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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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

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

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

House of Lords

Wednesday 18 July 2018

3 pm

Prayers—read by the Lord Bishop of Southwark.

Distributed Ledger Technologies
Question

3.06 pm

Asked by ***Lord Holmes of Richmond***

To ask Her Majesty's Government what action they are taking to co-ordinate the current uses, and potential future uses, of distributed ledger technologies across Whitehall.

Lord Holmes of Richmond (Con): My Lords, in asking the Question in my name on the Order Paper, I declare my interests, as set out in the register. Most importantly, I wish my noble friend the Minister a very happy birthday.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, the Government are committed to supporting the development and uptake of emerging digital technologies in the UK, including distributed ledger technology, or DLT. The Secretary of State, with the Minister for Digital, co-hosted a round table on Monday with companies and academics. The Government's Chief Scientific Adviser met firms and cross-government leads last Friday. Several departments and public bodies have ongoing DLT proof-of-concept projects and there is a cross-government community of interest attended by officials.

Lord Holmes of Richmond: My Lords, does my noble friend agree that although this question may appear somewhat niche, in simple terms, distributed ledger technologies could be as impactful as the internet? In fact, they may prove to be the internet of value, with a real opportunity for the United Kingdom to take a global lead, not least in implementation and standards. Does my noble friend also agree that there are a number of proofs of concept across Whitehall—in his own department, DCMS, the DWP and Defra, to name but three? What action is currently being undertaken to co-ordinate those proofs of concept, to take any to pilot, and to assess their potential?

Lord Ashton of Hyde: My Lords, I thank my noble friend for his good wishes. May I return the compliment by wishing him well on his marriage next week?

Noble Lords: Hear, hear.

Lord Ashton of Hyde: My Lords, moving on to distributed ledger technology, which everyone wants to talk about, I agree with my noble friend that it has tremendous potential. The United Kingdom is well set up to be a global leader, as the APPG's report released on Monday outlined. There is proof of concept going on in several government departments, for example, Defra, DfID, the NHS and, in my own department, the National Archives. The evaluations are not available yet, because this is at an early stage. As for co-ordination, the projects are in various departments. There is an officials group which meets to discuss these. We have participated in two round tables in the last few months and we are considering how best to co-ordinate the efforts across government.

Lord Harris of Haringey (Lab): My Lords, in the various discussions taking place, to what extent is the Home Office involved in these considerations? In particular, this is because distributed ledger technology could provide a means by which people would be able to verify their identity without the so-called concerns that people used to have about identity cards with a centrally maintained register held by the Government. A DLT-based technology would enable us to hold our own identity details in a way that would be verifiable across the world.

Lord Ashton of Hyde: The noble Lord is absolutely right. That is a very good example of where this distributed technology could be used, and there are other, similar areas. One of the benefits of this technology, and the fact that it is distributed and everyone has the same copy of the database, is that it builds trust in data, and this is an important area across many departments. I do not know specifically what proofs of concept the Home Office is doing at the moment, but I will certainly take that back to my noble friend the Minister. As I said in my previous answer, there is a cross-governmental officials group and we are currently looking at how best to co-ordinate across government.

Lord Clement-Jones (LD): My Lords, to take the question from the noble Lord, Lord Harris, a stage further and add to the convivial atmosphere, has not the Government Digital Service fallen behind the times with the development of its Verify digital identity system? It is not regarded as fit for purpose by HMRC, for example. Should we not be creating a single online identity for citizens through distributed ledger technology?

Lord Ashton of Hyde: The first question is whether we should be creating a single digital identity, and I defer to the Home Office on that. If that decision was made, whether distributed ledger technology is the right technology for it is, I think, a secondary question.

Lord Howell of Guildford (Con): My Lords, blockchain is the technology behind bitcoin and the cryptocurrencies. Will the Government consider stepping in and regulating in this area or is it inherently uncontrollable?

Lord Ashton of Hyde: The Cryptoassets Taskforce, which consists of the Treasury, the Bank of England and the Financial Conduct Authority, is considering exactly that question. It expects to deliver a report in late September 2018.

Lord St John of Bletso (CB): My Lords, does the Minister agree that if a blockchain platform were to be applied to our international aid programme, it could provide far more transparency and accountability?

Lord Ashton of Hyde: As I said, the evaluations are at too early a stage to say. Projects are being undertaken, however, and the Department for International Development is one of those undertaking a proof of concept at the moment.

Lord Griffiths of Burