers to have a special educational need or a disability. However, these children are hidden from view, caring in silence, under the radar of social workers and teachers, carrying a huge burden of responsibility, often without support.

To shine a spotlight on this hidden world the Lowry interviewed four brave young carers and their families over the course of a year to produce a heartrending and moving piece of theatre based on their lives, called "Who Cares?". Professional actors took the play on a national tour to 27 schools and youth centres and it was seen by more than 4,000 young people. On every occasion a new carer was identified and signposted to support. "Who Cares?" was difficult to watch because these were not fictional stories; they were real, and the play did not shy away from the truth of the situation young carers are in. I watched with tears in my eyes.

We need to change how we view young carers and how we treat them in society. These young people are inspiring: they are heroes, and the challenges they face daily are enormous. Depending on where they live in the UK, however, the support available to them can vary hugely. The work delivered by local young carers' services is crucial at grass-roots level to supporting young people in vulnerable situations. Will the Government consider giving local authorities and commissioning bodies more statutory responsibilities to provide specialist services with adequate resources to identify and support young carers, and to ensure that all young people—regardless of where they live—have access to the highest quality support? As I always say, childhood lasts a lifetime, so we need to support, protect and embrace all children—especially vulnerable, hidden ones—and break the cycle of despair for the sake of future generations.

12.16 pm

Baroness Butler-Sloss (CB): My Lords, I also congratulate the noble Baroness, Lady Dean, not only on her excellent speech but on securing this extremely important debate. I refer to my entry in the register of interests on the issues of trafficking and slavery.

I want to deal with two smaller groups of children who are especially vulnerable: children trafficked into this country and children trafficked within this country, both British and foreign. Foreign children under 18 are trafficked into the United Kingdom. The statistics on those who have gone through the national referral mechanism show that one-third of all identified children—1,278—were victims. Interestingly, the numbers showed 103 in domestic servitude, 468 victims of labour exploitation and 362 victims of sexual exploitation; there were 742 boys and 536 girls. But this is only the tip of the iceberg, as the police particularly know. Many more are undiscovered.

We know that local authorities are overstretched and underresourced. They take these children into care, as far as they are able to, but they do not take them very far. As has already been said, children go missing, but trafficked children particularly go missing from children's homes, where no doors are locked and their mobiles are not removed. They get in touch with their traffickers and they are then taken and lost.

One particular group of children—Vietnamese children—go missing immediately. They go straight to their trafficker and are locked in a cannabis farm in residential accommodation. The most recent figure I have heard was that there are something like 8,000 such residential places across the country, of which 4,000 are in London, where cannabis plants are grown and the cannabis exported—we do not import cannabis anymore—and these boys under the age of 18 are locked in. It is especially worrying that they are very often being treated by the Crown Prosecution Service as offenders, not as victims, despite being locked in and ill-treated.

To give one shocking case as an example, a Vietnamese boy of 15 was in the dock with the adults, because he had gone through the reasonable grounds of suspicion that he was a victim but the CPS did not accept that—there have to be positive grounds. The local authority treated him in care as a victim; he said that he had been trafficked and beaten; and it was not until the very week of the trial, with the boy in the dock with the adults, that at long last the CPS accepted that he was a victim and not a perpetrator. My goodness me, what was the point of us passing the Modern Slavery Act, which gave the protection of a defence for those under 18 who were victims and committed crimes? The CPS seems to have a very long way to go to recognise this. It did not get in touch with the local authority or ask about this boy. The CPS must rethink quickly on this unacceptable situation.

British children are also exploited. Let me remind your Lordships of Rotherham and Rochdale, where the girls who were groomed and sexually attacked were also trafficked: they were locked into rooms and not able to escape. If that is not trafficking, what is?

However, there is a new form of modern slavery called “county lines”. I have only recently learned about this, but it is truly shocking and increasing rapidly. Thousands of children are being picked up by gangs and taken to towns and cities a long way away from home. They are locked into rooms; they are carrying and peddling drugs; and, all too often, treated as offenders rather than as victims. They are controlled, abused and exploited. At long last, the National Crime Agency has realised that this is a very serious matter. There are something like at least 720 gangs which are taking these children across the country. There has been some Home Office funding but, much though I would congratulate the Home Office for doing that, this is an emergency and a great deal more needs to be done. These are very vulnerable children.

Viscount Younger of Leckie (Con): My Lords, I remind the House that this is a time-limited debate and that speeches should be concluded as the Clock reaches five minutes. This is to allow Front-Bench speakers their maximum allotted time.

12.21 pm

Lord Farmer (Con): My Lords, it is indeed an honour to follow the highly knowledgeable noble and learned Baroness, Lady Butler-Sloss, in this debate. I join other noble Lords in congratulating the noble Baroness, Lady Dean, on securing this debate and for bringing the high numbers of children who are vulnerable, in one way or another, to the forefront of our attention.

The point of tracking the numbers of those at risk of having outcomes we would not want for any of our children is to prevent and address harm. It is essential that we break the terrible cycles that too many children are caught up in and seem destined—doomed—to repeat. As the former police borough commander for Southwark, John Sutherland, writes in his autobiography *Blue*:

“I see patterns repeat themselves right across the capital: domestic violence, alcohol-fuelled violence, serious youth violence, knives and guns, drugs, organised crime, the abuse of the vulnerable, the impact of mental illness, the stories of endless distress, in this city that is my home”.

He describes how the devastating files on these children's families, which reveal endless brokenness and complexity, mirror the repetitions of failed interventions on the part of the state. Getting support and help to these families as early as possible, long before another generation is old enough to be added to the crime statistics or counted among the indicators of risk identified by the Children's Commissioner's team, must be our highest priority.

I would therefore challenge the way that the 32 groups of vulnerabilities have been placed into one of four different types. An estimated 670,000 children—the second-highest number—are grouped in type 4, “Children with family-related vulnerabilities”. However, the issues faced by children in many of the other groups have their roots in family relationships, and without being explicit about this the focus will not be in the right place.

To clarify, all the groups in type 1 relate to the 580,000 “Children directly supported or accommodated (or previously accommodated) by the state”. The DfE

[LORD FARMER]

and Welsh Government figures show that more than 60% of children in care are looked after due to abuse and neglect in their birth families. These are family-related difficulties. The 370,000 in vulnerability type 2, “Children and young people whose actions put their futures at risk”, are all in groups which indicate a strong likelihood of a lack of safe, stable and nurturing relationships in their birth families; ditto, many of the 806,000 children suffering from mental health disorders under type 3, “Children with health-related vulnerabilities”, given the association between dysfunctional and conflictual families and children’s poor mental health.

I am not splitting hairs by challenging this typology. A lack of willingness to recognise explicitly the role families play in mitigating or multiplying the vulnerabilities of childhood helps to drive the data collection difficulties the Children’s Commissioner refers to in her foreword:

“We can trace in minute detail in this country the academic progress of a child from age 4 to age 18 and beyond. Yet when it comes to describing and assessing the scale of negative factors in a child’s life which will hamper their progress, we flounder. This has to change”.

If change is to be effected, we must face up to the barriers that have prevented it to date, significant among which is the reluctance among successive Governments to recognise the need to strengthen families in response to the litany of dire statistics in her report.

This reluctance lies in the mistaken assumption that the public have no appetite for addressing family breakdown. However, as I said in last week’s Budget debate, despite, or perhaps because of, almost half a century of high rates of family breakdown in the UK, support for policies to strengthen families remains strong. Almost three-quarters of adults think family breakdown is a serious problem and that more should be done to prevent families breaking up. More than 80% of adults think stronger families and improved parenting are important for “addressing Britain’s social problems”.

That is why I published *A Manifesto to Strengthen Families* with several colleagues here and well over 50 Members in the other place. We debated it last month, so I will simply restate now that supporting families cuts across every part of government and requires a high level of cross-departmental working and therefore leadership at the highest level. We need our Prime Minister to append responsibility for family policy on to the portfolio of a senior Secretary of State, in the same way that equalities is led from the big-hitter Department for Education. Without a champion, this vital but neglected agenda and the families which need support will fail.

12.26 pm

Baroness Pitkeathley (Lab): My Lords, I, too, congratulate my noble friend on securing this debate and on way she has introduced this important topic. I want to concentrate on a particular issue very close to my own heart, which she has highlighted, as has the noble Baroness, Lady Benjamin—young carers.

I am glad to see that young carers are included in the definition of a wider group of children with family-related issues. Looking at the definitions, which include being disadvantaged with education, in your economic,

social and behavioural situations and in your physical and mental health, it is clear that being a young carer can have an effect on your life in many different ways. Before I mention some of them, with inevitably negative connotations, I emphasise that most young carers are caring with love for a family member who needs them and that without the young carer other care would have to be found. We should celebrate and cherish such family relationships, which give the lie to those people who say young people are not responsible and that families do not care any more. That is not true.

When the contribution of young carers was first identified as far back as the late 1980s, I remember the disbelief with which it was greeted. People simply did not realise or believe that children as young as four or five were acting as the main carers for their disabled or frail parents. I remember the then Minister of Health saying very strongly to me that the figures I was using simply could not be true, and I was accused of scaremongering. I could see why anyone would say that because there was a conspiracy of silence about young carers in those days.

The typical situation then, as is still often the case now, was that one parent would be diagnosed with some kind of disability or condition. All would be well for a while but then the marriage or partnership would break up, leaving the child with the remaining parent, with neither of them wanting to bring their situation to the attention of anyone, not even their GP, for fear of what would happen: that it would be seen to be unacceptable and the child would be taken into care. Indeed, this often happened, so they were right to be fearful. It happened because no one knew quite how to deal with the situation.

I am glad to say that we have moved on a good deal. We have young carers workers and young carers groups, there is attention on the issue and charities running specific services for young carers have proliferated, although I am afraid we cannot ignore the fact that many such projects have been cut as a result of funding constraints on local government. The situation of young carers is much better recognised by health and care professionals, and in education, but they still report being stressed by too much responsibility, being physically tired, missing school, being embarrassed about their situation, being bullied, and having low self-esteem, anxiety, anger or guilt. YoungMinds states that young carers miss an average 48 days of school because of their role, and 68% report having been bullied at some point directly because of having to care for somebody. Research from the Carers Trust shows that young carers doing more than 50 hours’ care a week are five times more likely than normal adolescents to report that their health is “not good”.

As we have heard, there are an estimated 700,000 young carers in the UK, who frequently report that their caring role can cause distress and can impact very badly on their mental health. There are gaps in support and there are barriers that prevent them accessing the support that they need. Many research respondents talked also about worrying about family finances, and the realities of living in a poor household were highlighted by many. Some described shortages of basic necessities

and often described how limited resources jeopardised their physical health or participation and achievement at school.

However, this goes beyond school and into the employment market. These difficulties can continue for those who have been carers in their childhood and adolescence, because carers suffer the loss of certain skills, knowledge and confidence as a result of the time spent out of the workforce, which poses considerable barriers to entering the workforce when their caring role has ceased or they have got adequate services. Caring is not understood or respected by employers as a reason to be out of the workforce, especially if it has resulted in long-term breaks. Employers often fail to see the skills that an individual may have gained while caring. Those seeking work may also lack the ability to accurately explain the skills that they have developed, meaning that the value of their caring experience is not fully understood.

I have a couple of suggestions for the Minister to help young carers. The Government should put in place a duty on education providers to identify and support carers, and review the 21-hour study rule on access to benefits. The Department for Education and the Department of Health should work with local government to review waiting times and the quality of young carers' assessments, including the quality of outcomes, and targeted careers advice should be available to young adult carers. Those are relatively small steps but they could make a huge difference to the lives of young carers.

12.32 pm

Lord Warner (CB): My Lords, I, too, congratulate the noble Baroness, Lady Dean, on securing this debate and her passionate advocacy.

The commissioner has already shown that about a quarter of all children in England have a wide range of vulnerabilities that we should be concerned about. I suspect that progress on tackling this would be facilitated if the Minister's department could progress faster the adoption of a common identifier for children's services, based on the NHS number. Can he tell us, or write to me, about where things stand on this long-standing issue?

This initiative will raise big questions about how we use our resources for vulnerable children, and the adequacy of those resources, as other noble Lords have said. We need to take a long, hard look at many of our public policies, which can put children at greater risk. I strongly suspect that we put too much of our effort into trying to cope with deeply embedded problems rather than moving upstream, with more attention being given to earlier interventions and tackling poor and ill-informed parenting.

I turn briefly to three interlinked risk areas that I have been exploring: unregistered schools, home tuition and madrassahs. First, unregistered schools: Ofsted has identified 286 unregistered schools in the past 18 months but only 116 have been inspected, with warning notices issued to 36. The Institute for Jewish Policy Research estimates that 1,400 strictly Orthodox children aged 11 to 15 are being educated in illegal Jewish schools at any one time. Ofsted estimates that about 6,000 children are attending illegal schools in

England, but we do not know the true number. The previous and current Ofsted chief inspectors are clearly very concerned about the narrow religious curriculum of the schools—nearly all Muslim or Haredi Jewish—and the unsuitable books and texts being used.

Although it is a criminal offence to operate an unregistered school, recent Answers to my parliamentary Questions show that no operators have ever been prosecuted. This, Ofsted tells me, is because successful prosecutions cannot be brought as there is no satisfactory legal definition of a school. What are the Minister and his department going to do to ensure that prosecutions can be brought at scale to safeguard the thousands of children in illegal, unregistered schools? If he cannot answer today, perhaps we should have a meeting.

My second area of concern is the rapidly growing, unregulated area of home tuition, now provided to nearly 30,000 children. The noble Lord, Lord Soley, is to be commended for endeavouring to tackle the problem in this area with his excellent Private Member's Bill, which has attracted a high level of external and cross-party support. I see no case for opposing registration in this area as a basis for some light-touch regulation. When an area of unregulated public policy is expanding as rapidly as is home tuition, Governments need to sit up and pay attention to what is going on. It is unlikely to all be good. The Minister was unduly cautious in his response to the speeches at Second Reading.

Finally, I turn briefly to madrassahs, which the former Prime Minister, David Cameron, said unequivocally in November 2015 should be registered. The Department for Education then engaged in a public consultation on the issue. We have not heard much since on what the Government will do. The silence was explained when the most reverent Primate the Archbishop of Canterbury told this House last Friday—rather dubiously proudly, I thought—how he had intervened. As far as I could make out, his opposition to registration was because it would be inconvenient for Sunday schools, despite his acknowledgement that children were being put at risk.

We know that some madrassahs, like unregistered schools and some faith schools, pose a threat to children because of what they teach, the materials they use and their complete absence of support for British values. The current and previous Ofsted chief inspectors have expressed repeated and very clear concerns about the excessive focus on faith-based education, particularly a distorted interpretation of particular faiths and how it poses serious risks to children. Will the Minister and his department listen to the chief inspectors or to the most reverent Primate the Archbishop of Canterbury when it comes to protecting children in this country on this issue? When will we know whether the Government will pursue the policy of the previous Conservative Prime Minister in the area of madrassahs?

12.37 pm

Baroness Wyld (Con): My Lords, I too thank the noble Baroness, Lady Dean, for this debate and for bringing this issue to the House. I have three little girls of my own, and I found Hannah's story particularly difficult to listen to—as did noble Lords, I am sure—but listen we must, and we must do something for these children.

[BARONESS WYLD]

About a decade ago, before I had my children, I trained and worked as a Samaritan volunteer. In my branch, we had more than a few calls from young teenagers. I would go home to my flat after a night shift and be unable to sleep, wondering how on earth we could live in a world where someone so young had come to the point of having suicidal thoughts and why there had been no one for them to talk to along the way. Ten years on, I have a particular interest in mental health services for children, because for too long as a society we have viewed children's success solely in terms of academic outcomes which, although obviously a priority, form just one part of a child's well-being.

With that in mind, I welcome the Green Paper focusing on mental health provision for young people as a very important first step, particularly given the focus on schools. Last Thursday, I was privileged to visit Heathmere Primary School in Roehampton and heard first-hand about the programme that it runs with Place2Be, a specialist child mental health charity. Suffice it to say that when you see a group of children accessing first-point-of-contact mental health services in a primary school, you see vulnerability in all forms. Some of those children have developed, or are at high risk of developing, a clinical mental illness. Some have behavioural problems rooted in all sorts of underlying issues—often things that are going on at home. Some are known to social services, and some are not. Many of them are simply having an appalling run of bad luck, such as family illness or a death in the family. This is a simplistic way of categorising them, but I simply make the point that for too long, we have failed to see emotional health as a priority in schools.

At schools such as Heathmere, where a child's emotional development is at the very heart of the establishment, there is inevitably a deeper understanding of the plethora of factors that make some children so much more vulnerable than others, and the will and the tools to do something about it. There is quantitative proof that the help these children receive has a lasting impact. Place2Be's own data shows that 80% of the high-risk children it sees clinically improve; 74% of parents surveyed by Place2Be report improvements in home life; and teachers say that 69% of children seen in one-to-one sessions with Place2Be are less of a burden in classrooms. There is incredibly moving, qualitative evidence that these services help not just children but families, so that cycles can be broken, and there can be hope where there has been none.

Other noble Lords have rightly made the point that we must deal with the causes of mental health problems that children suffer, including family breakdown, addiction and deprivation. For children, like those I met last week, we must also deal with the here and now. Even a day is an eternity for a child. So I urge my noble friend the Minister to ensure that the Government use the Green Paper and the consultation period really to think with empathy from the point of view of a child and their family and, crucially, learn from some of the brilliant work that is already being done in schools, to ensure that implementation does not stall.

Of course, it is right to take the time to make sure that services are delivered properly, but time lost unnecessarily is a major part of a generation's childhood. I believe that if we accept uncomfortable truths that children can be mentally unwell, that they can face unbearably painful events, we are then obliged to provide environments in everyday life that, while they cannot cure every ill, can equip children and their families with the emotional resilience to respond to life's challenges and, most importantly, break cycles. In doing so, we can address the problem and its roots.

12.42 pm

Baroness Warwick of Undercliffe (Lab): My Lords, I thank my noble friend for giving us the opportunity to highlight these shocking figures. I hope by doing so that we can support the Children's Commissioner in her determination to track and address child vulnerability in all its forms.

This report is, indeed, shocking in the sheer numbers it identifies, but it is shocking that these figures are often only estimates. So when we are told that more than half a million children are so vulnerable that the state has to step in and provide direct care, intervention or support, 800,000 children aged five to 17 suffer mental health disorders, 119,000 children are homeless or living in insecure or unstable housing, or that nearly 12,000 children are living with an adult in drug treatment, we know that the actual numbers of children living vulnerable or high-risk lives could be even greater.

My concern and profound dismay at these figures echo what is felt by everyone who has already spoken. I want to focus on two of the 32 categories of vulnerability outlined in the report. I mentioned the 119,000 children who are homeless, or living in insecure or unstable housing. For children to thrive from their earliest years, they need a secure home environment. I should declare an interest as chair of the National Housing Federation. We know that families in persistent poverty are often struggling with high living costs. Often the only option available to them is low-quality and insecure housing. Pressure on local authority housing lists means that families are stuck in temporary accommodation, often unsuitable for children, and tensions rise over housing allocations.

We can do something about this. We know that the right housing and the right support enables vulnerable families to break chaotic patterns of living and gain the benefits of settled accommodation in the longer term. When this happens across communities it has a multiplier effect—creating safer neighbourhoods, boosting social capital and reducing demands on acute health and care services. The case for investing in affordable housing is overwhelming. Can the Minister tell us what progress is being made on meeting the targets for increasing our affordable housing stock, and how will the Government ensure that these homes will meet the needs of families on waiting lists?

I also want to highlight the 800,000 children who are suffering mental health difficulties, as many other noble Lords have done. We know that childhood and the teenage years are when patterns are set for the future. A child with good mental health is more likely to develop healthy relationships, to do well at school,

and to grow up to be able to take on adult responsibilities and fulfil their potential. So for these vulnerable children, early intervention is crucial. Yet recent government policies have made such intervention much harder to achieve: funding for the early intervention grant has been cut by almost £500 million since 2013, and it is projected to drop by a further £183 million by 2020. Central government funding for local authorities to spend on children's services fell by £2.4 billion between 2010-11 and 2015-16, while a four-year freeze on support for children under universal credit is expected to reduce the value of key children's benefits by 12% by the end of the decade. Councils are facing a £2 billion funding gap for children's services by 2020, while demand continues to grow. Every day last year saw 90 new children entering care and 500 child protection investigations. Can the Minister give any assurance that this funding gap will be addressed in the forthcoming local government finance settlement?

While I wholeheartedly welcome the Government's consultation on children and young people's mental health provision, particularly its focus on earlier intervention and prevention—it is long overdue—I ask the Minister whether he thinks its proposals go far enough. Aiming to have new mental health support teams linked to schools and colleges in,

“a fifth to a quarter of the country”,

five years from now seems a very modest ambition, given the scale of the problem. We need to be able to provide support to children, young people and their families when they start to struggle, not 18 months after they are referred for treatment. That is how we will avoid the costly and intense suffering that entrenched mental illness can cause.

I am haunted by the invisible children not captured in these statistics because they haven't been reported to services, or because of gaps in available data. I hope that this report does indeed help us to count more accurately and to arrive at a system which better identifies the vulnerable child. I echo my noble friend's plea for an urgent cross-departmental response championed at the highest level of government, so we can offer those vulnerable children the help and support that they need.

12.47 pm

Baroness Masham of Ilton (CB): I congratulate the noble Baroness, Lady Dean of Thornton-le-Fylde, on securing this important and necessary debate. It is a pleasure to have her sitting here beside me. I thank the Children's Commissioner for her report, which tells us that there are vulnerabilities that are often more difficult to identify and address. It refers to children living in homes with the presence of the toxic trio of mental ill-health, substance misuse and domestic abuse. The need to identify those issues collectively has been a reported key recommendation from serious case reviews over the last decade, yet still our knowledge is based on the risks identified with each issue, not how they combine.

With Christmas coming up and families arranging their festivities, it is appropriate that we are discussing the many vulnerable children spread across England and that we support the difficult work of the Children's

Commissioner. I feel that the very worst situation for children to be in is continued violence and cruelty and for the people who could help to turn a blind eye. I want to remind your Lordships of three cases, which shocked and saddened me.

Victoria Climbé was eight years old when she died on February 2000. She had been tortured and mistreated by her aunt and partner. The inquiry found that 12 opportunities were missed to save Victoria, and it showed shambolic council officials, incompetent police, flawed hospital assessments and ignorance. My noble friend Lord Laming was the inquiry chairman. He said that the hearings would serve as an “enduring turning point” in the history of British child protection.

Then, on 3 August 2007, Baby P was murdered. He was 17 months old and died after months of being used as a punchbag and then having his back and ribs broken. It happened in the same area where Victoria had experienced that awful cruelty and terrible death. My third case is 18 month-old Elsie, who died in May 2016 after she was shaken and beaten to death at the family home in Cardiff by her adoptive father, a fitness instructor. A senior family court judge criticised social services for failing to take action.

There are so many different groups of vulnerable children. I was a member of a board of visitors at a young offender institution for many years. I used to ask the boys of school age how they got on at school when they were at home. They would say that they did not go to school, but went back for their free lunches. Nobody seemed to bother, neither their families nor the schools—perhaps the schools did not want disruptive pupils. But there should be a better system.

I have had first-hand experience of alcohol problems in the home. When my husband and brother-in-law were schoolboys, they did not know if it was safe to bring a friend home in case their mother was under the influence of drink; she was an alcoholic. When my husband asked me to marry him, his big problem was how to explain about his mother. Drug and alcohol use by parents can make many children vulnerable.

Time does not allow me to expand on the extra costs and pressures of disability, which can make for vulnerable children, or on the need for more training for people looking after children with eating problems—the list goes on. I hope that this debate will highlight vulnerable children's need for support and care. Professionals should work with good communication and in co-operation, rather than in isolation.

12.52 pm

Lord Suri (Con): My Lords, this debate speaks to a wider issue in our politics. Our politicians often willingly and unthinkingly use nebulous terms. When the time comes for serious legislative lifting, those terms that action has been predicated on are not useful. “Vulnerable” is one of those words—it is used regularly—and another is “support”. “Support” can mean financial payments, a statutory duty or subsidy—indeed any number of things—while “vulnerable” also appears to have no clear definition, or nothing that policymakers here and in another place can drill down into. Without a clear definition, we will find our objectives unending. Once we have attempted to solve one problem, another lobby will say we have not fixed another.

[LORD SURI]

My party's manifesto at the last election committed to supporting,

"vulnerable children for whom the state acts as a parent".

That seems to be one clear indicator of what a vulnerable child is, namely that the state is a surrogate. But some children are in gangs, or have severe mental health difficulties. If the state is not involved in their lives, they may well slip through the gaps. I believe an easier solution can be found to maintain the promises made to vulnerable children and families in the manifesto. We ought to scrap the use of the word "vulnerable" and say what we mean when talking about specific groups. After all, every child is vulnerable, which the report correctly alludes to.

Reading the report, I got the impression of the authors trying to grasp a slippery rock. With 32 different categories, no one policy could hope to address all the problems facing the children discussed. This is a direct result of lazy thinking. To make the point, a politician may well promise to help vulnerable children, thinking of mentally unwell youths, but the people to whom they talk may take that to mean absent children or young carers.

Furthermore, the way that the machinery of government works is not compatible with the regular use of the word "vulnerable". For the Department of Health, it may encompass children who have substance-abusing parents or who suffer from mental illness. For the Department for Work and Pensions, it may cover children aged 16 to 18 who are not in employment, education or training. I propose that we ask every department to come up with the children it has contact with whom it considers vulnerable. That would be a strategy led by policymakers, not one foisted on them by a nebulous term. After they have produced that work, they can develop their own strategies. Perhaps some would wish to attach that duty to one of their Ministers, as someone to take the lead on the strategy. Then we would be able to refer to a strategy to help teenage parents or a strategy to help care leavers or any other group and address the issues of vulnerable children overall.

The report alludes to the aim that,

"we as a society need to know who these children are, how many they are, and what their different outcomes are, if we are to have any hope of beginning to address their needs".

There is no reason for departments not to come up with definitions and work together to help categories of vulnerable children while staying within that stated aim. Will the Minister consider this course of action?

12.57 pm

Lord Judd (Lab): My Lords, I join others in thanking the noble Baroness, Lady Dean, for introducing this debate and for the burning conviction with which she spoke in opening it.

I should declare an interest as I was for nine years president of YMCA England, which, of course, finds itself in the front line of working with all the issues we are discussing. In correspondence with YMCA about this debate, it made the following rather interesting point about the report, which it greatly welcomes:

"The Children's Commissioner's report alarmingly shows that a substantial amount of work is needed if we are to have a true picture of how many vulnerable children exist in England. Given the scale of uncertainty, it begs the question if society does not know the number of vulnerable children, how can we be close to ensuring that we have the appropriate resources in the right places when they are actually needed?"

This is a huge challenge.

It might be appropriate at this stage, in view of all that has been said, and particularly as we approach Christmas, to send a message of good will and solidarity to those local authorities which really care about children and are struggling to provide and play their part amidst all the cuts and restrictions placed upon them. Similarly, in a world in which we have such an irresponsible public press, we should put on record our admiration of dedicated, hard-working, committed social workers across the country, who are grappling with these issues on the front line.

The Chief Inspector of Prisons said something truly disturbing in his report this year: that no prison he inspected,

"was safe to hold children and young people".

As the Howard League for Penal Reform points out, as we come up to Christmas, thousands of youngsters will be locked into just that situation: suicide, self-harm, drugs, and all the rest. That is to leave to one side what happens to vulnerable young children on arrest, who too often experience the nightmare of Tasers, spit hoods and total isolation in police cells.

What are we doing to our children? All this reflects the failure of society. The point that they are so often the victims has been stressed already in this debate. I took a particular interest in the work of the YMCA with young offenders, and I repeatedly came to the conclusion that it would be an absolute miracle if the people I was talking to in institutions had not ended up there; in one form or another their lives had been total nightmares. How can we think that we can solve this in the institution, when it is short of resources, the money available to it is being cut back, and all the rest? The origins of the problem lie in society. It starts with us, in this very House.

The truth of the matter is that many of these children have never been loved. That cannot be solved by institutional arrangements; it has to be solved by the values of society and of the people who work within the system. However, if you have a society dedicated to acquisitive principles, selfishness and egocentricity, how can we begin to get this right with our own children?

I will make one last point in this excellent debate. I believe deeply that there is a moral and social challenge that every one of us in this Chamber, and society as a whole, has to face up to: it is the sickness of our society that is producing this nightmare. We read Dickens—but now look at ourselves. We have one hell of a job to do in changing society around.

1.03 pm

Lord Russell of Liverpool (CB): My Lords, I also thank the noble Baroness, Lady Dean, for securing this debate and for the manner in which she opened it. If she is able to do that from a sitting position, one can only imagine what she can do when her back is better. I hope that will be soon.

I declare an interest as a trustee of Coram, which is the oldest children's charity in this country, founded in 1739. We have a range of activities which, I suspect, touch every single one of the 32 groups the Children's Commissioner identified. I was fortunate to be present at the briefing she gave here in this House on 27 November, and I thank her and her team for all the hard work that has produced this "work in progress" report.

Frankly, the reaction from those of us at that meeting was, how on earth did we get into a mess like this? There were some much more knowledgeable and experienced people than me in the room—for example, the noble Lord, Lord Warner. Several of them spoke of a long and tangled history of attempts to get a better handle on these statistics, and of failing again and again. There were comments about the persistence of a silo mentality across departments, agencies and regions; an embarrassment of data—most of it disaggregated and much of it confusing and contradictory; and myriad pilot schemes, which departments seem to be particularly fond of, most of which are expensive and now long forgotten. Governments change and Ministers come and go but, inexorably, vulnerability seems to have got worse and worse.

However, we now have an opportunity to be genuinely innovative, and there is some good news, which I will come back to. I have some questions I would like to pose to the Minister which I think his team is already aware of, so I hope he has the answers ready. First, on looked-after children with unresolved immigration issues, what is the department doing to identify those not in the asylum system, including EEA nationals? Secondly, how are the Government ensuring that local authorities have sufficient resources to regularise the status of looked-after children with unresolved immigration status? This is exacerbated by the lack of legal aid and by a hideously complex application form and expensive application fee. Thirdly, did the Government ever consider the vulnerability of children in care with immigration issues when they decided on a 10-year resettlement programme? Fourthly, what steps are the Government taking to help children excluded from school who have special educational needs? That is a particularly complex problem.

To return to the opportunity to be innovative, we live in an era of big data and data analytics, and we are entering the exciting but rather uncertain world of artificial intelligence. It is a sad truth that many of the large social media companies often know more about vulnerable children than all the different arms of government put together. I refer your Lordships to some investigative work—I thank the noble Baroness, Lady Kidron, for pointing me in this direction—carried out in May of this year by the *Australian* newspaper. It published a story about Facebook's having shown one of its advertisers its ability to determine whether young people were feeling—in its words—"stressed", "defeated", "overwhelmed", "anxious", "nervous", "stupid", "silly", "useless", or a "failure". It was also rather proud that it was able to give data on people who had body confidence issues or concerns about their appearance. It is a bit worrying that Facebook and other social media companies genuinely probably know more about these vulnerable young children than we do.

Now for the good news. In 2017, Parliament passed the Digital Economy Act. An organisation—which I will mention in a minute—says, on the implications of this Act, that it,

"enables the transformation of personal information held by government departments into an immensely valuable resource of anonymised datasets for research purposes".

That may sound rather dry but it is actually rather exciting. It means we can have cross-sector, longitudinal analysis which can give us real insight and, best of all, knowledge. That organisation is the Administrative Data Research Network, which is under the ESRC, which is part of the Department for Business, Energy and Industrial Strategy. I appeal to the Minister, his officials and other departments to find out about this resource and use it, and to embrace 21st-century technology. We have an unprecedented opportunity to be child-centric. For the children's sake, please go and do it.

Finally, I suggest to the Minister some Christmas reading: 210 pages of the OECD's *Integrating Social Services for Vulnerable Groups: Bridging Sectors for Better Service Delivery*. It will keep him awake.

1.09 pm

Lord Balfé (Con): My Lords, I add my congratulations to those of others to the noble Baroness, Lady Dean. She said she was indebted to us all for speaking in the debate and I hope she will still feel indebted to me when I sit down. I thank also the Children's Commissioner, Anne Longfield. Although the statistics in her report have been cited many times, I see something much deeper underneath it.

I must declare a couple of interests. First, I grew up in care, so I have some knowledge of the system—although that was 60 years ago, so it is totally out of date. Secondly, I was the research officer for the Committee on One Parent Families, where for the first time, in the late 1960s and early 1970s, we tried to get to grips with the definitions of disadvantage. Believe it or not, until then nobody really knew what the concept was, apart from a word to look up in a thesaurus to try to get some similes. Thirdly, I am a fellow of the Royal Statistical Society, so I hope I will be forgiven if I talk more about statistics than the human nature side.

To me, one thing that comes through in this report is that the commissioner is grappling with definitions and with size. At one point, she says that 4 million children live in families with less than half the average household income. There, she is talking about the largest definition of vulnerability, but that is a quarter of all children; it has to be a bit more precise than that. If you read the report carefully, you will see that under the definition of children with alcoholic parental problems, the number ranges from just over 15,000 to around 900,000. There is clearly a need to refine this much more. In the section on the lack of clarity on definitions, the commissioner mentions,

"children whose parents may have limited parenting capacity".

She states also that the number of children who have physical health issues ranges from 206,000, but that the Council for Disabled Children has,

"700,000 children ... who have a limiting, longstanding illness", going up to,

"1,478,487 children who have a longstanding illness".

[LORD BALFE]

The point I am making—I make it also to the Minister—is that the Government need to try to refine the definitions of poverty and disadvantage to get closer to the real figures.

To go back to my experience on the one-parent family committee, we found that, as defined, “difficulty” and “poverty” were readily solvable. The committee was known as the Finer committee, because in those days committees tended to be christened after their chairman. I well recall Morris Finer, who sadly died rather young, saying, “I think we could solve half the problems by issuing each one-parent family with a £5 note”. When we looked at it, we saw that poverty was the root cause of a huge number of problems, but it was not then a social work issue but a redistribution and benefits issue. The fact was, and probably still is, that one-parent families tended, by definition, to have one earner and to be much poorer and therefore able to give much less support to their children. This is probably still an issue. It was quite different from the problems we had with alcoholic parents or parents who just could not cope.

One of the two biggest challenges facing the Minister is getting adequate definitions of problems. He will then have to deal with defining a hierarchy of those problems, because they cannot be defined and cured all at once.

The final point for the Minister to grapple with, which all Ministers must, is resources. There is not an unlimited level of resources. Too often in this House I come to debates about the demandeur not the payer: we demand the money but have no idea where it will come from. There is a limit to state expenditure and one of the biggest difficulties for the Minister and his colleagues is coming to terms with where the money will come from and the hierarchy of needs to be addressed. I wish the Minister well—I do not envy him in the task ahead.

There is no difference between the parties in this Chamber on this. We all want to do our best. The debate is about how to do it, not whether to do it. Therefore, I thank the noble Baroness, Lady Dean, for introducing this report and giving us an opportunity to air these views.

1.15 pm

Baroness Healy of Primrose Hill (Lab): My Lords, I congratulate my noble friend Lady Dean on securing this important debate, and the Children’s Commissioner on producing this invaluable report. I want to highlight the impact of parental imprisonment on children. Prisoners’ families are more vulnerable to financial instability, poverty, debt and potential homelessness following the imprisonment of a family member. Living in poverty as a child increases the risk of having low attainment at school. The Joseph Rowntree Foundation states that,

“it is clear that young people from poorer backgrounds across the UK are much less likely to achieve good qualifications, putting them at much higher risk of continuing to live in poverty as adults”.

The excellent report produced by the noble Lord, Lord Farmer, on the importance of family ties in reducing offending said that at any one time there are

around 200,000 children with a parent in prison. It noted that most children with a parent in prison benefit from continued contact with that parent. The report recommended extended visits to allow children to spend time with imprisoned parents in a child-friendly environment. The Government need to be aware of prejudice and discrimination that may affect the fortunes of prisoners’ children.

The Children’s Commissioner has begun the vital task of estimating accurately the number of vulnerable children in this country so they will no longer be invisible. As she explained,

“we as a society need to know who these children are, how many they are, and what their different outcomes are, if we are to have any hope of beginning to address their needs”.

I welcome the commissioner’s determination to include the number of children who have a parent in prison in future reports. Surprisingly, the Government do not collect this data.

Children with imprisoned mothers are one of the most vulnerable at-risk groups and often experience multiple disadvantages and traumas. There is no formal agency or organisation responsible for prisoners’ families. Because of this, there is little documentation of the changes they experience and the help and support, if any, they receive when their mother is incarcerated. Children in this group are more likely to suffer mental health problems, struggle at school, have behavioural problems and experience stigma and isolation.

Women in prison are often primary carers of children. A prisoner survey found that six in 10 women in prison had on average two dependent children. Women’s imprisonment results in over 17,000 children being separated from their mothers each year. For the majority of these children, it is the first time that they have been separated from their mother for more than a day or so. In a recent study of 17 imprisoned women, 51 children were directly affected.

The imprisonment of a mother compounds, rather than mitigates, pre-existing family problems, and for children, witnessing their mother’s arrest can be traumatic. A recent study found that children with a mother in prison may experience “confounding grief”, which is expressed in angry and aggressive behaviour. Imprisoning a mother often results in the loss of parental care and the break-up of the family. Only 5% of children remain in their family home when a mother goes to prison and only 9% are cared for by their father. Children have on average four different carers during a mother’s sentence.

Many caregivers do not want to tell children the truth about their mother’s imprisonment. This secrecy or forced silence can lead to a great sense of stigma for children. Even when mothers serve very short sentences, this has a profoundly devastating impact on children, including insecurity, bed-wetting, nightmares and bullying.

One in five women in England and Wales is held more than 100 miles away from home, making visiting difficult for children and often unaffordable for carers. Regular contact between mothers and their children increases the likelihood of positive outcomes for children and, as the Farmer review made clear, is better for offenders, too. Yet another study found that 50% of imprisoned mothers do not receive visits from their children during their sentence.

The imprisonment of a household member is one of 10 adverse childhood experiences known to have a significant negative impact on children's long-term health and well-being, school attainment and later life experiences, sometimes resulting in their own imprisonment. Action is needed to reduce the unnecessary imprisonment of women, especially for short-term sentences, replacing them with community alternatives. More must be done to identify the needs of children of imprisoned parents. I wish the Children's Commissioner success in her future efforts to identify these vulnerable and invisible children.

1.21 pm

Lord Loomba (CB): My Lords, I, too, thank the noble Baroness, Lady Dean, for securing today's important debate. I welcome it and acknowledge its importance in safeguarding vulnerable children. The report points out the huge task that the commissioner has in gathering reliable figures with which to work to improve the lives of vulnerable children. I commend the commissioner for the aim set out in her briefing of focusing on the child—putting the child at the heart of the matter.

I will focus on one area of the report—the experiences of children in the looked-after system. Here I declare an interest as vice-president of Barnardo's children's charity. Noble Lords have already heard some information about the charity from the noble Baroness, Lady Benjamin, who has also spoken about it. Barnardo's does a great deal of work with children in the looked-after system and to support them when they leave care, including adoptive and foster placements for harder-to-place children, post-adoption counselling, support for adopters and adoptees and residential care for children and young people who are not able to live in a foster placement or at home. The charity also provides support to care leavers as they make the transition to adult life, including employment, training and skills, accommodation and mental health and emotional well-being.

The number of children in care is at its highest level for three decades, with a 31% increase in the number of children subject to child protection plans and a 108% increase in referrals to children's social care services since 2010. The reasons for this are complex but it means that there is an increasing number of vulnerable children for whom the state has a responsibility as a corporate parent to help provide a stable, loving environment and to assist them to move on from traumatic childhood experiences.

Budget cuts have challenged services' ability to provide the right support at the right time to the most vulnerable children. Barnardo's highlights the complexities surrounding many of these children. A recent analysis of 630 referrals made to Barnardo's fostering services revealed that 16% of fostering referrals involved a young person who had been involved in child sex exploitation; 17% involved an unaccompanied asylum seeker or a child or young person who had been trafficked; and 6% involved children or young people who were exhibiting harmful sexual behaviour.

The need for support for vulnerable children does not end when children leave the looked-after system. Last year alone, 11,000 16, 17 and 18 year-olds left

local authority care in England. Most young people's parents help them on their transition to becoming independent adults, but often care leavers do not have this support, and for many this is a frightening and uncertain time.

Last year Barnardo's supported 3,200 care leavers to make the transition to independent living. This work has shown that a key problem for this group is lack of mental health support. Research by the charity showed that one in four care leavers had faced a mental health crisis since leaving care, and that 65% of care leavers with mental health needs were not accessing a statutory service.

Children are our future. It is our duty to support them in every possible way. Can the Minister say what is being done to ensure that there is adequate funding in place to help these vulnerable children when they need it the most?

1.26 pm

Baroness Brinton (LD): My Lords, I welcome the noble Baroness, Lady Dean of Thornton-le-Fylde, to the mobility Bench. I congratulate her on securing this debate and the Children's Commissioner on her excellent report.

I will start by focusing on children with either mental or physical illness, disability or infirm condition, which covers two of the sectors in the report. Your Lordships' House will remember that during the passage of the Children and Families Bill we discussed at some length amendments to provide support for pupils with medical conditions at school. The statutory guidance issued in December 2015 laid a clear burden on schools and various other associated education partners to ensure that children with long-term, life-limiting medical conditions were treated and supported appropriately in the education environment.

The Health Conditions in Schools Alliance carried out a survey of 200 schools and found that 47% had a medical conditions policy in place—which is encouraging two years after the guidance was introduced—but that only 11% had guidance that complied with the Government's standards. Earlier this year, Young Epilepsy conducted a survey of young people with epilepsy, their parents and carers to find out whether they are getting the support that they needed. One in three young people with epilepsy still does not have an individual healthcare plan at school, which should set out essential information, including what staff do in an emergency. Two out of three healthcare plans do not include how epilepsy might affect learning. One of the key points in the progress of the Children and Families Bill was to make sure that health and education were completely at one—because you could not treat a child's education completely separately from a long-term condition.

Only half of the families surveyed said that school staff had been trained to support a young person with epilepsy. One in six young people with epilepsy is excluded from activities in school. That is not good enough. The stories that your Lordships' House heard about children excluded from activities at school because of their condition is one reason why the guidance was approved. Is the Minister prepared to ask that all schools publish their medical conditions policies on

[BARONESS BRINTON]

their websites, and that school inspections should include a routine check to ensure that support for children with medical conditions is there?

The second group of vulnerable and hidden children I want to talk about is those whose numbers we do know clearly—or at least, the Department of Health knows them. These are children who are born with or develop terminal conditions and who require consistent and excellent support. Noble Lords will know that I have spoken on this matter on more than one occasion in the House, but the lack of support that these children are getting is an outrageous scandal. Only a third of CCGs say that they are implementing the Government's *Our Commitment to you for End of Life Care* policy, while a further 19% say that they are thinking about doing so. Some 93% of CCGs are cutting support for respite and palliative care for this vulnerable group of children. Although 63% of CCGs commission services to provide community paediatricians, only 29% provide out-of-hours care.

These dry figures are easily remedied by one blog from a mother. The Nascot Lawn centre is just down the road from me. It is one of the very rare centres that provides proper medical respite care for very severely ill children. Lennon, aged 10, was first referred to Nascot Lawn when he was two years old. I will give an idea of the complexity here. At the time he had a Hickman line, fluids, 24-hour oxygen and a 24-hour PEG-J feeding tube into his stomach. After a few months of “tea visits”, the staff at Nascot Lawn and the family all made the decision that respite care at the NHS-run Nascot Lawn would not work due to his complex medical needs. He was too medically complex even for that NHS medical respite care centre.

When he was in Great Ormond Street Hospital, which treats the most medically complex children in the country, he was under 16 different specialist teams. Sadly, the local CCG has decided that the Nascot Lawn centre is not necessary because it provides respite care, which the NHS does not support. I hear mutters to the effect that, “That is nonsense”. It is complete nonsense, because after the announcement of the closure, Lennon's mother went through a series of interviews with all the health professionals, but they could offer only one centre four hours away from their home for just one weekend's respite a month, which was what they had been getting up to that point.

The family was then told that that was not practical, either. To quote from Lennon's mother's blog, they were then faced,

“with the impending reality of being solely responsible for a child requiring an extreme level of medical input, with no overnight respite for the indefinite future ... Getting up every 2 hours throughout the night, every single night is exhausting. You cannot roll over in bed and make a decision to ‘skip’ getting up because you simply don't have the energy. You have to drag yourself out of bed, force your legs to carry you to your son's downstairs bedroom and wake up enough to be competent in carrying out the procedures ... Life or death is a huge responsibility for any parent to have to deal with. No one would expect a nurse in a hospital to work the hours parents do, or take on the responsibility that parents take on when they are caring for a medically complex child”.

What was the solution offered, given the impending closure of the respite centre? The blog continues:

“We were later advised to consider looking into a 38 week a year residential placement for Lennon—potentially costing the NHS in excess of £200,000 a year”.

The Nascot Lawn centre costs £600,000 a year to care for all the children who use it. The really sad news is that Lennon died in August, as his parents knew he would. But there are other parents who are looking at having to lose their children because the NHS has withdrawn its support.

I ask the Minister whether he will continue, as I know the noble Lord, Lord O'Shaughnessy, has, to look at what the NHS can do for these children. Why is it important for the education Minister to do this? It is because of the link between the Department of Health and the Department for Education in making the best provision for a child that was so clearly set out in the Children and Families Act 2014.

In my last few minutes I will pick up on some general themes on behalf of my Benches. The one core message that is absolutely evident in the Children's Commissioner's report is that we seem to have lost our way with collecting data. Data is vital if we are to understand the problems. I urge the Minister to consider that for this particular group of children there should be one Minister with responsibility for looking at data across departments to make sure that we do not lose sight of these children. I do not mean only those I have spoken about in the physical and mental health category, but across the board. It has to be the responsibility of the Department for Education to ensure that all our children get the best support in life.

The noble Lord, Lord Balfe, spoke of the importance of making sure that we do talk about statistics. I am worried that, in the bonfire of regulations that was really taken on board post 2010 and seems to have continued since then, even government departments do not have the capacity to understand what is happening in their own department. The noble Lord finished by commenting—I believe that these were his words—“We often demand but we do not say how we should pay. There is a limit to state spending”. No, no and no again. The children who have been discussed in the debate absolutely deserve their human right to receive support from the state. There has been much consideration of austerity in other debates in your Lordships' House. Austerity for these children means that their lives will continue to be destroyed. As my noble friend Lady Benjamin said earlier, it is really important to remember that childhood lasts for life. Children like Lennon and many others are facing severe cuts in support. Austerity means a life cut short and families struggling to cope from day to day. Our children deserve better.

1.36 pm

Lord Hunt of Kings Heath (Lab): My Lords, I welcome this debate on the report of the Children's Commissioner and I congratulate my noble friend Lady Dean on her excellent and well-informed speech, which has led to a really excellent debate. I know that the noble and learned Lord, Lord Mackay, thinks that the numbers are less important than the range of vulnerabilities set out in the report, while the noble

Lord, Lord Balfe, thought that more work needs to be done on refining definitions. These are important points, but in the end the one message that comes through in the report is that the statistics, shocking as they are, are regarded by the Children's Commissioner as being but the tip of the iceberg. The point she makes is that the figures set out in the report are likely to underestimate the actual number of children living vulnerable lives because many of them are invisible to services. The noble Baroness, Lady Brinton, is surely right to say that the kind of reductions we have seen in the traditional functions of the Civil Service will have an impact on that.

In her report, the Children's Commissioner argues that the Government must do more to collect better data and questions how effectively the problems that are outlined can be tackled if departments and agencies do not know how many children are affected or cannot agree on how to define and therefore identify them. The first point to be put to the Minister is whether the Government are going to respond positively to this. If not, the way that statistics lead into the analysis of policy, and then lead to changes in policy, is simply not going to happen in the most effective way possible.

The overriding message from my noble friend was the need for joined-up thinking in government and leadership from the Prime Minister. I agree. A number of noble Lords will have experience of how departments work or do not work together, but one thing is for sure. If we have leadership from the top of government and that is backed up by some kind of joint performance—targets, or call it what you will—different departments will be forced to work together. That is the only way to get the kind of joined-up approach to policy development and implementation that we need to see. Again, I hope that the noble Lord will be able to say something about this rather than just relying on saying that there are good relationships between departments. Can he give us some idea of a mechanism for driving forward the kind of changes we need?

Our next debate is about poverty. Of course, the links between poverty and children's vulnerabilities are very strong. We have had a large number of excellent reports from organisations. I was struck by the joint report from the Children's Society, Action for Children and the National Children's Bureau, published just a month ago, which looked at the impact of central government funding cuts on early intervention. At the moment, the reality in the field is that local authorities that deal with children who face abuse and neglect are intervening only when the problems reach crisis point. We all know that early intervention has got to be the answer. The noble Baroness, Lady Brinton, spoke about an NHS body saying that respite care was nothing to do with it. Clearly, that is absolute nonsense, but it shows how such bodies are under pressure to make lots of cuts—but short-term cuts will lead them into longer-term higher expenditure. Again, I ask the Minister: how will we ensure that early intervention takes place, rather than the kind of disasters that follow when that has not happened?

The work of schools in this regard is crucial. I understand entirely why the Department for Education is responding to the debate. I was struck by the recent

work of the National Association of Head Teachers, looking at the experience of their colleagues in schools. It revealed that schools now have to provide food, clothes and even washing facilities for children from poor and chaotic homes. We should offer our thanks to schools for the kind of job they are taking on; whether they should have to do that is very much in doubt, but it shows the scale of the problems that we face. Schools are having to take on the role of supporting children in a way that one would never have envisaged when the noble and learned Lord, Lord Mackay, spoke about his early days in education.

My noble friend Lady Pitkeathley made an authoritative statement on the needs of young carers. She suggested that there should be a duty on education providers to support carers who are pupils in their establishment. I hope that the Minister will respond to that, alongside the suggestion of the noble Baroness, Lady Brinton, that schools should make their policy readily available. That would be very helpful.

A number of noble Lords have talked about mental ill-health, which is a huge problem for young people. We have heard about suicides being the biggest cause of death for boys under the age of 19. That is a shocking statistic. We are also finding that for many people with mental health problems, the first symptoms appear when they are aged 15 or under—yet the funding for child and adolescent mental health services is a scandal, frankly. We can go through any number of reports: a recent one from the CQC, or one from the Centre for Mental Health. All of them point out that young people are not getting access to mental health services, often having to wait for months for their first referral and sometimes being sent miles away from where they live when they need in-patient care. Ministers make the right statements and have Green Papers, but the reality is that not enough progress is being made. I believe that we will have to ring-fence funding centrally. I hope that the Minister will talk to his colleagues in the Department of Health about that.

The noble and learned Baroness, Lady Butler-Sloss, made some telling points about very vulnerable children being taken inappropriately through the criminal justice system. We heard from my noble friend Lord Judd about the dreadful experiences of young people in young offender institutions. My noble friend Lady Healy talked about the 200,000 children at any one time with a parent in prison and specifically about the problems for children with a mother in prison. One of the telling things she said is that in those situations, very few children remain in their families or are able to visit their mother in prison. I hope that the Minister can say something about his department's work with the Ministry of Justice on how we can turn some of that around.

My noble friend Lady Warwick made a telling point about housing, which we have not had much time to debate; she said that we need the right housing and support, particularly when it comes to chaotic families. The appalling problem of the lack of social housing in this country must be a factor in such people finding it so difficult to work through the problems that they face.

[LORD HUNT OF KINGS HEATH]

In congratulating my noble friend Lady Dean, there is one overriding theme. First, we need the Government to work with the Children's Commissioner to refine statistics, definitions and vulnerabilities. Secondly, we need a joined-up approach from the Government. Above all, we need a high-level commitment to drive progress and ensure that different departments work effectively together. Only then will we have any hope at all of dealing with these pressing issues.

1.46 pm

The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con): My Lords, I am grateful to the noble Baroness, Lady Dean, for securing this important debate. I also express my thanks to Anne Longfield, the Children's Commissioner, and her team, who worked on this report. At the beginning of her report, the commissioner quotes AA Milne. I feel it is only right to start in a similar manner:

"Promise me you'll always remember: you're braver than you believe, and stronger than you seem, and smarter than you think". We must try to get vulnerable children, in particular, to think like this.

When something goes wrong for a child, there should always be someone there to help. It is our duty to make sure that children and families have that support. The noble Baronesses, Lady Dean and Lady Benjamin, and the noble Lord, Lord Hunt, are correct that we need a joined-up approach to supporting vulnerable children. In my response, I will attempt to address that challenge.

Every child should have their voice heard and receive the care and support they need to realise their potential. It was in recognition of this that the Children's Commissioner post was introduced. Across government, we are taking action to address these issues, whether through reforming children's social care, prioritising mental health or better protecting victims of domestic violence and abuse.

The noble Lord, Lord Judd, is right that it is important that we provide social workers with the highest level of support. For some of the most vulnerable, our new What Works Centre for Children's Social Care—due to launch in early 2018—will ensure that social workers across the country are able to learn from best practice in keeping children safe. It will develop a strong evidence base around effective interventions and practice systems in children's social care and support their implementation by practitioners and decision-makers.

The noble Lord, Lord Loomba, raised the specific issue of looked-after children. Vulnerable children have the greatest difficulty in getting specialist mental health support. To improve access to that, in February 2016 the Government announced the establishment of an expert working group to explore how to improve support for looked-after and previously looked-after children. By commissioning this work, the Government have been able to identify issues faced by children who experience life in care.

We are putting a record £1.4 billion into children and young people's mental health and will continue to look at where improvements can be made. We are working with the Department of Health to commission

a survey on the prevalence of mental ill-health in looked-after and previously looked-after children as part of the mental health Green Paper, published on 4 December. This will inform the commissioning of services, the development of policy and the training of professionals.

The noble Baronesses, Lady Benjamin and Lady Warwick, sought assurances on mental health funding. The Green Paper commits to a 2021 programme of designated lead teacher plans. The DfE funding for training designated senior leads will provide up to £15 million to £20 million a year until all schools have had a chance to train a lead. We will confirm a timetable for the rollout and the amounts schools will receive following the Green Paper consultation in March.

The noble Baroness, Lady Benjamin, asked about the health trailblazers. We are consulting extensively on that. Details will be confirmed after the Green Paper consultation closes in March.

Our commitment to the United Nations Convention on the Rights of the Child is reflected in reforms that we have undertaken in areas such as the Children and Families Act 2014. This has strengthened the remit and independence of the Children's Commissioner for England. It has introduced a number of measures to protect children's welfare and improved provision for children with special educational needs.

The Children and Social Work Act 2017 comes into force next year. It will ensure that local authorities, the police and clinical commissioning groups have a duty to work together to safeguard and promote the welfare of children. This goes some way to meet the challenge from the noble Lord, Lord Hunt, about a joined-up approach. I hope it also addresses the point from the noble Baroness, Lady Benjamin, about local authorities having statutory responsibilities. Other reforms include enhanced support and protection for victims of modern slavery. We continue to work closely with partners, including UNICEF and the Children's Rights Alliance for England, to understand the main concerns of the sector and of children.

More children than ever are benefiting from free early education. Some 93% of three year-olds and 96% of four year-olds are accessing the 15 hours of free provision. On 1 September, 30 hours was rolled out nationally and more than 216,000 parents have successfully received their eligibility codes for this term. The gap between disadvantaged children and others achieving a good level of development is narrowing, down from 19% in 2013 to 17% in 2016-17.

The department continues to fund a number of anti-bullying organisations to support schools. For example, the Diana Award's peer-to-peer anti-bullying programme trains young people as anti-bullying ambassadors, and the Internet Matters initiative allows young people to report bullying incidents simply and privately. The Government engage with the internet industry through the UK Council for Child Internet Safety and we follow carefully the work undertaken by the Children's Commissioner on digital protection.

The noble and learned Baroness, Lady Butler-Sloss, spoke movingly about the horrors of grooming and trafficking. As part of the response to failures in places such as Rotherham and Rochdale, we have

established joint targeted area inspections and created a child sexual response unit. We have run a successful campaign to raise awareness and tackle child abuse. In 2016, the “Together, we can tackle child abuse” programme saw 110 councils sign up, running local awareness-raising initiatives to encourage the public to report suspected child abuse and neglect. The campaign recognises that, no matter how good children’s services are, there is still a wider network of people and professionals who have a vital role in spotting and sharing concerns about children. As the noble Lord, Lord Judd, said with such clarity, we all have a collective duty. The campaign is in its second year and has improved on the initial success, increasing the number of councils signing up to 125 and further expanding through print, radio and social media.

Where local authorities are not delivering children’s social care services to the standard we expect, we have shown that we will take tough action. We are appointing expert advisers and challenging progress to drive rapid improvement. Where it is found that a local authority does not have the capacity to bring about the changes needed, we will not hesitate to remove service control, as we have already done in Doncaster and Slough. In other cases we have introduced executive commissioners, as in Rotherham, or appointed a strong council to take over an inadequate council’s services. For example, Hampshire took over the running of the Isle of Wight in June 2013. We are working on similar partnerships, with Plymouth supporting Torbay and Leeds supporting Kirklees.

We have continued to provide funding of £2 million a year to the NSPCC to assist with the running of the ChildLine national helpline. In the second quarter of this year, almost 20,000 child welfare contacts were received by the helpline. Of these contacts, nearly 8,000 resulted in a new referral to an external agency and more than 4,500 were provided with advice.

The noble Baroness, Lady Pitkeathley, raised the Government’s carers strategy. Children should not be weighed down with the burden of being carers. With this in mind, we want to make sure that help for young carers is at the heart of proposals on social care. We are considering these questions as part of the upcoming Green Paper on care and support. Ahead of its publication, the Department of Health will publish an action plan on carers. This will set out a cross-government programme of targeted work to support carers, including young carers, over the next two years.

On 1 November this year, we published our *Safeguarding Strategy: Unaccompanied Asylum Seeking and Refugee Children*. In addition to the Government’s commitments, we will continue to bring together the voluntary sector, community groups and individuals to help support the most vulnerable unaccompanied asylum seeking and refugee children.

We aim to drive social mobility by breaking the link between a person’s background and where they get to in life. We are working towards tackling geographic disadvantage and are investing £72 million in opportunity areas in the country with the greatest challenges and fewest opportunities. We have invested £137 million in the Education Endowment Foundation, created in 2011 to improve educational attainment of the poorest

pupils in English schools. Fixing social mobility is not something that will happen overnight, and we aim to ensure that children in all areas can access high-quality education and opportunities at every stage. Today we are announcing the social mobility action plan *A Plan for Improving Social Mobility through Education*. The emphasis is on the areas of the country most in need of support, which inevitably have the highest numbers of vulnerable children.

Making a difference to the lives of the most disadvantaged children requires an approach that goes beyond the welfare system and tackles the underlying causes of child poverty and disadvantage. Children in workless families achieve significantly poorer outcomes than other children, including those children living in lower-income working families. We know that it is important to tackle worklessness and the complex problems associated with it. *Improving Lives: Helping Workless Families* was published in April this year and provides a framework for continued focus on improving children’s outcomes. We are making progress: there are more than 600,000 fewer children living in workless households than in 2010.

My noble friend Lord Farmer raised the important point that families lie at the heart of solving these issues. I pay tribute to him and the production of his recently published manifesto for strengthening families.

The noble Lord, Lord Russell, asked several questions. I hope I have answers for him. He asked about unresolved immigration issues, including those of EEA nationals. Local authorities are not required to provide annual reports to the DfE on the immigration status of looked-after children and care leavers, other than to register how many unaccompanied asylum seekers they are looking after. The thinking here is that, when children with immigration status issues become looked-after children, they should be safeguarded and have their welfare protected in the same way as any other looked-after child.

The noble Lord asked what steps the Government are taking to ensure local authorities have sufficient resources to regularise the legal status of looked-after children with unresolved immigration issues. On 1 November this year, revised statutory guidance was published for local authorities on *Care of Unaccompanied Migrant Children and Child Victims of Modern Slavery*. The guidance now makes it clear that local authorities have a duty to support looked-after children to regularise their status if it has been ascertained that they are undocumented.

The noble Lord also asked what steps have been taken to address the problem of school exclusions of young children with undiagnosed special educational needs. Our school exclusion guidance is clear that any decision to exclude a pupil should be lawful, reasonable and fair. Head teachers should, as far as possible, avoid permanently excluding any child with an education, health and care plan. The statutory guidance requires schools to give particular consideration to the fair treatment of pupils from groups that are vulnerable to exclusion. This includes considering what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce their risk of exclusion.

Lord Flight (Con): I draw to the Minister's attention a charity in Birmingham called Malachi, run by the man who set it up more than 20 years ago, Gordon Lee. It has had terrific success in sorting out children from broken homes where schools have been excluding them but has not received adequate support from the Birmingham local authority.

Lord Agnew of Oulton: I thank my noble friend for that information.

My noble friend Lord Balfe made important comments around the definition of vulnerability—we heard also from the noble Lord, Lord Hunt—with which I agreed.

The noble Lord, Lord Warner, was concerned about unregistered settings and home education. The powers of local authorities are the same for all children, irrespective of the setting that they are in: if the local authority has a safeguarding concern, it should not hesitate to use its powers under the Children Acts. We have provided additional resources to Ofsted to root out illegal schools, and the DfE is taking further action to work with local authorities on this.

The noble Baroness, Lady Brinton, asked about Ofsted's role in inspecting schools with vulnerable children. The guidance was adapted in March 2017 to take into account the medical needs of children in such schools. As the noble Lord, Lord Warner, will be aware, we have announced a consultation on the strengthening of guidance for local authorities and parents in the area of home education.

The noble Baroness, Lady Warwick, and the noble Lord, Lord Hunt, asked about resources being made available for affordable housing. The Government have recently announced a further £2 billion for housing associations. This will increase the 2016 to 2021 affordable housing programme in England to more than £9 billion.

Despite the progress being made, we need to be engaged in an ongoing effort to search out children's needs which have been overlooked and to identify where problems are being stored up for the future. We continue to work with the Children's Commissioner, and the department is working to strengthen this engagement and support through the development of a new framework agreement planned for 2018.

I thank all noble Lords who have made contributions to this debate. If I have not been able to address specific questions I will write separately to noble Lords. Supporting vulnerable children and reducing the opportunity gap sits at the heart of all we are trying to achieve, in education and beyond.

2.03 pm

Baroness Dean of Thornton-le-Fylde: I thank the Minister for that reply. He has been a Member of the House for such a short time that I must congratulate him on quickly learning the ability to sidestep questions that Members put in debates, but I think a little longer will prove that Members are also pretty experienced at making sure that that does not last and that they come back in on those issues, as I am sure we will.

One of the key questions that the Minister did not answer was in regard to ensuring that this will be given very senior attention—that of the Prime Minister herself. I asked whether the Minister would make a

submission to her requesting that. Since the Minister was not able to reply in the debate, will he write to me? It was not just from me but from a number of Members of this House.

I thank all Members who took part in the debate. I have missed the noble Baroness, Lady Howarth of Breckland, dearly. She is not with us because of ill health. She has spent a lifetime working for children's welfare, and it was a loss that she was not with us for this debate. I hope that she will be here next time we raise this issue—because it is not going to go away; the lack of assurances that the Minister was able to give us will make sure of that. I thank everyone who took part.

The Children's Commissioner's report is going to become an annual one, so we will be able to watch and comment rather forensically on just how well, or not, we as a nation are doing, through our Government, for the children of England who desperately need help in so many areas. In the meantime, I close by thanking everyone.

Motion agreed.

Poverty and Disadvantage

Question for Short Debate

2.05 pm

Asked by Lord Bird

To ask Her Majesty's Government what plans they have to address the root causes of poverty and disadvantage in the United Kingdom.

Lord Bird (CB): My Lords, it has been a bad morning. A few miles down the river, a commemoration of the Grenfell Tower disaster has been taking place at St Paul's Cathedral. It is good that we commemorate what happened there and bring justice to those who lost their lives and give them the opportunity to be remembered. I hope that we can move forward to a different situation, where the likes of Grenfell Tower will never happen again. Unfortunately, the social housing end of the economy is where many of the problems that we associate with life and death, and health and safety, are to be found. I do not know that this is the end, but I would like to think that we will come to some conclusions and that Grenfell Tower will be a beacon to us to continue the fight to bring justice to the question of social housing. People in social housing should not be living almost in a third world, where their safety and well-being are not accounted for or supplied by the local authorities and the superabundant number of people who are rushing around keeping us safe in our beds at night.

Last week I had to bury a cousin down in Chatham. I was very fortunate to be picked up at my hotel by a gentleman who came from Pakistan or northern India; I was not quite sure which. He took me to the crematorium and on the way back he pointed out the grammar school and the private school. As we were going along I asked whether he knew those schools. He said, "Yes, my daughter is at the grammar school and my son went through the private school, at £14,000 a year, and is now something big in the City". He was not sure

what he meant by “something big in the City”, but it obviously meant that he was making a shedload of money. It is interesting that that is one of the stories that we all love to hear—about the indomitable spirit of people who do not accept poverty simply because they have no money and very little chance. An immigrant gentleman comes to this country and prospers in a very modest way—because all he does is drive a cab and you cannot make a shedload of money doing that—but he puts all his eggs in the educational basket so that his children can move on. That is absolutely brilliant compared with my own family, who came over from Ireland, who knew how to drink and smoke cigarettes and avoid paying the rent. It is totally different. So there are different immigrations: not all immigrations will lead to a situation where you can tax their prosperity.

I joined the House of Lords just over two years ago, and what I am really interested in is dismantling poverty. I am interested in calling the bluff on poverty, because one problem with poverty is that we have an enormous amount of people involved in measuring it. The Joseph Rowntree Foundation, for instance, has been measuring poverty for more than 100 years. We have organisations such as Shelter, Crisis, St Mungo’s, the Children’s Society and the NSPCC. We have a superabundance of people involved in poverty. We have Governments who come into office and swear that they will turn the tide when it comes to poverty. We have organisations such as the *Big Issue*—I have to declare an interest as the person who started it with Gordon Roddick—where we go out into the streets and offer succour and help to homeless people. We give them the chance of making their own money; we try to get them away from the streets because we believe very strongly in the work that we are doing. Because these people have fallen through the normal safety nets, they end up on the streets in absolute desperation.

All of us are involved. Dare I say—and I do not want to say it in a horrible way—that we are all involved in an industry? The industry involves people writing reports; the BBC ringing me up early in the morning to go and comment on those reports; the *Times* and the media involved in promoting the reports; people collecting money ad nauseam—ad infinitum—for people in need. It seems to me that we operate on a principle around poverty which is called “emergencyism”. Around 80% of social money is spent in and around the problem, once the problem has become a problem. Very little money is spent on the prevention, and as for the cure, it might happen, but mostly it does not.

I am sorry that I got caught on the rails today, so I am only just here; I say, “Bring back British Rail!”. That is another debate. Earlier today, I thought to myself, “What can I say that is different to what everybody else will say and what has already been said in this House? What can I say to the Government?”. The first thing that I can say to the Government is that they are not doing enough and they never will do enough. To do enough would involve tearing up all the accepted frameworks for doing enough. I say to the last Government and also to the next Government—my argument is not with the Conservatives, Labour, the Lib Dems or any coalition—that it is time to make a

major change in the way that we deal with poverty, an absolutely miraculous change. We need an intellectual revolution. I came into the House of Lords to stir that concern up.

I have been involved in the *Big Issue* for 26 years. Before that, I was working with homeless organisations and before that, I was in poverty and crime myself. Before that, I was born into the slums. You could therefore say that there have been 71 years, which is enough to say to this Government, “When are you going to come and talk to people like me, who say, ‘Let us end this conspiracy of dunces?’”. Forgive me, I include myself among the dunces. When are we going to say that enough is enough?

I do not read every report. I have not read the last 10 Rowntree reports because presumably they were like the previous 10 Rowntree reports. I do not keep myself up to date with the facts and figures about poverty, because all I need to do is go out into the street and talk to people there at 2 am or 3 am and see that they have mental health problems and are outside society. It does not matter how much money the Government give: we have a self-fulfilling prophecy—this self-fulfilling failure on the streets. We need to stop and say, “Let’s work on the diagnosis and go forward to the prognosis”.

The biggest problem is that everybody has a favourite project. I can tell the House about the wonderful gentleman whom I met in the cab, and we could have a little chat and then go away, and poverty will still be there. There is a poverty of spirit—the poverty of responses to poverty—and the worst thing about poverty is that many people who are helping the poor are often themselves suffering an impoverishment. We need to enrich them, and I include myself in this, because I do not have all the answers. All I know is that we need to move forward to a stage where there is a co-ordinated, joined-up plan, where we converge our energies. Why is it that, when I started the *Big Issue* 26 years ago, there were 501 homeless organisations in London alone? Today, why are there thousands of social interveners that do not work together or try to lock in and dismantle the problems? Why is it that every Government who we have promise the earth and deliver a flowerpot?

2.16 pm

Baroness Bottomley of Nettlestone (Con): My Lords, I commend the speech by the noble Lord. As so often, I find many points of agreement. I spent many years as part of the poverty industry. I worked for the Child Poverty Action Group for several years. I then worked in a child guidance clinic because I decided that the problem was not only about financial resources but mental health as well. As chairman of a juvenile court, I noticed that no one in court could ever even read the oath, so I became ever more concerned about education. I was also trustee of the Children’s Society.

I share concern about the pessimism of the social scientists on the inevitability of a downward cycle of disadvantage and deprivation. I deplore that attitude. I very much commend the comments this week of Amanda Spielman, the head of Ofsted, who talked about “disadvantage one-upmanship”: “I have so many children with so many problems in my school that you

[BARONESS BOTTOMLEY OF NETTLESTONE] could not possibly expect any of them to succeed". I am fascinated not only by the snakes that lead people down into poverty but the ladders that lead them up.

In the last 18 years, I have been involved in search. I declare my interest: I often find the leaders of poverty industry organisations—not least, my colleagues found the excellent new head of the Joseph Rowntree Foundation. I also work with extraordinarily successful people in business. Unable to move on from my traditional approach, I always ask them about their parents and their upbringing and where they came from. What fascinates me is the number of people who have become extraordinarily successful from really unpromising, pretty horrific backgrounds. We need to understand what made them successful. The noble Lord, Lord Bird, told us that it was a probation officer when he was 10. Anybody who reads the recent memoirs of my noble friend Lord Harris of Peckham, *Magic Carpet Ride*, will see the protective factors there were for him. There are other people in the House who had all the factors against them in their infancy—so how did they break through and what happened?

I commend the report written for the Government by my former boss, Frank Field, *The Foundation Years: Preventing Poor Children from Becoming Poor Adults*. Frank Field, who focused on poverty in its relative and absolute senses, ended up by saying that,

"family background, parental education, good parenting and the opportunities for learning and development in those crucial years ... matter more to children than money in determining whether their potential is realised in adult life".

We have to integrate the psycho-dynamics of child development, the housing aspects, the social work aspects and the mental health aspects with the income side. Here, I believe that the Government are entitled to some credit. The number of children living in workless households is at a 20-year low; 90% of children live in households with at least one working adult. The dilemma that Beveridge could never have expected is that half the children in poverty have at least one parent in work. When Beveridge set out 75 years ago to slay the giants of squalor, ignorance, want, disease and idleness, he could not have expected that we would have a 42-year high in the employment rate with these levels of poverty. This has become the latest challenge.

I applaud the Government for introducing the national living wage and raising the personal tax-free allowance. Universal credit, with all its teething problems, will undoubtedly be a real way through on many of these issues. So I pay tribute to the noble Lord, Lord Bird, and commend the comments we have just heard from my noble friend Lord Agnew about the social mobility action plan, with its focus on regions as well as absolute levels of poverty and disadvantage. I much look forward to hearing what my noble friend the Minister has to say.

2.20 pm

Baroness Sherlock (Lab): My Lords, I thank the noble Lord, Lord Bird, and all noble Lords who are speaking today. Before I speak, I want to correct something I said in the House on Monday. In asking a Question about why kinship carers were being hit by

the two-child policy, I said that the House had voted to exempt them from the rule. In fact, the House did not divide because the Minister responded to our amendment by conceding the argument and promising to bring forward regulations to exempt kinship carers. I am pleased to put the record straight and I apologise to the Minister and the House.

I cannot analyse the causes of poverty in three minutes, so I am not going to try. I am just going to do one thing and I hope the noble Lord, Lord Bird, will forgive me. I want to make the case for why the welfare state is the best bulwark against poverty—the best preventer of it that we have. It was created alongside our NHS and with a similar aim: that as a nation, as a community, we will pool our risks and ensure that if anyone falls on hard times, we will not leave them to suffer alone.

Social security plays a variety of roles. There is a safety net which is meant to stop anyone from being destitute—although it is being severely tested at the moment. Other bits of the system have different functions: some, like tax credits, are there to make work pay; some, like child benefit or child tax credit, are a transfer from the population as a whole to those with dependent children, because we all recognise that children are our future; some, like DLA or PIP, are there to recognise that some people have extra costs because they are disabled or chronically ill, or have disabled kids. Some recognise that bad things can happen to anyone—so, if you lose your job, get widowed, have an accident or get sick and cannot work, JSA or ESA kicks in. Having contributory versions of those benefits is really important as a collective insurance process for which the welfare state can pay. Some recognise that there are life stages when you need extra help: for the birth of a child or at retirement age, when the state pension kicks in. Of course, the state pension accounts for 41% of our total social security bill; JSA is just 1%.

We always need to make it better and it is never just about money but I believe that our welfare state, along with our NHS, is a testament to our values of social solidarity. But if we value it, we need to pay for it. The last OBR *Welfare Trends Report* stated that coalition policies would cut £33 billion a year from social security spending by the end of this Parliament, and this Government's policies another £11 billion by 2020-21. The IFS, using Treasury and OBR data, projects that inequality will rise over the next four years and that child poverty will rise by seven percentage points.

Ministers often say that the system is unsustainable, but the best test of sustainability is the cost of social security as a percentage of GDP, which has barely changed for decades. However, the OBR predicts that if these cuts go ahead until 2020-21, the money being spent on children and working-age people will account for the lowest share of GDP since 1990-91. Politics is about choice. When Lupton et al analysed the coalition policies, they found that the social security cuts and tax breaks balanced each other out; they contributed nothing to deficit reduction. So it is about choices. Trouble could be around the corner for any one of us.

Let us be proud of our commitment to walk with each other along the road of life. Let us be proud of the welfare state.

2.24 pm

Lord Wallace of Saltaire (LD): My Lords, I want to talk about the educational dimension of persistent poverty and intergenerational poverty. I see that the DWP's evidence review of 2014 said that educational attainment was identified as the main driver that causes poor children to become poor adults. The briefing that I have just read noted that,

“43% of people who left education without any formal qualifications experienced poverty at least once between 2011 and 2014”.

Worryingly, when I read the Children's Commissioner's report for the previous debate, I saw that we now have 120,000 16 to 18 year-olds who are not in employment, education or training and, much more worryingly, that we have 160,000 permanently or temporarily excluded children. The latter is a new problem, which is rising. League tables are encouraging schools to push difficult children out of school. We all know where that leads in the end.

We recognise that educational failure interacts with a range of other issues, which others will no doubt talk about, such as housing, family breakdown, community breakdown, mental health and depression. The issue of the communities which have been left behind—the white working-class communities or the coastal communities, where employment is difficult and the only jobs you can get are low-paid—is a real problem. We know that we need a whole-government approach to this, not just a DWP response. We need an industrial strategy and housing benefits; we need education, training and a lot of co-operation from employers, much of which is still lacking. We also recognise that it is investment in education which pays off in the long run, not the cuts in spending that primary and secondary schools are now suffering. The long-term unemployed are those who receive most in benefits and our prisons are filled with people who have been excluded from school.

So what do we need to do? We need to provide premiums for teachers and money for teaching assistants, who are absolutely vital with difficult children in schools. We need support outside school, and outside school terms, in those sorts of communities. Teachers get demoralised. They need support and recognition. A bit of extra money for the teachers who work in difficult schools would help. I worry about the transition from school to work and the extent to which the new apprenticeship scheme appears not to be coping with the idea that what children need most, from the age of 14 or so, is the prospect of some training that will take them into a worthwhile job. That means links with employers, work experience and employers coming into schools. I do not see the new apprenticeship scheme doing that yet.

We need devolution because much of this differs in Bradford from the way it is in Scarborough, or in Sunderland from the way it is in Southport. We do not yet have a coherent position from the Government on the extent to which they will let local authorities do more. As we all know, local authorities are

desperately short of money, with the cuts still continuing. So we will be stuck with persistent poverty and stubborn pockets of disadvantage, sadly, for many years yet.

2.28 pm

Lord Best (CB): I thank my noble friend Lord Bird for initiating this debate, six months to the day after the tragedy of the Grenfell Tower fire, and for his introductory speech, delivered with his usual flair.

I will make a few quick comments. To begin, I strongly commend the report from the Joseph Rowntree Foundation earlier this month, *UK Poverty 2017*. My congratulations to Helen Barnard and her colleagues at the JRF for this thorough analysis of how the nature of UK poverty has changed over the last 20 years. The report shows how poverty fell significantly over this period but how, over the last three years, those gains have been unravelling. Things are still looking much improved for pensioners but at the other end of the age scale, 400,000 more children living in working-age households have fallen below the poverty line in the last three years.

The JRF analysis indicates three key contributory factors as the underlying drivers of poverty: employment, welfare support and housing. On the employment side, more people have qualifications and more people have jobs but, as the JRF report says,

“rising employment is no longer reducing poverty”.

This is because of cuts to top-up benefits and tax credits and because wages have not kept up with rising costs, including those for housing.

On housing, the absence of a proper home is perhaps the most telling penalty of being poor, and if the cost of keeping a roof over one's head is disproportionate, as it so often now is, housing is a direct driver of growing poverty. The Government are committed to tackling the broken housing system, and I applaud them for a range of helpful new policies, but in the context of rising numbers in poverty, while I appreciate renewed efforts to eradicate street homelessness, two policy measures are needed. First, in going for 300,000 more homes a year—a worthy aim indeed—the Government must ensure that a substantial proportion must be available at so-called social rents, for which a capital grant is needed. Secondly, until supply builds up, shortages are eased and rents stabilise, the DWP must desist from its catalogue of welfare reforms that have hit tenants with a succession of rent caps, ceilings and freezes that have eroded the income of the poorest households. DWP support has to recognise the actual rents tenants must pay in the real marketplace; otherwise, landlords simply turn their backs on people who cannot pay, pushing the poorest further into poverty or into the horrors of homelessness. I hope the Minister can reassure us that the DWP recognises that its policies deeply affect people's housing and are therefore major contributors to our national failure to sustain progress in reducing poverty.

2.31 pm

The Lord Bishop of Carlisle: My Lords, I, too, thank the noble Lord, Lord Bird, for securing this debate. As we have just heard, poverty cannot be

[THE LORD BISHOP OF CARLISLE]
measured simply in economic terms. It affects every area of a person's life and, as a recent Demos report put it:

"The first step towards tackling poverty is understanding it better".

Where better to begin than with its causes, about which I would like to make just two observations? The first is that the causes of poverty and even its incidence are often hidden, like some of the vulnerable children we heard about in the previous debate. I live in Keswick, among some of the most beautiful countryside in the world, yet in Cumbria one in eight households has an income of less than £10,000 a year, one in 10 experiences fuel poverty and there is a 20-year differential in life expectancy between the wealthiest and poorest wards in the county. In parts of Barrow-in-Furness, one in four children is living in poverty, and in the lovely Eden Valley travel times to key services are the longest of anywhere in this country. In other words, there is hidden deprivation even in the most apparently idyllic parts of our land, and many families who have little choice about what they eat or wear, or where they go, are too ashamed to ask for help.

My second observation has to do with the complex, multifaceted nature of the causes of poverty. As we know, there is usually no one single cause and it is the result of a whole series of factors that come together and reinforce each other. In the north-west, this was the key finding of our Furness poverty commission in 2013 and the Cumbria welfare reform commission, which I chaired. Most of those factors are obvious and widespread. Like other parts of the country, the north-west experiences most of them, from a lack of job opportunities and low wages to changes to benefits, which, it is estimated, will lead to a 3.5% increase in child poverty in the north-west by 2021.

There is one other cause of poverty which is less often mentioned yet which has, in my experience, a very significant effect on people's well-being and life chances. That is family life. There is now considerable evidence to show that weak, unstable or even uncaring family relationships not only lead to low self-esteem and poor achievement at school but feed into the toxic mix of other factors and cause considerable damage to the health and aspirations of individuals and of society as a whole. We heard about that in the previous debate in powerful speeches from the noble Lords, Lord Farmer and Lord Judd.

There are no simple solutions to the problem of poverty in this country, but if a starting point for a co-ordinated approach is required, the need to strengthen families and address the underlying moral and social issues in our society is where I would begin.

2.35 pm

Lord Farmer (Con): My Lords, I am pleased to follow the right reverend Prelate and fully endorse his last point as I am sure noble Lords thought I would. I, too, thank the noble Lord, Lord Bird, for reminding us that government must address the drivers of poverty and disadvantage. There is scant time here to revisit the arguments made during stages of the Welfare Reform and Work Act,

but it marked an important policy shift away from income-based poverty measures and targets because they are,

"a poor test of whether children's lives are genuinely improving".

It placed a new duty on the Secretary of State to report annually on the educational attainment of children in England and on the number of children in workless families.

As I reminded the House during the debate on *A Manifesto to Strengthen Families*, which I published with many colleagues here and in the other place, the Minister for Welfare Reform also promised that alongside statutory measures of education there would be,

"a range of non-statutory indicators to measure progress against the other root causes of child poverty, which include but are not limited to family breakdown, addiction and problem debt".—[*Official Report*, 9/12/15; col. 1585.]

When I asked the Minister why the existing family stability indicator had been dropped when the new indicators were published earlier this year, he replied that the quality of relationships within a family had a greater impact on child outcomes than the structure of the family. I urge the Government not to pit family structure against relationship quality as both are important. Saying that people parenting alone, who are usually women and frequently on a low income, face disadvantages that make one of the hardest jobs much harder does not stigmatise them; rather it does credit to the challenges they face instead of minimising them.

My second point, is that Sir Martin Narey, chair of the North Yorkshire Coast Opportunity Area, told the "Today" programme yesterday that what underlies everything, and is not about money, is parental engagement. He wants to get parents, especially those of disadvantaged children, to realise how much better in life their kids can do if they have good literacy, speech and communication skills.

I went to see Ed Vainker in Reach Academy Feltham at the suggestion of the noble Lord, Lord Nash, when he was Schools Minister. Ed Vainker also realises that engaging parents in his school is essential for fulfilling his ambition to crash through the attainment ceiling. He is working with his local authority and other local partners to set up a family hub in the school so that parents can get any help they need with parenting skills and in other areas. The overall aim is for teachers to work in harness with them so that children enjoy the best conditions for learning at home as well as in school.

Will the Minister inform the House how opportunity areas are partnering with parents to improve their children's learning and well-being? Strengthening families should be their first priority and the thread running through all they do. If it is not, another important initiative to help another generation of children will fail.

2.39 pm

Baroness Tyler of Enfield (LD): My Lords, as the noble Lord, Lord Bird, so eloquently said, we have a better idea than ever about the causes and consequences of poverty and disadvantage, but that leaves the huge question of what we are going to do

about it. Do the Government have an overall strategy for dealing with it? That is where I want to focus my remarks today.

Disturbing data from the Joseph Rowntree Foundation, as we have heard, shows that 1.25 million people are destitute, unable to afford the most basic necessities. Perhaps most alarming when looking at the reports was *Living Standards, Poverty and Inequality*, from the Institute for Fiscal Studies, which forecasts a strong risk that the UK's proud record of reducing poverty will unravel over the next few years, with child poverty set to increase. Poverty and disadvantage affect people across the life cycle, beginning for some before birth, and all too often continuing through childhood and into adulthood.

The recent *State of the Nation* report from the Social Mobility Commission is essential reading for anyone trying to understand the dynamics of poverty and disadvantage and how they affect geographical areas differently. To summarise, it paints a bleak picture of a deeply divided nation, in which too many people are trapped in geographical areas with little hope of advancement. It talks about an "us and them" society, in which millions feel left behind. Specifically, the report talks about major changes to the labour market in recent decades which have left some 5 million workers, mostly women, in a low-pay trap from which few escape. The report paints a highly nuanced picture of the prospects for social mobility, highlighting places that offer good prospects for income progression and those that do not. It adds up to a real social mobility postcode lottery, with the worst problems concentrated in remote rural or coastal areas and former industrial areas.

However, intriguingly, the report also finds little correlation between the affluence of an area and its ability to sustain high levels of social mobility, citing examples of both very deprived areas which provide opportunities for people to progress and relatively affluent areas that offer very few good education and employment opportunities for their most disadvantaged residents. More encouragingly, the report finds that well-targeted local policies and initiatives adopted by local authorities and employers can buck the trend and improve outcomes for disadvantaged residents. In short, where there is a will and strong leadership, something can be done.

The report also contains a number of important recommendations aimed at both local authorities and central government. Many of those aimed at the latter are about better joining-up between government departments. In winding up, could the Minister say whether the Government's social mobility action plan, announced today, will respond directly to these recommendations, which go far wider than education and DfE matters? Will the Government produce a national strategy for tackling the social, economic and geographical divide that the country faces with a more redistributive approach to spreading education, employment and housing prospects across the country?

It is challenging to talk about the root causes of poverty and disadvantage in three minutes, so I end by suggesting that this is an excellent area for a House of Lords Select Committee to look at.

2.42 pm

The Lord Bishop of St Albans: I too thank the noble Lord, Lord Bird, for this debate. I want to make just a couple of points in the time I have.

Plenty of statistics have been bandied around today, and I can quote even more: 14 million people, by some counts, are living in poverty in this country, including 4 million children. The trouble with those and other statistics is that they hide the individual lives they represent: for example, the three men, whom many of us have seen, in sleeping bags in Westminster Tube station as I came in at 8 am yesterday morning; or Joe—not his real name—whom I met this morning in St Peter's Street in St Albans as I went out to get my morning paper. There has been a visible increase in the number of people on our streets in places such as St Albans over recent months. I have got to know a number of them, and this morning, knowing I was coming in for this debate, I thought I had to sit and talk to Joe just for a minute. I felt I could not in all conscience come and speak on a subject such as this without actually finding out his name and just a little about his story. Of course, it was patronising even to spend five minutes with somebody like that, but as I discovered with the other two young men on the street whom I spoke to in recent weeks—it only takes five minutes just to sit next to them on the ground—the causes of poverty and reasons why they are there are many and varied. Each individual has a unique story, so there is no silver bullet to address the whole issue, but for Joe, it is to do with mental health. That is the first of the two areas I want to comment on briefly.

Statistics reveal that men and women in the least well-off fifth of the population are twice as likely to have mental health conditions as those on average incomes, which makes escaping poverty so difficult. People with severe and enduring mental health conditions have the lowest employment rate of all disability groups. Ensuring the least well-off can access good, timely and appropriate mental health provision is critical if we are going to address this problem.

Secondly, I want to say a few words about addressing poverty and deprivation in rural areas. Here, I declare my interest both as the president of the Rural Coalition and as a vice-president of the Local Government Association. Overall, around one-sixth of areas with the worst health and deprivation indicators are in rural or significantly rural areas, as my right reverend friend the Bishop of Carlisle has already mentioned. Nevertheless, these pockets of deprivation are frequently overlooked by official statistics, which deal in generalities. Delivering services to individuals living in poverty in rural areas is particularly challenging: the lack of bus services, poor access to the internet and closing community centres and libraries all make looking for a job, claiming benefits or learning a new skill extremely difficult. Often these individuals simply end up at the door of the local vicarage, having had nowhere else to turn. In the light of that, can the Minister assure the House that every effort will be put into ensuring that all government policies addressing poverty and disadvantage will be fully rural proofed, as we seek to care for all people in our nation?

2.46 pm

Baroness Gardner of Parkes (Con): My Lords, this is a most important subject and I congratulate the noble Lord, Lord Bird, on introducing it to us today. It is also an extremely difficult problem, because it is so hard to find any real answer to it.

I have never lived in poverty, but my father came from a very poor family. He was the son of Irish migrants to Australia in 1860, and got educated by accident because some rich boy in the town had his education paid for and refused to go, so that family handed it on to my father's family. He had to carry his shoes to school before that, as he could not afford to wear them, but that convinced him that the real way to make something out of life was education, which was the key to everything. If you were to be at all worthy of your place in society because you had developed some way of making a living, that would help. I strongly support what has been said about education today. My father went on to be a Member of Parliament and introduce child endowment, as the only other Minister for Health and Motherhood in the world in the 1920s, in the Storey Government. We call that child benefit here. He did that because he had a large number of children himself and saw how hard it was to bring them up.

After his death, instead of finding myself penniless, my dental degree—each of the family had some degree—meant that I had a way of earning a living. The surgery we had here was in a very poor part of east London, but it had a tremendous community. All the buildings were red brick, 200 years old and suffering subsidence—in the surgery, the door dropped about a foot between one side and the other—and eventually it was all redeveloped. But that community spirit really helped tremendously, because people cared about their neighbours: doors were usually just open and people sat in the sunshine in the doorways. When women came round for dental treatment, they were usually in slippers and hair curlers; men came round when they could, after whatever job they had been doing. We have lost a huge amount of that community spirit and that habit of helping one another. It should not require something like the Grenfell fire to bring communities back together again. That is a very important feature too.

Individuals are also important. I remember one family in particular, with three boys. The mother cleaned offices, while the father was a bit of a drinker and not much use for anything. The three boys went to the local school and were also patients of ours. One boy never achieved anything much in life. The second used to come in at the age of 10 with a dummy in his mouth, and if they took it out they had to hurriedly put it back in again, because the flow of language was so bad. As for the third boy, the schoolteacher called the parents in and said, “This boy is clever and should go to a grammar school”, which he did. He had a future and has done so much in life.

There are opportunities. Youth organisations bring people out of the really awful backgrounds from which they are suffering. We should also outlaw the immoral loans that people can accumulate at a huge loss in no time without even being aware of it.

2.50 pm

Lord Shipley (LD): My Lords, I thank the noble Lord, Lord Bird, for enabling this debate and agree with him about the need for justice for the residents of Grenfell Tower. He talked about calling the bluff on poverty. I am less certain about criticising the number of organisations that measure poverty; I am glad that they do, because decision-makers need robust and accurate information on which to base legislation. I do, however, take his point about the importance of charities working more closely together.

I agree with my noble friend Lord Wallace, who reminded us that poor educational attainment leads to poor life outcomes and that investment in education pays off. I also agree with my noble friend Lady Tyler, who said that well-targeted local initiatives can help to alleviate problems caused by poverty in those areas.

In government, my party introduced the pupil premium for children in deprived neighbourhoods who qualified for free school meals. It was a major policy initiative which has enabled many schools to improve standards and opportunities for disadvantaged children. There is a value that is very important: all citizens should be able to benefit from a decent education, a stable job and a secure home. It is the responsibility of Governments of all parties to put in place the means of their doing so. All too often, at least one of those three foundations is missing. Too many households are in insecure accommodation. Indeed, 20% of households are now in the private rented sector, facing high rents, restrictions on financial support and short-term tenancies, none of which has been helped by the way universal credit has been rolled out.

I was very struck by the recent annual report of the Social Mobility Commission, which revealed that in some of the wealthiest areas of England, disadvantaged children face worse outcomes than children in places that are generally much poorer. It gave the example of the London Borough of Tower Hamlets. It is the council area with the highest rate of child poverty—and it is next to the City of London. I cannot be alone in thinking that there is something fundamentally wrong in a society where income and wealth distribution is so unequal—a problem that is getting worse.

The rise in homelessness announced today is worrying. It results from an inadequate supply of social homes for rent. As long as we fail to address this issue, too many households will be insecure and forced to pay higher rents than they can afford. There is a value that we should support, and it is this. People in work on the living wage should be able to afford to live reasonably close to where they work, spending no more than a third of their income on housing. That should be a crucial aim if we are to be a truly inclusive society.

2.53 pm

Lord McKenzie of Luton (Lab): My Lords, I welcome this short debate initiated by the noble Lord, Lord Bird, and applaud his persistence in keeping the issues of poverty and disadvantage before this House. As others have said, poverty is a multifaceted issue, disadvantage perhaps more so. We have a wealth of data to help us understand this—perhaps too much for the noble Lord—but, like the noble Lord, Lord

Best, we are grateful to the Joseph Rowntree Foundation for its detailed, comprehensive analysis of poverty trends and a glimpse of some of the underlying causes. It makes depressing reading.

I say to the noble Lord, Lord Farmer, that, notwithstanding other issues, we hold to the basic importance of income-based tests in judging these things. The Joseph Rowntree report charts the improvements over 20 years—very significant among some working-age families—but records that poverty rates have started to rise among both pensioners and families with children. The JRF attributes the falls in working-age poverty to two things: sustained government support through the benefit and tax credit system—much maligned by those on the Government Benches—and big rises in employment and reductions in worklessness, supported by rising skill levels, increased wages and the minimum wage.

That these have gone into reverse is because of reductions in support offered through the benefit and tax credit system which were not outweighed for many low-income families by tax cuts and minimum wage rises. Many of the benefits reductions are just coming through the system—the freezing of working-age benefits and the two-child policy being just two examples—so there is worse to come.

The latest news from the ONS is that the number of people in work has fallen in the three months that ended in October. We have always seen that work should be the route out of poverty, but JRF identified 3.8 million workers living in poverty in the UK: 1 million more than a decade ago. It considered 55% of people in poverty to be in working households.

A study by Cardiff University academics found that 60% of people in poverty live in households where someone is in work. They considered that the biggest determinant was the number of workers in the household—that is not surprising. The research pointed to where one adult partner worked in a household but the other looked after the children at home. It was associated with low pay as well, although this did not necessarily drive poverty if there were other workers in the household. The study found that in-work poverty was disproportionately concentrated in households in the private rented sector, hit by rising rents and caps on housing benefit. Of course, low-income households are disproportionately hit by the rise in inflation.

What do we conclude from this? In-work poverty does not have to be accepted. It needs reversal of cuts to tax credits and universal credit, greater provision of affordable childcare and action to tackle high rents in the private rented sector. It needs political will and a national effort—a major change, in the terms of the noble Lord, Lord Bird.

2.57 pm

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, I thank the noble Lord, Lord Bird, for securing this debate and all noble Lords for contributing to this vital Question, just six months on from the appalling Grenfell Tower tragedy. I also thank the noble Baroness, Lady Sherlock, for her apology.

Tackling poverty, and the root causes of poverty, is a key priority for this Government. As the Prime Minister has said, we are committed to building a country that works for everyone, not just the privileged few. It is for this reason that we are pushing ahead with the most ambitious reform to the welfare system in decades, delivering real and lasting change to the lives of many of the most disadvantaged people in our society.

Previous Governments have varied in their approach to this vital task; ours is based on a clear understanding of what works. We know that for most people, work represents the best route out of poverty. For example, adults in workless families are four times more likely to be in poverty than those in working families, and children in workless households are five times more likely to be in poverty than those in households where all adults work. Our reforms have acted to ensure that this principle is reflected in the service that we provide.

Through the introduction of universal credit, we have acted to transform a benefit system hindered by bureaucracy and welfare dependency into one which places personalised assistance for individuals and their families—families, I stress—at its very heart. People entering universal credit have access to more tools than ever before to underpin their search for work and receive a tailored package of support to meet their needs. It is clear that this reform is working. UC claimants are able to find work faster and stay in work for longer than those under the system it replaces: 86% of people under UC are actively looking to increase the hours they work, compared with only 38% on jobseeker's allowance.

Those changes are empowering people. They acknowledge that the benefits of work extend beyond the purely financial. The evidence is clear that good-quality work can serve as a basis for a healthier, happier society, with demonstrable links to better physical and mental health, and improvements in personal well-being. We are committed to doing all we can to ensure that as many people as possible are able to share in these advantages, with particular help announced last week for those with a disability or health condition. In response to the right reverend Prelate the Bishop of St Albans, I have to say that this is something on which we have very much been focusing, and as a Government we are proud of the progress that has already been made towards this objective. There are 600,000 more disabled people now in work, for instance, than there were four years ago.

I want to stress, however, that increasing the rate of employment alone has never been the limit of our vision for a wealthier, more affluent society. We also want to build a country where work changes lives. This is why we have radically reshaped the welfare rules we inherited to ensure that people are able to see their efforts reflected in rising levels of prosperity. For those already in work, our reforms mean that people are able to take on more hours and increase their income without fear of being penalised, and that those on lower incomes can take home more of their earnings. To this end, the Government have cut income tax for more than 30 million people and taken 4 million low earners out of income tax altogether. We plan to

[BARONESS BUSCOMBE]

further increase the tax-free personal allowance to £12,500 by the end of this Parliament. The introduction of the national living wage has given the UK's lowest earners their fastest pay rise in 20 years. Since 2010 the annual average income of the poorest fifth of households in this country has risen in real terms by more than £300, while the income of the richest fifth has fallen.

However, we are not complacent. We are reducing social rents until 2020, and lowering the cost of housing for tenants and their families. I respect the fact that a number of noble Lords have focused on housing as one of the key issues. The basic state pension is now at one of its highest rates relative to earnings for over two decades, reversing a trend of decline we saw between 1997 and 2010. The number of pensioners living in absolute poverty on a before-housing-costs basis has fallen by 100,000 since 2010. In contrast, severe poverty rose under Labour.

The results speak for themselves. Employment is now at near record levels, with 3 million more people in work than in 2010. The number of households where no one is working is down by 954,000 over the same period, with 608,000 fewer children living in a workless household than there were seven years ago. However, 14.5% of all UK households still remain workless. That is something that we have to tackle. The approach taken by previous Governments to tackling child poverty was to focus resources on increasing family incomes above a notional poverty line. This Government believe that making a lasting difference to the lives of disadvantaged children and families requires a different approach that goes beyond the safety net—referenced so eloquently by the noble Baroness, Lady Sherlock—of the welfare system to address the underlying reasons why people fall into poverty.

We want to focus on prevention, referenced so strongly and eloquently by the noble Lord, Lord Bird. Our approach is based on compelling evidence about the impact of worklessness and the problems associated with it on families and children. Analysis conducted by the Department for Work and Pensions shows that children who live in families where no adults work are significantly more disadvantaged, and achieve poorer educational and employment outcomes than others. Again, a number of noble Lords, quite rightly, referenced the importance of education. Despite employment being at near record levels, around one in eight children still lives in a workless household.

Improving Lives: Helping Workless Families, published in April, provided a framework for a continued focus on improving children's outcomes, now and in the future. We set out nine statutory and non-statutory indicators to drive collective action in the areas that are important in tackling the disadvantages that can prevent families from moving on with their lives—for example, parental conflict. As my noble friend Lord Farmer stressed, parental conflict and family breakdown are so critical to all this, together with poor mental health, and drug and alcohol dependency.

If we are to deliver lasting change, we must continue to take action to support those who face the most complex employment barriers, whether or not they have children—people whose ability to work is,

for example, frustrated by issues such as a disrupted education, a history of offending, addiction, insecure housing and serious problem debt. This is why our jobcentre work coaches offer individualised, tailored support to those with complex needs. This can include temporarily lifting work requirements where claimants are homeless, in treatment for drug or alcohol dependency, or are victims of domestic violence. It can also include early access to the new Work and Health programme, and referral to local services that can help claimants get their lives back on track. We also offer targeted support to claimants in particular circumstances. For example, we are trialling the individual placement and support approach to help back to work those dependent on drugs or alcohol, as recommended by Dame Carol Black.

People who are financially included are better able to find and remain in work, and are less likely to experience debt and financial difficulty. We therefore welcome the findings and recommendations of the Lords Select Committee Report, *Tackling Financial Exclusion: A Country that Works for Everyone?* In our response, we announced the creation of a financial inclusion policy forum to be jointly chaired by the Minister for Pensions and the Economic Secretary to the Treasury, and bringing together Ministers from other departments and representatives from financial service regulators, industry and consumer groups.

The noble Lord, Lord Bird, has asked a question of vital concern to all of us in your Lordships' House, and I take this opportunity to commend him personally for all the work he has done to raise awareness of the issues involved through a lifetime spent campaigning on behalf of the homeless—and, of course, the creation of the *Big Issue*. In truth, entrenched disadvantage is not something that a single department or indeed, the Government alone can do. As the right reverend Prelate the Bishop of Carlisle said, causes of poverty are often hidden. We respond by saying that they require a cross-governmental approach, and one, as referenced by the right reverend Prelate the Bishop of St Albans, that must also be rural-proof.

The noble Baroness, Lady Tyler, referenced the need for a joined-up approach. The social mobility action plan issued by the Department for Education is something in which we, as a department, will be much involved. That is why the Department for Work and Pensions continues to work across government in order to support the most disadvantaged. In addition to the financial inclusion policy forum, DWP is represented at ministerial level on the Social Reform Committee, the inter-ministerial group on homelessness, gangs and violence against women and girls; and on the drug strategy group. For far too long, poverty and disadvantage have held back far too many people in our society. The Government are committed not only to changing this, but are already making tangible progress through the measures that I have outlined. I have no reservation in recommending our approach to building a society where everyone can realise their potential.

I just want to respond to the question asked by my noble friend Lord Farmer in relation to opportunity areas. We have a number of opportunity areas, and evidence is at the heart of the OA programme. I say to

the noble Lord, Lord Bird, that in an ideal world we would not have reports or bother with the evidence, but we have to have the evidence to try to do the right thing. Sadly, some of us are weighed down by our reports, but they guide us. In addition to improving outcomes for young people in the opportunity areas, we are also looking to learn what works best in driving up social mobility, so we can spread effective practice to other areas.

In closing, I reference my noble friend Lady Bottomley who said that we can talk about the inevitability of the downward spiral, but I agree with her: let us concentrate on the ladders.

Bach Commission: The Right to Justice

Motion to Take Note

3.09 pm

Moved by Lord Bach

To move that this House takes note of the report of the Bach Commission, *The Right to Justice*, published in September.

Lord Bach (Lab): My Lords, I start by declaring an interest as the elected police and crime commissioner for Leicestershire and Rutland. I thank noble Lords who have agreed to speak in this debate. The last business on a Thursday afternoon in the middle of December is not always the most popular occasion, but I hope that the importance of the matters we are discussing will make it worth while. Certainly, the number and list of speakers is hugely impressive, from all sides of the House. My one regret is that noble Lords will have only five minutes to make their contributions; that seems too little time.

Why do I argue that these matters are important? First, I hope the House will not need persuading that the right to justice—*The Right to Justice* is the title of the report of the commission that I was privileged to chair—is a crucial element of the agreement or pact, unsaid, of course, between the state and its citizens, as a result of which the citizen agrees to live under and support the rule of law. Secondly, while the right to justice is not, of course, all encompassing, it must include some access to justice for every citizen. That right, in the words of the report, includes the,

“right for individuals to receive reasonable legal assistance without costs they cannot afford”.

The foreword to the report states:

“We live at a time when the rule of law is under attack. Too many powerful institutions pay lip service to the concept of access to justice without having sufficient regard for what it actually means. It is, after all, fairly simple: unless everybody can get some access to the legal system at the time in their lives when they need it, trust in our institutions and in the rule of law breaks down. When that happens, society breaks down”.

Thirdly, it is a commonly held view in legal circles and beyond that modern Governments—I include Governments of all political persuasions—sometimes find it just too easy and comfortable to forget those rights, particularly when they are inconvenient to the Government in question or affect large parts of the population who do not or cannot assert those rights.

The country as a whole would rise up if there was no real commitment to a decent education for everyone or a health service for all on the part of government. Why should there not be the same response when something as important as access to justice is, in practice, denied to a considerable number of people?

The background to the commission is as follows. Taking a longer view, the decline in the number of our citizens now eligible for legal aid is startling: in 1950, it was 80%; in 1998, it was 53%; in 2007, it was 29%; and it has now been estimated at around 20%. In the short term, I would argue that taking large areas of the law, including housing, debt, employment, welfare benefits, immigration and the vast majority of private family law, out of the scope of legal aid over the last few years has given rise to the anxiety that it is often those with least who now have least access to justice.

The LASPO Act was how the coalition Government chose to cut back on civil legal aid, although other decisions outside that Act also played their part. The consequences have been frightening. As the Bar Council itself in its briefing for this debate says at paragraph 11,

“official statistics ... show that the number of civil legal aid matters initiated has fallen by 84% from 933,815 in 2009-2010 to just 146,618 in 2016-2017 and the number of legal aid certificates granted for civil representation is down 36%”.

The way it was possible for any citizen to get some quality legal advice in the area of social welfare law at the time in their lives when they needed it—something that did not, incidentally, cost the public purse very much money—represented a sensible, pragmatic and workable system, very much in the British tradition. Above all, it gave everyone some access but, in practical terms, often meant that cases without merit did not go near a court and cases with merit could be sorted out promptly. Ironically, it saved a huge cost in human and financial terms. Indeed, paragraph 18 of the Bar Council briefing says that as,

“the Bach Commission has pointed out, £0.5 billion more was saved as a result of LASPO than was ever intended; and it is inexplicable that the Government has failed to take any account of both the evidence and the sheer logic that for every £1 spent on legal aid, far more is saved elsewhere”.

Because that system is now gone, the commission believes strongly that something should be done about it urgently, and I hope the House agrees.

As for the commission itself, I emphasise that when I was encouraged and asked by the leader of the Opposition to set it up, we were determined that those involved should be chosen for their expertise and not for their ideology. I am proud to say that the quality of the commissioners was extraordinarily high; they covered a range of legal experience across many fields of law. I pay special tribute to someone who is well known to many noble Lords speaking in the debate today—Sir Henry Brooke, who gave us our intellectual weight and phenomenal hard work, as well as years of experience at the Bar, the Court of Appeal and afterwards. Although I have not done so myself, I strongly recommend that noble Lords read the seven appendices he has attached to the report, which can be found online. They give a wonderful background to legal aid and to the commission and its reports.

[LORD BACH]

Of course, we all felt strongly about the state's obligation towards its citizens in this area, but we were not all of one or any political persuasion, and we agreed early that consensus in this field was much to be desired. I hope all noble Lords will agree that our system of legal aid and access to justice has always worked best when political parties agree on general principles and disagreements are at the margins. Indeed, a major purpose of the report is to argue that the changes we need can be effected only by broad agreement between the major political parties.

The report itself is in two parts. Our major conclusion, which owes a lot to the advice of my noble and learned friend Lord Falconer of Thoroton, who I am delighted is speaking this afternoon, is that the time has come for there to be statutory recognition of the right to justice by way of an Act of Parliament for these purposes, named the "Right to Justice Act". As part of that Act, a justice commission would be created, independent of government and led by a senior judge, whose job it would be to enforce, monitor and advise. If we are right about the somewhat careless—to put it rather gently—attitude that modern Governments have and take towards access to justice, something surely needs to be done to force or oblige government to put this right into practice as a matter of course. Judges who for a number of years have, with great skill and bravery, protected our constitutional rights, forcefully and to good effect, would be assisted by statutory backing.

Some might argue that there is no need for legislation, and that judges have shown themselves more than able to protect access to justice. Our argument in response is that it is not right to put this burden wholly on the judiciary and, more pertinently, that government must be shocked out of its complacent attitude towards this issue. I repeat that by "government" I am not referring to the present Government particularly, but to modern government over a large number of years. We accept that this major proposal needs to be debated by lawyers and the general public. We do not pretend to have come up with a detailed scheme—that is for later. What is important is that the principle is accepted. Up to now, we have enjoyed a wide degree of support for this proposal, since the commission's report was published by the Fabian Society. I look forward very much to hearing noble Lords' comments about that matter in this debate.

The second part of the report makes a case for urgent action to put right some of the blatant injustices that we thought had been caused by the LASPO Act and other government decisions. I am delighted that the Government's own review of LASPO is now under way. We hope that a number of our 25 proposals will be accepted. Our recommendations include widening the scope of legal aid and restoring it for social welfare law. We argue that all matters concerning support for children should be brought into scope, as should a number of private family law cases. We also argue that inquests should be within scope, if the state is funding other parties. Reform of the exceptional case funding scheme is urgently needed, and we recommend a boost in public legal education. The truth is that our country is desperately poorly educated in knowledge of the

law. We believe that the decline in the number of social welfare lawyers as a result of cutbacks and the closing of many offices and advice centres that practise in this field must be looked at and acted on as well.

If I were to emphasise one thing only as to where we think urgent action is needed, it would be our belief that early advice—whether in social welfare or, more particularly perhaps, in private family law—is absolutely essential, both in the interests of justice and in practical terms, to cut back the number of unrepresented litigants who end up before tribunals or family courts and who clog up the system entirely. The noble Lord, Lord Low, who I am delighted will speak in this debate, made this point very forcefully, and is quoted in our report.

I was of course proud to chair the commission, which I believe has produced a sensible, practical, grown-up report. The Government should, at the very least, examine it extremely carefully and, I hope, act on it.

The cost of our recommendations has been calculated at some £400 million per year. I remind the House that since LASPO was first thought of the Ministry of Justice, which planned to save around £400 million a year, has in fact saved £900 million a year from the legal aid budget. So the money is there—the question is: is the political will?

I believe we are debating an issue of great importance, which goes to the type of country that we want to live in. At its real heart, the report argues that there is no point in having the theoretical right of access to justice if, in practice—whether because of government policy or otherwise—it is denied to you as a citizen. As a country that enjoys a justice system that is very much admired throughout the world, surely we can do better than this. I beg to move.

3.24 pm

Lord Faulks (Con): I congratulate the noble Lord, Lord Bach, on producing this report and on securing this debate, so that we can discuss in the limited time available some of the recommendations that it makes. During the debate on the Queen's Speech, I said that I hoped that when the Government looked at LASPO, they would take into account what was said by the Bach commission, and I reiterate that today.

The availability of legal aid was part of the post-war settlement. It enabled many people to have access to legal advice and representation that they had never had before. But successive Governments, of all colours, became alarmed at the growth and level of expenditure. Modest reforms by my noble and learned friend Lord Mackay of Clashfern were followed by the Access to Justice Act 1999. It was brought in by the Labour Government and created, probably inadvertently, a veritable bonanza for litigators and various parasitic organisations, causing a real imbalance in litigation. Somehow legal aid got lost along the way.

The LASPO Bill, introduced by the coalition Government, took heavy fire in Parliament, particularly in your Lordships' House. I was on the Back Benches and was far from happy with Part 1, which concerned the scope of legal aid. Indeed, it is the only area in which I have voted against the Government in my

time in your Lordships' House. Part 2, on the other hand, was a considerable success, reflecting the Jackson reforms.

There is a great deal to recommend in this report. The provision for exceptional case funding never seemed to make a great deal of sense. I think it was designed to fend off possible attack in Strasbourg. I attempted to probe the scope of that provision in Committee but never got a very satisfactory answer. I also very much agree with the recommendation on early legal help. There used to be a green form scheme, which allowed initial advice to be given at modest rates. So many disputes could be avoided by sensible advice given at an early juncture. It can point people in the right direction, not always—in fact, rarely—towards full-scale litigation but to alternative routes to solving problems. There are also some good points about the proper way to calculate eligibility for legal aid and some powerful points about scope.

However, the report acknowledges—the noble Lord, Lord Bach, referred to this—that the recommendations will cost money. The estimate is £400 million, but of course it will cost a great deal more in due course. I part company with the recommendations at this point. In my view, Parliament and the Government ought to be responsible for spending on legal aid. I appreciate the reference to the desirability of some cross-party consensus on this issue—it somewhat echoes what many people say about the NHS—but these proposals seem significantly to subcontract the whole question of legal aid to a quango, however eminent the members of that quango might be. The commission would have significant powers to ensure the so-called right to justice, including how it is understood; to intervene and assist in individual cases; and to enforce that so-called right to justice. It could effectively tell the Government what to do in a number of areas. Judges, too, would have a power to adjourn proceedings, to issue a certificate stating that legal aid should be made available, and to review the lack of legal aid on the basis that the right to justice has been infringed. The justice commission would challenge government decisions and intervene in individual litigation. In short, it would have very considerable powers.

When it comes to legal aid, the Government—any Government—are subject to scrutiny from all professional bodies, parliamentary committees and, of course, the Opposition. I saw how effective that can be during the progress of the LASPO Bill through Parliament, when many amendments were made. I therefore do not share the view of the noble Lord and his commission that a right to justice or a justice commission would be a substitute for the way the lines of accountability currently work.

There is much to recommend in this report but there are also parts that seem undesirable—they could give undue power to a quango and risk politicising judges. We can make changes to the legal aid system without doing either of those things.

3.29 pm

Lord Falconer of Thoroton (Lab): My Lords, I declare my interests: first, I gave evidence to the Bach commission; and, secondly, I made a financial contribution

to the work of that commission. I pay tribute to my noble friend Lord Bach, who has driven the Bach commission. I also pay tribute to all the members of that commission who have expertise and experience in the provision of legal aid and access to justice. I invite noble Lords to look at page 2 of the draft report to appreciate the quality of the people engaged on the commission. I join my noble friend Lord Bach in paying particular tribute to Sir Henry Brooke, whose insight, energy and sympathy are evident in every word of the report.

The report accurately refers to a crisis in relation to access to justice. The evidence is marshalled brilliantly in the report. The effect of the crisis can be seen in many areas, of which I will mention just a few. The rights that we give to people are worthless if they cannot enforce them. I refer to three areas in this regard. First, the laws on welfare are so complicated that you need a lawyer to get through them to access welfare benefits. However, you cannot get access to a lawyer or to a tribunal to correct a decision: 61% of cases brought to any sort of appeal on a welfare officer's decision are overturned. That figure accounts only for those cases taken to an appeal. The number of wrong decisions is unimaginable. That is an example of there being no access to justice.

Secondly, as regards equality rights, as a country we pride ourselves on having taken steps to ensure that, for example, there is a right to equal pay. To enforce that right you have to go to a tribunal. As a result of this Government's conduct in relation to the charges for going to a tribunal, the last four or five years have meant, as the court found in the UNISON case, that that right was inaccessible to large numbers of people.

Thirdly, as regards employment rights, over decades we have given people the right to be treated fairly and properly at work. Those rights are ultimately enforced by going to an employment tribunal. If you do not understand the rights because they are too complex or the fees to go to an employment tribunal are too large, you do not have access to justice in that regard.

Those are three examples of the consequences of there not being proper access to justice, but it goes much further than that. If people cannot hold the Government to the law by means of judicial review—which they cannot unless they can afford it and unless in practice they can get a lawyer to do it for them in most cases—the Government are, in effect, free not to comply with the law. Many events happen to people who are completely blameless, where we have sought to give protection through the law.

I will give two examples, the first of which concerns bereavement caused by an act of the state. Inquests are designed to get to the truth. It is incredibly important for an individual's sense of what happened that they get to the truth, and it is incredibly important to ensure that it will not happen again. If, as a family member involved in one of these cases, you cannot have legal assistance and you are faced with a battery of lawyers from the police, the fire service, the ambulance service, the local authority and the contractor, you do not have a hope of getting to the truth. At present, you cannot get reasonable legal assistance in most inquest cases.

[LORD FALCONER OF THOROTON]

Secondly, if your relationship with your partner breaks up—for example, you have been a victim of bullying by your partner over years—one of the things LASPO did was to take away the right to legal aid in practically every single private law case; that is, cases where husbands and wives or partners splitting up row about particular issues. That led to institutionalising the ability to bully one party if that had been going on before.

The standards of our life drop if people cannot go to court and the burden on the Exchequer goes up if you cannot help people reach reasonable solutions. Immediate change is required. The report identifies 25 specific things that need to be done to address the immediate crisis, but much more is required on an institutional basis. At present, for there to be proper access to justice we depend on cases that are brought before the court once in a blue moon, charging that there has been no access to justice, as a result of the work of pressure groups and lawyers, the statements of judges and the work of the Lord Chancellor behind the scenes. Obviously, that is not enough. That we have ended up in this crisis situation—again, I say that “crisis” is not an overworked word—indicates that the institutional safeguards to ensure that people have access to justice are not working. There needs to be something more, just as in relation to the health service and education.

The proposal in the report—the right to justice Act—will ensure that each individual has a right to, “reasonable legal assistance without costs they cannot afford”. That does not mean a right to be given legal aid in every single case; it means that where it is necessary to satisfy the minimum requirement of access to justice, it will be provided. It is not for politicians to decide when that is required, but an independent body. That body should be able to intervene to ensure that that happens and to fulfil the need for access to justice.

I commend the detail of this report to the House. I very much hope that the Government will look at it and consider acting on it, because, if they do not, the crisis will continue.

3.35 pm

Lord Dholakia (LD): My Lords, the rule of law is at the heart of our democracy. We are the envy of the world for the quality of our justice system. The right to justice is fundamental to our process of law. We cannot be at ease with ourselves if the system excludes anyone from this process because of restrictions on the provision of legal aid.

I thank the noble Lord, Lord Bach, for his report. The commission’s report is a cogent and detailed review of the impact of the current restrictions on the funding of legal aid. The report’s central proposals for a statutory right for individuals to receive reasonable legal assistance without unaffordable costs and for this right to be monitored and enforced by a new justice commission deserve support from everyone who believes that no one should be debarred from receiving justice simply because of their means.

I would like to concentrate my remarks on the impact of legal aid restrictions on one particularly vulnerable group—namely, prisoners. The subject is

often ignored but it cannot be avoided because of the state of our penal institutions at present. At this stage I declare my interest as president of the National Association for the Care and Resettlement of Offenders.

People who are imprisoned are particularly disadvantaged if they are unable to mount an effective challenge to abuses because they are unable to secure legal assistance and representation. While prisoners are allowed legal aid in cases that directly affect their liberty, in practice they have been unable to secure legal assistance on issues that have a clear relevance to the length of time they will stay in custody. For example, prisoners have been allowed representation at parole hearings where their release is a possibility, but often they have not been allowed legal aid for representation at pre-tariff parole hearings which cannot direct their release but where the Parole Board can recommend that the prisoner moves to an open prison.

If the Parole Board makes no recommendation for open conditions, this will greatly reduce the prisoner’s chances of release when they reach their parole eligibility date. In most cases, the Parole Board is unwilling to direct the release of a life sentence or IPP prisoner unless they have first been tested successfully in open conditions, so the decisions at these pre-tariff hearings are absolutely crucial to the prisoner’s chances of release in the near future. In April, in a case brought by the Howard League for Penal Reform and the Prisoners’ Advice Service, the Court of Appeal ruled that the unavailability of legal aid for pre-tariff hearings was unlawful. It took the same view of the lack of availability of legal aid for reviews of prisoners’ category A status and for decisions on placing prisoners in close supervision centres.

If a prisoner is categorised as category A—in other words, as someone who needs the highest level of security in the prison system—their chances of a timely progression through the system to a lower security level and to eventual release are greatly reduced. If a prisoner is placed in a close supervision centre, their opportunities to access rehabilitation programmes, work experience and other opportunities to demonstrate their suitability for progression towards release are severely limited. Despite the Court of Appeal’s ruling in April, nothing has changed for several months as the Ministry of Justice said that it would appeal to the Supreme Court to reverse the ruling. I am pleased to hear that the Government have very recently decided not to pursue an appeal. I hope that the Minister will now be able to tell us when and how legal aid will be reinstated in these areas.

There are other key areas that are strongly relevant to prisoners’ opportunities for progression towards release where legal aid is also unavailable. One area is disputes over access to courses such as sex offender treatment programmes, courses to address violent offending, domestic violence programmes, thinking skills programmes and other programmes that can reduce an offender’s risks of reoffending. If prisoners are denied access to such courses because they are assessed as unsuitable, or if the waiting times for programmes are so long that prisoners cannot get on

to them for many months or even years, they are denied a chance to demonstrate to the Parole Board that they have reduced their risk and are now a good prospect for release on licence.

Legal aid is unavailable for appeals against findings of guilt for disciplinary offences in prison. If a prisoner is unfairly found guilty of a disciplinary offence and cannot access legal aid to appeal against the finding, it can adversely affect the likelihood of their progression to an open prison or being a good prospect for release. I therefore strongly support the commission's recommendation that legal advice should be available for issues relating to prisoners' progress, access to resettlement and unlawful treatment in prison.

Legal aid should also be available for representation for the families of prisoners who have died in custody. Frequently at inquests in these cases the Government fund legal representation for state agencies but not for the relatives of the deceased. The chief coroner wrote in his annual report for 2015-16:

"In some cases one or more agencies of the state such as the police, the prison service and ambulance service, may be separately represented. Individual agents of the state such as police officers or prison officers may also be separately represented in the same case. While all of these individuals and agencies may be legally represented with funding from the state, the state may provide no funding for representation for the family".

Other noble Lords have highlighted—and will highlight—many areas in which the severe limitations on legal aid cause hardship and injustice to many deprived and disadvantaged members of society.

In conclusion, it is important that, in any review of the availability of legal aid, we include the impact on members of one group who are particularly vulnerable to injustice because they are detained behind prison walls.

3.42 pm

Lord Phillips of Worth Matravers (CB): My Lords, the impressive report of the noble Lord, Lord Bach, to which Sir Henry Brooke so notably contributed, accurately depicts the lamentable effect that the withdrawal of legal aid by LASPO has had on access to justice in so many areas. It raises a fundamental question, which I propose to address: can this country still afford the adversarial system of justice?

Since 1949, when legal aid was first introduced, the demands on the justice system have increased exponentially, for reasons to which I shall return. But first, I observe that this is true of other areas of national expenditure. Advances in medical science and the demands of a population that is living much longer pose challenges to the health service that seem likely to prove beyond its means. In education, the cost of the increase in the number of schoolchildren going on to university has ostensibly been met by a student loan scheme that may well prove unviable. Technical advances in weaponry have made the cost of maintaining a credible defence force prohibitive, and if we are to go on earning our keep, heavy expenditure must be devoted to our infrastructure. In this situation, the Government have to make hard choices. One cannot treat it as axiomatic that access to justice in its present form must survive at the expense of other demands.

Why has our justice system become so expensive over the last 50 years? So far as the criminal justice system is concerned, it is because we are sending more people to prison for longer. So far as the civil system is concerned, one reason is because there are now so many more areas of intervention by the state that create demands on the justice system. The report details some of these: children, family law, immigration, inquests, judicial review—a massive growth area; there was almost none 50 years ago—and, of course, human rights.

The report states:

"The UK justice system is commonly praised as being one of the best in the world".

I believe it is, but at a cost. Under our adversarial system, it is the task of lawyers to investigate both the facts and the law, which are then presented to the judge to assist him or her in reaching the right decision, in court hearings that are oral and can last for days. The lawyers do most of the work. This contrasts with the civil inquisitorial system, where the judges and court experts carry out factual investigations and research the law.

The input of lawyers, assisting each other and the judge, is critical to the working of our common law system, but it is very expensive. The reality is that today only a minute proportion of the populace could contemplate funding lawyers to act for them in judicial proceedings. The steady withdrawal of legal aid, of which LASPO was only a last giant stride, is having the effect of turning our adversarial system into an inquisitorial one. Litigants are appearing in person, and the judges are having to do the work that was done by the lawyers.

The report of the noble Lord, Lord Bach, recommends reversing the cuts to legal aid made by LASPO, but I fear that this would be little more than the application of sticking plaster to a system of justice that has come apart at the seams. Long before LASPO, civil justice was beyond the reach of a large proportion of the populace. We need a commission to look at the entire justice system, criminal and civil, to advise how to deploy our limited resources to best advantage.

3.46 pm

Lord Goldsmith (Lab): My Lords, when my noble friend Lord Bach started this debate, he reminded us that access to justice needs to be effective for it to achieve what it is supposed to achieve. Although we all believe in it, as with the rule of law there is a real danger of not doing what is necessary to make it happen. I pay tribute to my noble friend, the other members of the commission and all who assisted him with this report. Here we have some practical solutions.

I want to identify and focus on the problems that real people experience as a result of the lack of access to justice. I do that by drawing attention not to what the effect of the cuts to legal aid has been on the legal profession but to the effect on the voluntary agencies that provide so much advice to people who desperately need it.

Let me give noble Lords one example. The House will recall, I hope, that one consequence of LASPO has been not just to cut the earnings of lawyers in

[LORD GOLDSMITH]

private practice but to reduce the revenue available to law centres and legal advice centres. One such law centre is the Haringey Law Centre, with which my firm partners—I disclose that interest. Following LASPO, its staff numbers were reduced from 15 to five, yet it still supported almost 3,000 Haringey residents a year, of whom, not surprisingly, a large proportion are BME, unemployed or disabled. Further cuts in 2016 meant that Haringey was nearly forced to close. It stayed open only because several key staff members continued to work without pay. That is only one example. The Law Centres Network has reported that law centres suffered a 60% loss in legal aid revenue due to LASPO. That is producing a situation in which people cannot get the assistance that they desperately need, not in grand public law cases or private litigation, but in areas of everyday life—employment, benefits, housing—which matter enormously to the people in this country.

I declare an interest as the chairman of the Access to Justice Foundation, an organisation supported and set up by all elements of the legal profession to collect money and fund through grants law centres, legal advice centres and those agencies and people that provide legal services pro bono. But there is a desert of legal advice. The Law Society has identified that almost one-third of legal aid areas have just one, and in some cases not even one, law firm that provides housing advice.

The recommendation of my noble friend's commission for a right to justice Act is to be commended, and I support him in that. However, it should not detract from the other practical recommendations that his report makes; those can be got on with straightaway. Like others in this House, I look forward to hearing the Minister and others indicate what is going to be done about this in practical terms.

Supported though it is by four former Lords Chief Justice—if that is the correct plural—this debate must not become an end-of-term, teatime debate. It needs to drive forward real reform. Last year, almost 1 million people were not helped by legal aid who would have been helped in 2013. That illustrates the extent of the demand. While it may be possible to make many important changes to our justice system to make it more effective, efficient or cheaper, none of that should delay the need for assistance for the people towards whom my noble friend's report is directed. I commend the report and look forward to hearing what the Minister has to say about what the Government intend to do to deal with it.

3.51 pm

Lord Woolf (CB): My Lords, I also commend the noble Lord, Lord Bach, for the excellent report that has been produced and is the subject matter of this debate, and for securing the debate. There is so much that is worth while in the report that in the time available it is possible to focus only on one issue. I will focus on the suggestion that there should be established a justice commission; a matter already mentioned in the course of his powerful speech by the noble and learned Lord, Lord Phillips.

It will be known to certain of the lawyers here that in the course of my legal career I was responsible for producing a report on this subject, in the long and distant past of 20 years ago. The noble and learned Lord, Lord Mackay of Clashfern, who was in his place, was the Minister responsible for asking me to make that report. If you are going to make a report, you are usually very dependent on the Minister who commissions you to do so. I could not have been more fortunate than to have the noble and learned Lord, Lord Mackay, as my source of authority. I welcome the opportunity to say that he not only supported me during the course of the inquiry but supported me magnificently in helping get some of my reforms implemented.

But the civil justice system in this jurisdiction does not stand still; it continuously evolves. It does so because it is basically a common law system, one of the virtues of which is that it continuously evolves. Whatever the virtues of a civil justice system, it does not have that benefit.

Whatever the report says, it will need to be continuously reviewed to bring it up to date. That is why a justice commission is so important. One consequence of LASPO was attempts by the Government to alleviate its worst effects. However, they did not work as well as the Government thought they would. As a result, the Government were in the unfortunate position of putting aside money to help with special cases but, lo and behold, that money did not get to the special cases that needed it. I remember hearing debates in this House where that fact was deplored, and the Government went on to try to find better ways of doing it. No matter how many reports you have, better ways of doing things will be found, and we must focus on this.

Mention has been made of the quality of our legal system, which has rightly been commended. But, as the noble and learned Lord, Lord Phillips, indicated, it is an expensive system. One of things I achieved—but failed to do—was to ensure that in big cases, where all the people involved were wealthy, they should be able to use all the Rolls-Royce assistance the system could apply; but if you had the misfortune to be a small person in a small case, you should be able to use a bicycle to achieve what was needed in the justice system. I still believe we provide the Rolls-Royce in our system but we do not provide the bicycle—and that is one of the issues upon which we should focus. I urge that we find ways of making that happen—and I can think of no better way of doing so than by establishing the commission the report recommends.

I have had the good fortune of being gainfully employed abroad since I retired as a judge in this jurisdiction. I received that benefit because of the reputation of our system. However, I have always been rather nervous that it might be pointed out to me that our judges may be very good but, unfortunately, the system is far too expensive.

3.56 pm

Lord Wigley (PC): My Lords, I am hesitant to intervene in this debate with so many noble Lords distinguished in legal matters participating. However, I am glad to have the opportunity to contribute as the LASPO Bill was the first for me to address when I

re-entered Parliament in this Chamber in 2011. I join others in warmly welcoming the work of the noble Lord, Lord Bach, and his colleagues. I hope that the recommendations of this report will be adopted by the Government when their own review has been concluded.

I shall refer briefly to our experience in Wales following the application of the 2012 Act. Wales has seen the largest decline in legal aid providers over the past five years—a decrease of 29%. Of course, Wales is not the only area hard hit; there have been decreases of 28% in south-west England and 27% in north-west England. Legal aid in the housing sector has been particularly hard hit as the rates paid for housing legal aid, set by the Government, are particularly low and so there is no incentive for providers.

When the UK Government held a consultation on legal aid in 2011 before implementing the cuts, my colleague, Elyn Llwyd MP, who has now returned to his legal work, in his evidence warned that the cuts would hit the most vulnerable in our society—in particular children caught up in divorce cases—and would lead to overreliance on advice agencies and an increase in self-representation in courts. That is exactly what has happened, as the noble Lord, Lord Bach, emphasised earlier.

The Law Society published evidence in June indicating that many people are now facing court, unrepresented, in cases where lawyers would have resolved the issues without involving the court through mediation and negotiation. On the occasions of his recent retirement, one of the most senior Family Court judges, Mr Justice Bodey, told colleagues how more and more people were having to represent themselves at hearings and how he had at first hand felt their frustration. Sometimes he had to act as their counsel and to ask questions on their behalf. He added:

“I find it shaming that in this country, with its fine record of justice and fairness, that I should be presiding over such cases”.

In its evidence to the Justice Select Committee in October, the Ministry of Justice published figures which revealed that legal aid cuts had triggered a 99% collapse in the numbers receiving state help in welfare cases. Just 440 claimants were given assistance in the last financial year, down from 83,000 in 2012-13. This is particularly punitive for disabled people, about whom I am most concerned. The Bar Council has commented:

“This is not to say that the resources allocated to justice should be limitless. But it does mean that justice should be properly resourced to avoid a denial of justice”.

As was stated in another place by Elyn Llwyd’s successor, Liz Saville Roberts MP, this is an, “appalling indictment of how this Government has denied access to justice to the poorest people in society. Denial of legal advice is a denial of justice”. These cuts also impact on people facing vexatious court claims brought against them by the victims of abuse. Liz Saville Roberts currently has a Private Member’s Bill in the other place addressing this serious issue.

The interim Bach report identified six key areas of concern with the current system for accessing justice—concern that we should note:

“Fewer people can access financial support for a legal case ... Exceptional case funding has failed to deliver for those in need ... Public legal education and legal advice are inadequate and disjointed

... High court and tribunal fees are preventing people pursuing legal claims ... Bureaucracy in the Legal Aid Agency is costly and time-consuming ... Out of date technologies keep the justice system wedded to the past”.

The coalition Government had originally estimated that the new Act would lead to savings of £450 million a year, but in 2016 legal aid spending was £950 million less than in 2010, indicating that the cuts have been far too brutal. The Bach commission estimated that the cost of the proposals in its report would initially total less than this underspend, at an estimated cost of £400 million per year.

The recommendations set out in the final report include—I believe that it is right to stress this—

“a new Right to Justice Act. This Act will ... Codify our existing rights to justice and establish a new right for individuals to receive reasonable legal assistance without costs they cannot afford ... Legal aid eligibility rules must be reformed, so that the people currently unable either to access legal aid or to pay for private legal help can exercise their right to justice ... The scope of civil legal aid, which has been radically reduced, must be reviewed and extended ... The operation of the legal aid system needs reform ... Public legal capability must be improved”.

I hope very much that the Government will give serious thought to these constructive recommendations and that they will take the necessary steps to reverse the adverse effects of the 2012 Act.

4.02 pm

Lord Wasserman (Con): My Lords, I begin by drawing attention to my interests as set out in the register, in particular my membership of the board of trustees of the Centre for Justice Innovation.

It is a great pleasure to participate in a debate introduced by the noble Lord, Lord Bach, the police and crime commissioner for Leicester, Leicestershire and Rutland. The noble Lord is the first Member of your Lordships’ House to have been elected as a PCC, and I look forward to the day when many more noble Lords will feel moved to follow his example and serve their communities in this important way. I join with many others who have congratulated the noble Lord on securing time for this debate and who have commended him for producing such a comprehensive and readable report, and more importantly, for producing an agreed set of practical proposals for action.

As a non-lawyer who has spent most of his professional life concerned with the criminal side of our justice system, I had serious doubts about whether it would be sensible for me to speak in today’s debate. I certainly do not feel qualified to comment on most of the report’s recommendations, and I do not intend to do so. However, I want to express my strong support for two recommendations discussed in the chapter entitled “Education, information and advice”. In particular, I enthusiastically endorse the proposal that public legal education in schools should be improved, and I welcome the idea of,

“a centrally branded and easily navigable portal for online information and advice”.

I am especially keen on these recommendations because I believe that they would also have important benefits for the criminal justice system, and would therefore like to see them become the subject of more public debate and public funding.

[LORD WASSERMAN]

Indeed, I would go further and say that the need for better information and more support is even greater in relation to the criminal justice system than it is on the civil side, especially when we consider the needs of our black, Asian and minority ethnic citizens. I shall quote from a recent excellent report from the Centre for Justice Innovation of which, as I say, I am proud to be a trustee. It is entitled *Building Trust: How our Courts can Improve the Criminal Court Experience for Black, Asian and Minority Ethnic Defendants*. It states:

“while the British judicial system has a reputation as one of the fairest in the world, our criminal justice system does not command the trust of our Black, Asian, and Minority Ethnic (BAME) citizens. A majority (51%) of British-born BAME people believe that the criminal justice system discriminates against particular groups and individuals, compared to only 35% of the British-born white population”.

I am sure that I do not have to spell out in detail the negative consequences of this situation for both the BAME community and our society as a whole. Suffice it to say that, for the BAME community, the perception of racial disparity in their treatment by the criminal justice system may lead to defendants receiving more severe sentences by making them less likely to plead guilty and thus not benefit from the one-third reduction in their sentence that is available to those who plead guilty at the first opportunity. In fact, adult BAME men and women who are tried in Crown Courts are respectively 52% and 35% more likely to plead not guilty, compared with similar white men and women.

For society as a whole, the consequences are even more serious, because there are reasons to believe that perceptions of unfair treatment in the criminal justice system are likely to increase the chances of BAME offenders going on to reoffend and thus threaten the safety of their communities and beyond. The Centre for Justice Innovation report makes a number of important recommendations for tackling these issues. There is not enough time for me to mention them all, but let me just say that none of the recommendations would have been out of place in the Bach report. Of course, this should come as no surprise. Although the Bach report does not mention the special needs of BAME people explicitly, there is no doubt that they exist in relation to the civil justice system too.

Although it has not attracted nearly as much attention in the media, it seems that there is a “trust deficit”—to use David Lammy MP’s words—on the civil side of our justice system, just as there is on the criminal side. That loss of trust in our justice arrangements is not something that can be ignored until after the Brexit issue has been settled. As the noble Lord, Lord Bach, said in his admirable foreword to the report—speaking of the institutions of our justice system—when,

“trust in our institutions and in the rule of law breaks down ... society breaks down”.

My right honourable friend the Prime Minister has said that she wants to create a country that works for everyone. It is clear from the Bach commission’s findings, which we have discussed today, and the work of the Centre for Justice Innovation and others, that as far as both our civil and criminal justice systems are concerned—institutions that lie at the very heart of a

free democratic society—this country does not yet work for everyone. I urge my noble friend the Minister to take this important message back to his ministerial colleagues.

4.07 pm

Baroness Lawrence of Clarendon (Lab): My Lords, I thank my noble friend Lord Bach for securing the debate. I am pleased that we are debating the very important issues of the justice legal system and I welcome the findings and recommendations of the final Bach commission report. As part of my ongoing work on human rights, I am pleased to see that the commission has raised concerns over the current state of legal aid in this country, highlighting that it has been radically reduced and how it needs to be reviewed and extended.

It is over 60 years since legal aid was launched in the United Kingdom, giving a route for the ordinary people of this country to have access to law in times of crisis. Legal aid has helped to meet the costs of legal advice, family mediation and representation in a court or tribunal. However, in recent years, government cuts have meant that legal aid cannot be represented in many forms of law. This has created what are called “legal aid deserts”—pockets of England and Wales with no local legal aid providers at all, according to the Law Society.

One of the clearest and most highly complex areas where legal aid is used the most is divorce. Families now have to provide funding, unless a case concerns domestic violence. However, given the sensitivities of most divorce cases, including children, legal aid is now totally excluded. Other important areas such as immigration, debt, some aspects of housing and benefits issues qualify only if they meet certain criteria. Law firms can no longer afford to offer these services. The alarming factor here is the increased risk of miscarriages of justice.

Another major area that now lacks legal aid is the employment sector. It has always been an area of real concern for individuals facing harassment and wrongful dismissal that employees are not being represented properly as they do not have the financial capacity to state their case. This has a statistical impact on tribunal cases and dismissals across the UK.

Legal aid is an important part of one’s human rights. If someone cannot afford legal representation it could undermine their right to a fair trial. Some rights are protected under Article 6 of the Human Rights Act. There is still so much to be addressed on access to legal aid for the most sidelined groups in our society.

I am very concerned about this and, as I mentioned, I welcome the fact that the Bach report addresses the issue that people are being denied access to justice because the scope of legal aid has been dramatically reduced and eligibility requirements have been made unreasonably rigorous. Most problems have now become apparent through the justice system, from insufficient public legal education and a declining information and advice sector that includes the failures of the intricate bureaucratic system and the uncertainty of the future of legal aid lawyers.

As the commission has established, there is a real need for a new legally enforceable right to justice. I am grateful the commission's report on the right to justice has come up with 25 new recommendations, which, most importantly, include ways to codify our existing right to justice and establish a new right for individuals to receive reasonable legal assistance without unaffordable costs. I am also content to see that a new body called the justice commission would be set up to monitor and enforce this new right.

We need to endorse and take action on this report for the thousands of individuals struggling to be represented in the UK, who suffer the anguishes that they face in their own struggles in life by not having access to what is a human right. No matter how much data is provided, there are thousands of real people who can no longer afford legal aid for sensitive areas such as family break-ups, and jobs and debt issues. Vulnerable people should be provided with such services in the interests of justice. Without legal aid and pro bono, I would not have had the result I received almost 20 years after my son's murder.

4.14 pm

Lord Low of Dalston (CB): My Lords, I congratulate the noble Lord, Lord Bach, not only on securing the debate but on the excellent report that he has produced with his commission. So far as interests are concerned, the noble and learned Lord, Lord Falconer, reminded me that I, too, gave evidence to the noble Lord's commission. It is an outstanding report. With its recommendations of a right to justice, a new right to justice Act, a justice commission, a national public legal education and advice strategy and a host of detailed recommendations for kick-starting the process of making the right to justice a reality, the report is both radical and principled. Lawyers tend to get rather a bad rap for the self-serving way in which they hold the public to ransom and tie things up in process, but this report, in showing that lawyers do have a social conscience and that a concern for social justice is at the heart of the law, exemplifies the law at its best.

Noble Lords may recall that I chaired a commission tasked with developing a strategy for advice and legal support on social welfare law in the wake of the cuts introduced by LASPO. We sat between the end of 2012 and 2016 and produced a number of reports which are generously referenced by the Bach commission—that shows that we are very much on the same page. We identified a continuum of provision, including public legal education, informal and formal information and general advice, specialist advice, legal help and legal representation. With cuts of the order of £100 million in legal aid, it seemed clear to us that the advice end of the spectrum would need to take more of the strain. Given this perception, we focused increasingly on what needs to be done to strengthen local advice services. I am delighted that the noble Lord, Lord Bach, laid some stress on this today, and it is to this matter that I wish to devote the rest of my remarks.

In this connection, Bach and Low are very much on the same page. Bach draws attention to a shrinking information and advice sector. Our key recommendation was for a national advice strategy supporting local

advice and legal support plans produced by local authorities with the local not-for-profit sector and commercial advice agencies. So it will come as no surprise that I was particularly pleased to see recommendation 25 of the Bach report, which states:

“The government should create a new, ring-fenced fund for advice providers who are able to evidence the effectiveness of their approach to delivering advice to people within their communities”.

A couple of years ago there was interest in something such as this at the top of government and a recognition of the contribution made to society by the advice sector. We had very positive meetings with Oliver Letwin, Michael Gove and the noble Lord, Lord Heseltine.

We were able to show that money is not really the issue: there is no shortage of potential funding streams, either from the Government, the lottery or the Government through the lottery. We estimated that a topslice of just 1% of all these funds would yield the £50 million a year needed to fund the Government's contribution to the national advice and legal support fund we were proposing. The rest would be for local authorities to match-fund from a range of sources that we identified. What is needed is strategic co-ordination of these funding streams, with provision of advice services as a central strategic aim. We put a paper developing this approach to the Cabinet social justice committee, but I fear that it got lost in the works and the whole thing has simply gone off the boil. I hope that, with the renewed stimulus of the Bach report, the Government may be induced to revive their interest in advice services. They have great strategic importance.

Both Low and Bach stressed the value of early intervention for preventing problems escalating further down the track. There is a great deal of evidence that early legal advice saves the state money. Advice has a triple strategic value. Not only is it valuable for assisting people with their immediate problem, it helps to make them more resilient generally in dealing with life's challenges across the board. Moreover, helping people to be more resilient reduces the burden on public services and public expenditure further down the line. This is a case which it is in the Government's own interest to take very seriously. In fact, they cannot really afford to ignore it.

4.20 pm

Lord Howarth of Newport (Lab): My Lords, I live in Norfolk. The Norfolk Community Law Service—NCLS—is staffed by people who believe deeply in the right to justice. A small paid staff are supplemented by volunteers: 65 experienced solicitors and barristers and a team of 45 law students from the University of East Anglia. With their moral energy and practical resourcefulness, the people at NCLS provide services across a wide range of legal advice needs. The most severe problem areas are family issues, debt, welfare benefits and housing. NCLS says there is a perfect storm created by austerity, legal aid cuts, reductions in public funding for advice services, welfare reform and falling incomes.

The case load of NCLS has increased year on year since LASPO. In the current year, it is projecting a 21% increase. Increasing personal debt is being driven

[LORD HOWARTH OF NEWPORT]

by stagnant incomes, zero-hours contracts and the benefits cap. Welfare benefits cases, after increasing by 19% in 2016-17, are on course to increase by 65% in the current year. With the assistance of the UEA students, NCLS is winning no fewer than 83% of appeal cases that go to tribunal, which shows there is something seriously wrong with DWP decision-making.

With the loss of legal aid, demand for the family court support service of NCLS has soared, increasing six times between 2015-16 and 2016-17. Nine volunteer family court supporters at NCLS help clients to gain a realistic view of their prospect in court. They attend hearings with them and help them to complete court forms and draft complex statements. Clients also get legal advice from the domestic abuse service of NCLS. The situation in Norfolk is made worse by the lack of solicitors doing legal aid work for domestic abuse, so even where the client would be eligible for legal aid, no one is available to take on their case because of the reduction in funding by the Government. Volunteers, however, cannot represent clients in court: they can provide only practical support during the very stressful experience of appearing as a litigant in person. Organisations such as NCLS can limit damage but they cannot substitute for professional legal advice and a properly funded justice system. How right my noble friend Lord Bach's commission is to recommend that the Government bring legal aid back into scope for all matters concerning children and widen the scope of legal aid for certain family cases. It is profoundly depressing that Ministers could ever have taken legal aid away from people with few resources in such unhappy situations.

In a debate in Westminster Hall on 29 November, the Minister of State for Courts and Justice, Mr Dominic Raab, was, however, unrepentant. He intoned:

"The Government have a responsibility to make sure that those in the greatest hardship, at the times of greatest need, can secure access to justice, that the most vulnerable are catered for, and that the resources are made available to do that. That is a responsibility that we take very seriously".

These are fine-sounding words but a world away from the reality the Government have created. The report by Amnesty International, *Cuts that Hurt*, describes how homeless people and those with mental health difficulties, learning disabilities, low numeracy and literacy levels, language problems, alcohol and drug dependency and even terminal illness are now without entitlement to legal aid as they attempt to engage in legal processes.

Why, anyway, should the responsibility of government be confined to those in the greatest hardship? We cannot claim to be a society that lives under the rule of law if swathes of the population cannot in reality avail themselves of legal remedy. It would appear that the Minister had not read the judgment of the Supreme Court in *Unison v The Lord Chancellor*.

Mr Raab then observed that post-LASPO spending on legal aid per person in England and Wales was the highest of all Council of Europe members. This argument is disingenuous. Our legal system, adversarial rather than inquisitorial, cannot be compared in this way to systems in other Council of Europe countries. The noble and learned Lord, Lord Phillips of Worth Matravers,

made some very interesting observations in that regard. Anyway, what other countries choose to do should be neither here nor there. We can still do what is right according to our proper constitutional tradition, as developed in the Legal Aid and Advice Act 1949 and the expansion of legal aid in the 40 years that followed.

Mr Raab's third defence was that,

"the financial pressures in which the LASPO reforms were introduced remain with us today ... We in the Government have the responsibility to ensure that taxpayers get the best value for money".—[*Official Report*, Commons, 29/11/17; cols. 168-71WH.]

I do not question the need to reduce the deficit but I absolutely reject the appropriateness of doing it by undermining the rule of law. I do not question the need to achieve efficiencies in the justice system, provided they are well judged, but too many have not been. Nor do I question the desirability of discouraging unnecessary and adversarial litigation but the reduction in the number of solicitors holding a legal aid contract has led to a fall, not an increase, in the use of mediation. The principle of access to justice for all should have been non-negotiable. The purported saving, a fall in spending on legal aid of £600 million since LASPO, though large enough to have wreaked havoc on access to justice, is trivial in the context of total public spending of £814 billion. The cost of the justice system is not to be compared with the costs of health or defence.

As for value for money, the saving has been overstated if not illusory. The commission of the noble Lord, Lord Low, the National Audit Office, the Law Society and many others have demonstrated how the removal of funding for early advice has led not just to increases in human misery but to new costs for the Exchequer. We shall see whether the MoJ's post-implementation review of LASPO, now promised for next summer, makes an honest assessment of this.

I hope that today, the Minister will not use the stale and discredited arguments paraded by his ministerial colleague in Westminster Hall. I endorse the analysis in the report of the Bach Commission, *The Right to Justice*. Its proposals for reform deserve serious and urgent consideration.

4.26 pm

Lord Thomas of Cwmgiedd (CB): I too welcome and commend the report of the noble Lord, Lord Bach, and his commission, and in particular the detailed appendices produced by Sir Henry Brooke, which will well repay detailed analysis by Her Majesty's Government. However, I must declare an interest in doing so as I am chairing a commission on justice in Wales, where one sees typical examples of social deprivation in industrial and agricultural societies, and serious problems with legal aid. I therefore warmly welcome the report and the ideas contained in it.

It is only fair, as the commission itself acknowledges, to acknowledge what the Government have done in their investment in digital technology. There is no doubt at all that we need continued and strong investment because artificial intelligence and the proper use of digitalisation in the courts can make an enormous difference. Sir Henry has seen this at first hand. It is also important to acknowledge that that investment must go forward because without it, I do not see how the finances will permit the investment in legal aid and

advice that is absolutely essential. I therefore very much hope that the Government will bring forward the Bill on the courts, which was lost at the last election. The Bill is vital, and it is very disappointing that it has been delayed so long.

I wanted to acknowledge that contribution before saying that it is obvious what effects, which many have not made clear, the cuts on legal aid have had—not only on the disadvantage of which the noble Lord, Lord Low, has spoken but in the effect on the courts in the longer time that cases take. As my noble and learned friend Lord Phillips said, there is a huge recourse to judges becoming those expert in an inquisitorial rather than adversarial system. There are also the delays that have occurred right across the court system, up to the Court of Appeal. There is a serious problem that has to be grappled with.

The commission itself is a good idea but I agree with the noble Lord, Lord Faulks, that there is a political issue behind this because judges cannot become involved in the financing of the court system. It is very important that we address that fundamental problem. As was apparent from the questions this morning in the debate on issues relating to the probation service and the huge overcrowding of our prisons, justice has an integral budget. Certainly in the time that I was a judge and responsible for aspects of the administration of justice, financial pressures in another part of the justice Ministry always had a serious effect on other parts. I respectfully urge that we address the whole question of financing the justice system. How much should litigants pay and how much should the state pay? That question goes right across it and cannot be left to judges. Subject to that political issue being resolved where it should be, which is in this House, I warmly commend the proposals made. I very much hope that they can be taken forward and that we can have a proper integrated look at the whole of the justice system.

4.30 pm

Baroness Whitaker (Lab): My Lords, I declare an interest in that my daughter is a practising barrister, sometimes funded by legal aid. The rights we have declared since our earliest times as a society are nothing without access, as almost all speakers have said this afternoon. A right to justice Act would therefore be a necessary complement to the Human Rights Act 1998, one of our most important state achievements. My noble friend's report is of signal importance, and, incidentally, is the best go yet at creating some sort of national legal service which neither incentivises litigation unnecessarily nor does this at exorbitant cost.

The British Institute of Human Rights—I declare an interest as an advisory board member—has many examples of rights denied because of lack of legal aid; that is to say, lack of capacity to challenge wrongful welfare or health or care decisions. The right to a fair trial or, indeed, to any trial at all is clearly dependent on access. One could go on through all the rights we have codified in the Human Rights Act.

When we look at funding arrangements, I draw on my experience as a member of employment tribunals, so often asymmetrically argued because the employer hired a lawyer which the complainant could not afford,

with obvious disadvantages which the tribunal had to try to cut through. It took a long time. In some cases of discrimination, which are often very hard to prove, I think it is right to say that without that proper representation justice was not always done and, of course, the position is infinitely worse since the LASPO Act of 2012.

The Law Society has ample information about the cost to the public purse—£3.4 million—the delays and the injustices ensuing from the lack of legal aid-funded early advice, which was referred to by my noble friend Lord Bach in his powerful introduction. Even mediation in family law, the government's fig leaf of justification aimed at deterring litigation, has declined by 38%.

Some of your Lordships will be aware of the severe disadvantages faced by the Gypsy and Traveller communities in trying to find sites to live on. The LASPO Act seriously curtailed their ability to obtain advice and assistance. Those Gypsies and Travellers living on local authority sites who had at last obtained security of tenure in the mobile homes legislation of 2011 found that they were denied any legal aid for advice and representation in respect of the rights conferred by that legislation, apart from possession actions and cases of very serious disrepair. Curtailment of legal aid for judicial reviews makes it increasingly difficult for Gypsies and Travellers faced with unlawful actions or decisions by public authorities to find any solicitor willing to take on their case because they might not be paid. Exceptional case funding under Section 10 of the LASPO Act, which was referred to by the noble Lord, Lord Faulks, does not really provide a practicable alternative route because of the time it takes to make an application and the extraordinarily low success rate, the consequence being that many solicitors will not contemplate such an application.

The Bach recommendations would put these injustices right. They could usefully add a recommendation that the exclusion of so-called trespassers from loss-of-home actions should be withdrawn, since the right to representation for Gypsies and Travellers who have been unlawfully moved on has also been withdrawn. The very estimable proposals for online access ought to be complemented by face-to-face advice for those who are not online.

Like others, I particularly value the recommendation for legal education in schools. We lack a written constitution which, among other benefits, would ensure that rights and responsibilities were taught. Think of how a British equivalent of the Gettysburg address might help our sense of national identity. Legal education could at least enable the guiding principles of justice to be communicated.

In conclusion, the recommendations in this invaluable report would go far to produce an effective system of public justice that we could be proud of and which, most of all, actually delivered justice to those most in need of it.

4.36 pm

Lord Judge (CB): My Lords, the provisions of LASPO in relation to legal aid were not wise. In truth, as the Public Accounts Committee discovered in 2015, they were ill considered. I will make just a few observations, having listened to the debate thus far.

[LORD JUDGE]

Underpinning the invaluable report by the noble Lord, Lord Bach, a former colleague of mine on the Midlands circuit—we practised together and did cases against each other—and underpinning every single contribution by all noble Lords who have spoken is this: there are litigants with a genuine claim which merits the attention of a court but who cannot afford to litigate it, and there are litigants with a serious defence in law to a claim brought against them, which they cannot afford to litigate. If they do not or cannot afford to go to court to enforce their rights or to protect themselves, their choices are very stark, and they do nothing. They are uncounted, unknown victims of miscarriages of justice. Nobody knows how many there are because they do not turn up to be counted.

Alternatively, and with great courage, they bring or defend their own cases as litigants in person. I want to touch on one aspect that, although it has been addressed by some of your Lordships, has not been fully addressed: the impact of litigants in person on the administration of justice throughout the country, particularly in the county courts, where district judges do invaluable, hard work dealing with the day-to-day concerns of the ordinary citizen. They have to deal with many cases, but the problem of litigants in person goes all the way up to the Court of Appeal, where Lord and Lady Justices of Appeal are considering applications for leave to appeal by litigants in person.

These judges have to deal with such cases. No judge can possibly hope to ascertain the facts presented to him by a litigant in person without having to delve through mounds of uncounted and unnumbered papers, sometimes in confused or non-date order. This is not through any want of effort—often they are presented to you in beautiful files—but for want of expertise. They are presented by the litigant in person in an emotionally charged situation. This man or woman is in a place where he or she does not wish to be, and is frightened by the processes, even if helped by organisations such as Citizens Advice or the personal support units there are in many courts. It is emotionally charged for that reason, and because he or she feels that an injustice has been done or that justice is required. Trying to help that litigant in person to do the best for his or her case leaves the judge in a very difficult position, because the judge has to avoid the danger that the litigant on the other side will think, “Why is the judge helping my opponent? Why is the judge helping the person bringing the claim against me?”. So the judge is faced with an exceptionally tricky and delicate course. He has to remain neutral and be perceived to be neutral. Sometimes there are litigants in person on both sides, with the same vast bundle of papers, only in a completely different order because there has been no organisation by lawyers beforehand to present the judge with the few papers, the few documents, which actually matter.

Then off the judge goes, trying to find out what the law is. This is too serious a subject for jest, but I must allow myself this. In the Garden of Eden, there was one law: “Don’t eat the fruit of that apple tree”. Then we had 10 commandments. We produce 12,000 pages of laws every year—every year. The judge has to try to find out which bits of the law matter, because no judge anywhere in the world knows all the law. He has a

qualified lawyer on both sides. He can say, “Mr so and so, where do I go now?”. “Section 22 of the Landlord and Tenant Act”. “Mr so and so, where do I go then?”. “My Lord, it is in the Social Security Act”.

What are the consequences—because there is a consequence beyond that of the unknown victim? The consequence is this. Cases take much longer than they did, at every level of the court. You may say that that does not matter, but it is a very strange economy: the judges are working harder but getting through fewer cases. The consequence to the administration of justice is this: lists of cases are reduced. A judge who could do 25 cases in the county court every day can now do only 15. You see the concertina effect. Gradually, more and more delays are being built into the system.

It is not just about the man or woman with a good case—although they are the prime victims—it is about every other litigant who suffers in consequence of this unwise legislation.

4.42 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, first, I declare an interest: I sit as a magistrate in London. I congratulate my noble friend on his report. I will concentrate primarily on part 2 but will say just a word or two about part 1 and the proposed right to justice Act. If it works, I am in favour of it. My only observation, as someone who sits at the bottom of the judicial pile, is that I regularly see defendants and victims who have difficulty accessing justice. They lack advice, they are confused by the procedures they are dealing with and they have no assistance to better understand the position they are in.

Magistrates’ courts deal with 95% of all criminal cases in England and Wales, so it follows that for the vast majority of individuals who come into contact with the criminal justice system, it is their experience in magistrates’ courts which will give them their faith—or otherwise—in the country’s criminal justice system. There are many wider questions about access to justice. The noble and learned Lord, Lord Thomas, talked about moving to online justice and how there are ever fewer magistrates’ courts in the country, but I shall not talk about that now. For today’s debate, I shall talk about part 2 and the urgent policy changes advocated by my noble friend.

As my noble friend’s report says, the greatest change in civil legal aid brought about by LASPO was the change in support for family law. When I started as a lay family magistrate about five years ago, about half of my sittings were on public law matters and about half on private law matters. Now, it is about 20% public law and 80% private law. Of the private law applications I see, a very large proportion are from litigants in person. All the cases I see would have been considered for mediation. That mediation may have been deemed unsuitable, usually because there are allegations of domestic violence. It is very common to see allegations of and convictions for domestic abuse in the courts in which I sit and if so, there is an availability of legal advice, although the parties sitting in court may not necessarily be aware of that. It is quite common for them to turn up not knowing that they are entitled to legal advice. It is also very common for drugs and alcohol to have played a part in the couple’s relationship,

although this factor in itself would not entitle either party to legal aid. A further factor that is very common is mental capacity—either historic or current—in its widest sense. Again, this is not an issue that would entitle either party to legal aid, although it plays a central role in the sorts of cases I hear.

In court appearances there is the applicant and the respondent, and a variety of possible representation. For example, there is the litigant in person, whom the noble and learned Lord, Lord Judge, spoke about. Applicants and respondents may be represented by a lawyer, either privately funded or legally aided. They may be accompanied by a McKenzie friend; we do not know how expert that McKenzie friend is. They may be accompanied by a friend or a family member just to give them moral support. They may be represented by a student lawyer—student lawyers do have a right to speak; in my experience, they are often very good—or they may be accompanied by a volunteer from a personal support unit, if available. This is just in London, where there is a patchwork of provision. It is uneven. I have a list of six possible people who could sit in court with either the applicant or the respondent.

When we sit in court as magistrates—this is echoing the point made by the noble and learned Lord, Lord Judge—we do not know the advice that the parties have received. Sometimes I feel moved to ask them what advice they have been given. I have to say that I am reluctant to do this because it is very easy to give a perception of bias to one party over the other. On the other hand, if one party is completely unaware of the advice that is available—if they were to go to the personal support unit, or something—it would be an unfair outcome anyway. This puts the magistrates—in my case—in a difficult and sensitive position in trying to resolve these cases.

My noble friend has made six specific recommendations and I want to concentrate briefly on one of them: to have the funding of expertise in court. Expertise in private family matters is often the key to resolving the issue. A common scenario is where there is a history of drug and alcohol abuse, where the mother would be happy for the father to have access to his children if she could be persuaded that her concerns about drug and alcohol use could be allayed. Of course, this is not legally aided, so very often these issues are not resolved and there is no court order giving the children access to their father in the example that I am giving here.

This is an unsatisfactory situation and one in which the court is failing the children who are at the heart of the family system. I very much hope that the Minister will respond to some of the specific recommendations made by my noble friend.

4.49 pm

Lord Trevelin and Oaksey (CB): I, too, add my tribute to the work of the commission and will, in the time available, add a few short observations from the perspective of a practising barrister—I declare an interest in that respect.

I will start by adding a respectful coda to what the noble and learned Lord, Lord Judge, had to say about the problems posed by litigants in person. I have asked juniors in my chambers, and my son and his friends,

who are starting out at the Bar, about their day-to-day experience at the Bar, and I hear one theme again and again. They say, “Well, it’s all right, I’m enjoying it and there’s a fair amount of work, but I’m against litigants in person 70% or 80% of the time”. Practising lawyers and judges all know what that means. It creates major problems. First, there is an honourable tradition at the Bar that, if you are against a litigant in person, you behave yourself, if I may put it that way; you give proper assistance, as you should anyway, to the court in relation to the relevant principles and facts, which is important.

The unfortunate side-effect in some cases is that your client begins to wonder whose side you are on, and that creates difficulties. Then the judge is placed in a difficult position, as the noble and learned Lord, Lord Judge, said, because the judge will find that he or she has to intervene in the cross-examination of witnesses and at other times in a way that gives rise to a perception of bias—and litigants are very swift to perceive bias, even when it is not there. My sources tell me that the consequence is that cases take two, three or four times as long as they should and that often they are being fought when they would not have been fought if access to legal advice had been provided to both sides at the outset. So that is a major problem with major, substantial, uncounted costs flowing from it, which has been greatly exacerbated by the reforms with which this debate is concerned.

I will just mention the criminal justice system, which has not received very much air time today. I talked to the ex-chairman of the Criminal Bar Association about the current position. He made many points to me, but I do not have time to relay them to the House. He made one point that was very striking and which chimes with something said by Sir Henry Brooke in one of his very readable and compelling appendices. He said that the junior Bar is shrinking—it has shrunk by something like 25% or 30% over the past five years—because publicly funded work is becoming very difficult to carry out in any satisfactory way.

The line in the report that caught my eye in that respect was an observation that the age profile, as Sir Henry put it, of criminal practitioners, is rising fast—that is, those doing crime on the solicitors’ side of the profession are getting older and older. The consequence is going to be that, in 15 or 20 years’ time, there will be a dearth of candidates to sit on the Crown Court bench, and the very high quality of Crown Court judges who dispose of criminal cases up and down the land will be diminished as a result of the shrinking of the publicly funded profession, in the way that I have mentioned, and which we all recognise is taking place.

I shall seek to put some flesh on the real problem about access to justice that now exists by mentioning three or four cases that I have come across in one way or another. I take first a case that a friend of my son mentioned to me. He was working for the Free Representation Unit and he came across the case of an employee who had been cynically short-changed by his employer over a number of months to the tune of about £500—a sum that he badly needed. His employment came to an end and he wanted to get that sum back. He had a clear right to get it back under the relevant

[LORD TREVETHIN AND OAKSEY]

legislation but, as a result of changes that were recently declared unlawful by the Supreme Court but which were operative at the time, he would have had to pay £900 to bring the proceedings that technically he was legally entitled to bring. That change to the fee system in the employment tribunals converted a real right into a pseudo-right or non-right, and it has now been declared unlawful—although the Minister’s response to the Supreme Court decision did not appear to me to recognise how serious the error that had been made was.

Secondly, I will cite a case in which a father was seeking access to his children and was accused of the sexual abuse of one of them. He was unable to afford representation. The Court of Appeal held that the judge had no power to direct that the state provide representation but recommended statutory change in May 2015—which statutory change has not yet occurred.

Thirdly—and finally, before time runs out—I will cite a case mentioned on page 59 of appendix 5, written by Sir Henry Brooke, which is very well worth reading. The case concerns the death of a child called Zane as a result of either carbon monoxide poisoning or of cyanide poisoning from a local landfill site. The child’s family appeared at the inquest against three QCs representing the Environment Agency, the local council and some other interested party, but they could not get legal aid and therefore had to resort to crowd funding to afford representation. These are very substantial problems.

4.55 pm

Lord Marks of Henley-on-Thames (LD): My Lords, I join other noble Lords in congratulating the noble Lord, Lord Bach, on securing this debate, on the initiative he took to secure the appointment of his commission, on the thorough work that he and the commission undertook and on the end result, which is the report that has commanded such widespread support in this debate.

From these Benches, I endorse the central conclusions: first, the time has now come, after years of decline in legal aid and the failure of successive Governments to support it, to have a new legally enforceable right to justice which involves a right to reasonable legal assistance without unaffordable costs; and, secondly, there should be a justice commission tasked with advising on monitoring and helping to ensure that the right to justice is delivered in practice. We see the advice role of a justice commission as particularly important. I agree, of course, with the point made by the noble Lord, Lord Faulks, and echoed by the noble and learned Lord, Lord Thomas, that ultimately there is a political decision to be made about the overall budget for legal aid and that it is a matter, in the final analysis, for Parliament. Nevertheless, I completely agree with the observation of the noble and learned Lord, Lord Woolf, that there is a very important role for a justice commission in keeping the working of the legal aid system under continuous review.

The principles behind the Legal Aid and Advice Act 1949 are well known. It was introduced as an important part of the welfare state, constructed on the basis that all citizens should have access to justice;

that rights in law were of value only if they were matched by remedies that could be accessed and that defences in law were of value only if they could be effectively granted; and that those ends could be achieved only if those who could not afford legal advice and representation were able to secure it through public funds.

Access to justice is also a public benefit. It enables our law to develop, enables citizens to have confidence that the law will be enforced and has the effect of enabling the law to be enforced in practice. The UNISON case was about employment tribunal fees. The introduction of very high fees had led to a 75% reduction in the number of employment tribunal cases started. That, in turn, led to employers feeling more confident in denying their employees the rights to which they were entitled. Similarly, the imposition of very high court fees is deterring case starts where creditors are nervous about pursuing debts in the courts because of the level of up-front fees involved, which encourages debtors not to meet their obligations. It is also clear, I suggest, that making citizens’ ability to resort to law dependent on the capacity to pay for their lawyers also permits others to ignore their legal obligations.

Many noble Lords have mentioned the UNISON case and the judgment of the Supreme Court. As it has not been quoted before in today’s debate, I hope that I will be forgiven for quoting from the eloquent and timeless statement of the principles underpinning access to justice, in paragraphs 66 and 68 of Lord Reed’s judgment. He said, in paragraph 66:

“The constitutional right of access to the courts is inherent in the rule of law. The importance of the rule of law is not always understood. Indications of a lack of understanding include the assumption that the administration of justice is merely a public service like any other, that courts and tribunals are providers of services to the ‘users’ who appear before them, and that the provision of those services is of value only to the users themselves and to those who are remunerated for their participation in the proceedings”.

Paragraph 68 states:

“At the heart of the concept of the rule of law is the idea that society is governed by law. Parliament exists primarily in order to make laws for society in this country. Democratic procedures exist primarily in order to ensure that the Parliament which makes those laws includes Members of Parliament who are chosen by the people of this country and are accountable to them. Courts exist in order to ensure that the laws made by Parliament, and the common law created by the courts themselves, are applied and enforced. That role includes ensuring that the executive branch of government carries out its functions in accordance with the law. In order for the courts to perform that role, people must in principle have unimpeded access to them. Without such access, laws are liable to become a dead letter, the work done by Parliament may be rendered nugatory, and the democratic election of Members of Parliament may become a meaningless charade. That is why the courts do not merely provide a public service like any other”.

The background to this debate is, of course, the LASPO Act, which severely restricted the scope of legal aid, failed to honour the principles on which legal aid had been conceived, and undoubtedly caused much injustice. The coalition Government were led by the need to control the public purse but it is now quite clear that they underestimated the effects that the Act would have on access to justice and the extent of the costs that would be saved as they estimated a sum of £450 million when, in fact, the reduction in costs has been £950 million. Happily, the Act contained provision

for review and permitted areas of law to be brought back into scope. The review is now taking place, although later than we hoped. It is too early to speculate on what its outcomes might be. I regard it as a shame that the review is being conducted as an internal review within the Ministry of Justice rather than by an independent reviewing body, which might have inspired more confidence. We on these Benches recognise, as we did in the coalition Government, that there can be no open chequebook, that there have to be limits to the availability of legal aid, and that expenditure on legal aid has to be subject to some controls.

However, the fundamental issue that has exercised many speakers today is that of scope. I suggest that if there is to be a justice commission, it should be charged with keeping the scope of legal aid under review. Noble Lords have mentioned social welfare, debt, housing, family law, in particular law relating to children, and domestic violence, where the Government have made some limited reforms on the evidential requirements. However, I suggest that they ought to consider the recommendations of many that solicitors themselves ought to be able to certify the eligibility of their clients for legal aid. The financial eligibility rules need review as to both capital and disposable income. The present rules appear to proceed on the basis that people's litigation is the only call on their finances apart from their immediate needs. My noble friend Lord Dholakia referred to the difficulties facing prisoners in securing legal aid. I also suggest that exceptional case funding, where the take-up has been extremely low—it has improved slightly, but it is not nearly good enough—is another area where solicitor certification may have a role. We place too much reliance on solicitors and barristers accepting pro bono work, which introduces an unacceptable level of arbitrary selection and evades, frankly, a responsibility of government.

The noble and learned Lord, Lord Goldsmith, and the noble Lord, Lord Howarth, made points about the effect of the cuts on the voluntary sector and on smaller providers—law centres and, in the case of the noble Lord, Lord Howarth, the NCLS.

The noble and learned Lord, Lord Judge, made an important and significant speech on the effect of more litigants in person: delays, points missed, judges being faced with the difficulty of getting to the heart of cases quickly, and the general effect on litigation of cases taking longer. Those points were developed by the noble Lord, Lord Wigley, and the noble Lord, Lord Trevethin and Oaksey.

We heard from the noble and learned Lord, Lord Goldsmith, and the noble Lord, Lord Howarth, of the advice deserts. I also mention the point that of course one provider in a town or area is not enough in the case of a contentious piece of work, which requires lawyers for both sides.

The point was made that money spent on legal aid saves money spent elsewhere. I sometimes despair at the inability of the Treasury to understand spend to save across departments. I hope that the Ministry of Justice will start to pioneer saving across departments.

I fully endorse the points made about early assistance, more access to advice online, and the reference to the commission of the noble Lord, Lord Low. I am not

entirely with the point made by the noble and learned Lord, Lord Phillips of Worth Matravers, on the inquisitorial system. I accept that much more inquisitorial justice in simpler cases is important, but to develop the particularly attractive analogy of the noble and learned Lord, Lord Woolf, about the bicycles and the Rolls-Royce, we need to preserve the Rolls-Royce even though we need a great many more bicycles.

We have had a powerful debate. However, the central issue is not only access to justice but the interdependent issues of the rule of law and the quality of our justice system.

5.06 pm

Baroness Chakrabarti (Lab): My Lords, I thank your Lordships for one of the most important, thoughtful, expert, evidence-based, compassionate, passionate and yet restrained and consensual debates I have had the privilege of listening to in your Lordships' House. It is invidious to single out contributions, because there have been so many that I learned so much from. However, I cannot do much better on the principles than by following and agreeing with the noble Lord, Lord Marks, or much better on the practical crisis we face in legal aid than the noble and learned Lord, Lord Judge.

By way of declaring my interests, I have been a lawyer all my adult life. I no longer make self-deprecating jokes about that, because politicians of both persuasions have done that to all of us for long enough. I am a member of 39 Essex Chambers and, like, I believe, the noble and learned Lord opposite, I have been a bencher of the Middle Temple since 2006. I particularly thank my noble friend Lord Bach for the work he undertook and the cross-party, non-party way in which he undertook it. Surely, the rule of law and access to justice can and must be non-negotiable. I have often thought that party politics should be about tax and spend and, to some extent, about implementing social and economic rights. However, civil and political rights ought to be agreed on by all democrats, and it is self-evident that the rule of law is essential to civilised society, let alone democracy.

The poorest and most vulnerable always suffer most from abuses of power and therefore need the law most of all to protect and empower them. In my legal career I have never been in the Rolls-Royce; I have always litigated for and against the Government and, as I say, I have always been on the bicycle, acting in the public interest for Governments of both persuasions and for those whose most important legal relationships are with local and central government.

What would it feel like to face losing your children, income, job or anything of huge importance to you without any comprehension of whether the law protects you, let alone without advice and representation to allow you to argue your case? As the noble Lord, Lord Marks, said, this is a revising Chamber where noble Lords devote hours, days and weeks of their time to getting the law just right. But that legislative scrutiny remains a dead letter in a sealed book without advice and representation for the people we come here to serve. Unfortunately, the cuts to legal aid in recent

[BARONESS CHAKRABARTI]

decades, and in particular the last four years, have made this lack of access to justice a reality for too many in our society.

Schools and hospitals are seen rightly as vital pillars of the welfare state, but legal advice and representation does not seem important until you are really in trouble. Like joy and grief, the law can be a great leveller, but there is no longer a level playing field in legal services. After decades of cuts, the poorest and most vulnerable are often shut out altogether from a legal system that we were once so proud of. Entitlement to legal aid is not another service; it is a fundamental human right. We on these Benches are clear that we will support and defend the principle of legal aid and reverse the alarming trend towards a fundamental denial of justice. As we have heard from so many noble Lords today, including my noble friend Lord Bach and my noble and learned friends Lord Falconer and Lord Goldsmith, in the wake of the changes wrought by LASPO, we are in a world where access to justice is a reality for too few. It is in this context that we must consider the findings of the Bach commission.

I listened carefully to the points made by the noble Lord, Lord Faulks, about the responsibility of government when it comes to funding legal aid. However, I am conscious also of the way in which legal aid can be annoying and irritating to Governments of either persuasion because, in part, legal aid is about holding Governments to account. Therefore, there may be some role for independence after the basic political decisions of funding in the round have been made.

I have various words to describe LASPO, but I will instead go back to the exquisite restraint and understatement of the noble and learned Lord, Lord Judge: LASPO was “not wise”. It has been widely criticised by expert stakeholders including the Bar Council, the Justice Committee and the Law Society. The Public Accounts Committee made it clear that in bringing in this legislation, the Ministry of Justice had not properly assessed the full impact of the reforms. That impact has proved devastating for too many.

The primary recommendation of the Bach report—a new statutory right to justice under which people have a right to reasonable legal assistance which they can afford—sends an important message. We need to fight against the erosion of rights and demonstrate commitment to the importance of legal representation.

It is important to understand the context of that recommendation. As we have heard, the number of civil legal aid matters initiated has fallen by 84% between 2009-10 and 2016-17. The number of legal aid certificates granted for civil representation is down by 36%. In November 2017, the Government stated in response to a Written Parliamentary Question that the MoJ projected departmental spending limit would be £5.6 billion in 2019-20, a cumulative real-terms reduction of 40% on the £9.3 billion limit in 2010-11. To repeat, that is a 40% cut in the space of nine years; hence the crisis in our prisons, the crumbling of our courts and the hollowing-out of legal aid. According to Amnesty, the year after LASPO came into force, assistance was given in under 500,000 cases, which was a drop of 46%.

One example of the problem is in the First-tier Tribunal asylum appeals system. Data obtained by a freedom of information request by the BBC has revealed that asylum seekers—some of the most vulnerable people in our society—are facing a lottery, depending on where their appeal is heard.

The problems caused by the new system are many and varied, and we have been given a flavour of some of the terrible problems today. I cannot address them all—and I do not intend to repeat them all—but the noble Lord, Lord Faulks, was right to single out that the exceptional case funding plainly is not working. The Government originally suggested that around 847 children and 4,888 young adults would be granted that kind of funding each year, and yet up to June 2015 only eight children and 28 young adults were granted legal aid under the scheme. The cuts, therefore, have been much deeper than anticipated by the coalition Government. It is a reason for all sides of your Lordships’ House to think again.

The pressing issue, which has been mentioned by many noble Lords today, is the abandonment of funding for most forms of early legal advice. In whatever detailed system we imagine and create in the future, we surely need to front-end the advice. We need early intervention and advice to mitigate pain, anguish, costs, court costs, litigation in person and so on. I do not need to repeat the problems that we have without early legal advice. Mediation is a great idea in principle but not if you do not have the advice to help you take forward sensible mediation. If you do, there is no inequality of arms.

The mass closure of legal aid firms is also a problem. That may not be the most popular position to take in Britain in 2017 but legal aid lawyers have been denigrated. Most are loyal public servants who could have chosen the Rolls-Royce and more lucrative careers elsewhere.

In setting out these challenges, noble Lords and the Government have an opportunity to reflect on the problems we face. However, there are also opportunities for cross-party reflection and co-operation on such a vital issue into the future. I am grateful that the Government have finally announced a review of Part 1 of LASPO. We have been promised that this will be concluded before the start of the Summer Recess. LASPO has been in place since 2012 and, to repeat the noble and learned Lord, Lord Judge, it has not proved wise. Let us all co-operate with the Government, look to reviewing it quickly and doing better for everyone in our country and for the rule of law in the future.

5.17 pm

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I, too, thank the noble Lord, Lord Bach, for securing this debate. The ability of individuals to secure access to justice is of paramount importance to society and to the rule of law. Ensuring access to justice is a responsibility that every Government take seriously. I thank the noble Lord and his fellow commissioners and advisers for the work of the commission, including the final report, and for his comments in the House today. I am also grateful to other noble Lords who have contributed to the debate for their considered and diligent scrutiny of government policy on access to justice.

This Government fully agree on the importance of access to justice, to which legal aid makes a valuable contribution, and our commitment to the principle of legal aid is unwavering. Yet it is important to remember that it is only one element of access to justice. In addition to the £1.6 billion we currently spend on legal aid, which is more than a fifth of the department's budget, we are looking to the future by investing more than £1 billion to reform our courts and tribunals. That, too, is important to ensure that access to justice remains robust and at the centre of our modern justice system. The noble and learned Lord, Lord Thomas, referred to the courts Bill. It is certainly the intention of the department that that Bill should be brought forward in order to implement these important changes.

We have also invested some £5 million to support litigants in person and we have committed to changing the Lord Chancellor's guidance on inquests to make the inquest process easier for bereaved families by seeking to make the process less adversarial. We have announced changes that will make it easier for the victims of domestic violence to apply for legal aid, something that the noble Lord, Lord Marks, referred to in his observations. On that point, I shall pause to say that while there is a suggestion that solicitors might certify such cases, concern has been expressed in some quarters that this could give rise to a perception at least of conflict of interest. It is a matter that has to be approached with some considerable care.

As the noble Baroness, Lady Chakrabarti, mentioned, the Lord Chancellor has announced the start of the post-implementation review of the LASPO Act, thereby fulfilling the commitment made by Ministers during the Bill's passage through Parliament in 2012. I hope that noble Lords will recognise that a modern justice system demands that all of these elements, not only legal aid, have to be brought together; essentially, what we are looking at is a jigsaw. When put together, it does seek to ensure access to justice.

The most recent reforms made to legal aid under and since LASPO were founded on the principle of ensuring that legal aid continues to be available for the highest-priority cases. It was important to take a balanced approach to legal aid, which is why the reforms within LASPO were founded on delivering better value for money for taxpayers by reducing the cost of the scheme and discouraging unnecessary adversarial litigation. It was important that some cases were removed from the scope of funding where alternative routes of resolution were or were to become available. It was also important that legal aid was focused on those in our society least able to pay for their representation.

The changes were of course subject to a significant amount of scrutiny during the passage of the LASPO Bill and they were debated extensively, with amendments being made, before they were approved by Parliament. Now, several years since the implementation of those landmark reforms, we are fulfilling our commitment to Parliament to conduct a review of the changes to legal aid. That is why we recently laid before Parliament a detailed post-legislative memorandum summarising how LASPO was implemented and making a preliminary assessment of its impact. In addition, the Lord Chancellor's detailed post-implementation review of

these changes will cover each issue that has been subject to a previous parliamentary commitment by Ministers. In that respect, we are listening to interested parties. Moreover, as indicated by the noble Baroness, we hope to publish our findings by the 2018 Summer Recess.

The noble Lord, Lord Bach, both in his commission's report and in his remarks today, has raised the idea of a right to justice. A constitutional right to justice is, of course, not a new concept. The noble Lord, Lord Marks, referred to the speech of Lord Reed in the recent Supreme Court judgment in the UNISON case. I shall quote only a short passage, which says that, "the right of access to justice ... has long been deeply embedded in our constitutional law".

We would all acknowledge that. Sometimes it takes an exceptional Scottish lawyer to explain to the English the scope and impact of the English common law, and Lord Reed has done that yet again. The essence of the issue and our focus should not be to mull over a right which already exists, but rather how this right of access to justice manifests itself in a modern justice system, a point touched on by the noble and learned Lord, Lord Thomas. We are focused on ensuring that it is correctly supported by an effective framework of legal aid, a well-funded, modern court system, and alternative methods of dispute resolution, which were alluded to by several noble Lords. We want to give individuals the power to address their legal issues in a way that is right for them.

Ensuring that access to justice is supported by an effective framework of legal aid guided our latest step to protect and support victims of domestic abuse. I note the point that was made about ensuring that parties are aware of their rights and their ability to secure legal advice in such cases. I am sure that that will be looked at in the LASPO review. It is not enough to have the rights—we must ensure that people are aware of the existence of those rights and of how they can be accessed. We have laid a statutory instrument enabling victims of domestic violence to secure more support in taking an abusive former partner to court. In that context, the current five-year time limit on abuse evidence in the family courts will be scrapped, while the range of documents accepted as evidence of abuse will be widened. However, as I indicated to the noble Lord, Lord Marks, we have some reservations about the idea of certification by the solicitor involved in the case. That is an area where we have worked other parties—including Rights of Women, Resolution, Women's Aid and the Law Society—to ensure that we are doing all that we can to protect and support victims. I am grateful for the discussions on this point today, and I share the views and passion of your Lordships' House for ensuring that victims have access to justice.

Another point that was touched on was the importance of early legal advice and being able to engage with people at a point in time when it may be feasible to resolve a dispute or issue without resorting to litigation. We talk about individuals exercising their right of access to justice, but it is important to remember that the court is not always the right solution. It is not just a financial consideration; there are other reasons why early legal advice may be appropriate. Access to such

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advice or information can help individuals to understand their options and it may dissuade them from pursuing court proceedings in circumstances where it is not the appropriate step to take to resolve their issues. That is why we have protected legal help in many cases and why we spent almost £100 million on legal help last year.

Where an alternative route is more appropriate, people should be empowered to pursue it without having to find a lawyer at a great cost to them or to the state. For instance, in cases involving separating couples, mediation or other forms of out-of-court dispute resolution can be less stressful and quicker than going to court—and it is certainly often cheaper than employing lawyers. It can help to reduce conflict after separation, which we know can lead to poor outcomes for children. So we continue to aim for greater use of alternative dispute resolution in such cases, such as when separating parents wish to resolve issues of child arrangements or finances. I note the observations made about where some difficulties may be encountered because, for example, there may be issues with the availability of expert evidence.

We have recently launched an online child arrangement information tool, which is intended to provide clear and concise information on the dispute resolution services that can help parents agree child arrangements, including mediation. I fully accept the importance of ensuring that such services are made available and that people become aware of them. We have also introduced a telephone helpline to provide legal advice in certain categories of law. Last year, there were more than 20,000 instances of advice being provided by that means. In addition, and in reflection of today's society, we have also developed a user-friendly digital tool that makes it clear to people when legal aid is available to them. For people who are not eligible, the tool signposts them to alternative sources of free or commercial advice.

The matter of litigants in person was touched on and I appreciate the points that were made about their impact, or potential impact, on the court process. Since 2015, the Government have invested £5 million of funding to support litigants in person through the litigants in person support strategy—although I accept that that will not necessarily lead to the production of a single bundle, as alluded to by the noble and learned Lord, Lord Judge. However, it will hopefully improve the ability of litigants in person to pursue matters, particularly in the higher courts.

In some circumstances where publicly funded representation is clearly necessary but matters are generally out of scope of LASPO, funding can be provided through the exceptional case funding scheme. I hear the criticisms that have been made of that scheme, but I will make one point about it in so far as it relates to inquests, where more than half of the applications made in the last two years have been granted. The inquest process is of course important. It can be incredibly traumatic for those involved and it is important that we give as much assistance as we can where the bereaved have to consider the circumstances of the death of a relative. There again, early legal advice can be helpful in allowing families to understand what the process is and will be.

There are additional issues concerning deaths in custody. Noble Lords may be aware of the recent report on deaths in custody by Dame Elish Angiolini, which highlighted some of the issues regarding public participation at inquests in cases of that kind. We are working closely with the joint Ministerial Council on Deaths in Custody, and we have committed to update the Lord Chancellor's guidance for these cases by the end of the year because they are clearly important.

I appreciate that this is an important debate, no matter when it comes in the House's calendar, and I am glad of the opportunity to address this matter. As we go forward, I reaffirm our commitment to the post-implementation review of LASPO that is now under way and which I hope will address many of the questions raised in your Lordships' House.

We are committed to looking forward to ensure access to justice for future generations. We are continuing to ensure that legal aid is made available to the most vulnerable. We are investing more than £1 billion to transform our courts and tribunals, and we are committed to delivering a modern justice system, today and into the future, that maintains its standing in the world.

I will very briefly touch on one or two of the particular points raised during the debate. The noble Lord, Lord Bach, raised early advice as an essential element in any legal assistance process. We accept that. Indeed, we have been seeking to develop mediation and advice as being appropriate in this context.

Regarding statutory recognition of a right to justice, we suggest that that is already embedded into our common law. We have reservations about whether such statutory recognition could improve matters. Therefore, I express reservations about that.

My noble friend Lord Faulks indicated that it perhaps would not be appropriate—I believe this reflected observations by the noble and learned Lord, Lord Thomas—to take the matter of spending for legal aid away from Parliament and government and essentially to subcontract it to a quango. There are very real political issues about these matters. They should ultimately rest with Parliament and government.

The noble and learned Lord, Lord Falconer of Thoroton, referred to the need for an agency, an independent body, that was not subject to ministerial interference in the context of legal aid. I observe that the Legal Aid Agency operates free from ministerial interference. Indeed, there is a statutory prohibition on Ministers interfering in respect of any legal aid application. Therefore, there is that degree of independence already in the system.

The noble Lord, Lord Dholakia, alluded to the issue of those in custody and prisoners. I indicate first of all that spending in respect of legal aid for those in custody has increased recently. On the particular point he raised in the context of the recent Court of Appeal judgment, an amending statutory instrument is being drafted to reinstate legal aid in the three categories of cases highlighted in that judgment. Indeed, I reassure him that we hope to have that statutory instrument going forward in the near future.

The noble and learned Lord, Lord Phillips of Worth Matravers, raised the interesting point that we have to address not just the issues of legal aid and access to

justice but the issue of how we provide justice in this country. It may be that in some areas—inquests are a particular example—we will see further moves towards a more rigid, inquisitorial system that would benefit parties going forward. After all, the inquest was originally intended to be an inquisition, an inquisitorial system, and over the years it has rather grown arms and legs. I am certainly not suggesting a movement towards a civilian code or anything of that kind, but I do believe that the noble and learned Lord's contribution underlines the fact that we are dealing with a rather broad and delicate ecosystem. We cannot just take legal aid out and put it back in; we have to look at the overall system to see how it is going to work.

If I do not mention noble Lords specifically, it is not because I am unconscious of their contributions but because I am slightly more conscious of the time, and of the fact that I hope I have addressed some of their points already. The noble and learned Lord, Lord Woolf, spoke of the distinction between the Rolls-Royce and the bicycle. Clearly, there are those who require the Rolls-Royce, but most of us are content with a bicycle and have been during our professional careers.

The noble Lord, Lord Wigley, raised certain issues about the provision of legal aid in Wales. I understand that there is intended to be a commission in Wales looking at the provision of justice—albeit we are talking about a single jurisdiction between England and Wales, there are certain specialities that are developing, particularly from statutory law.

I hope that I have covered the majority of the points that noble Lords raised. A number of noble Lords raised questions about early intervention, advice centres and the ability to seek advice before the need for court litigation. The noble Lord, Lord Howarth, alluded to observations made in Westminster Hall by a fellow Minister. I note the observations that were

made in that regard. Of course, the Ministry of Justice is undertaking a review of LASPO, and we will take into account all the interested parties' submissions on that matter.

I hope that I have been able to address some of the points raised in what I acknowledge is an important debate, which had as its foundation the report of the commission undertaken by the noble Lord, Lord Bach, and which we will take away and give consideration to. I am obliged to noble Lords.

5.37 pm

Lord Bach: My Lords, I have extremely limited time. I thank the Minister, whom I always describe as an exceptional Scottish lawyer, for his remarks and for the trouble he has taken to answer the debate. Of course, I thank all other noble Lords who have spoken in the debate. It has been an important and significant event—it could hardly have been otherwise, given the cast list—and I thank everyone who has been good enough to attend and speak today.

As a brief aside, it is immensely flattering for the report to be described as mine; it is not false modesty to emphasise that it is certainly not mine. I chaired the commission and am proud to have done so, but all commissioners played an important role in reaching our conclusions.

A rather more serious point on which to end is that the generous and supportive remarks made around the House in response to the commission's report are, I believe, of some significance for the future of our recommendations but also, I certainly hope, to the Government's review of LASPO.

Motion agreed.

House adjourned at 5.39 pm.

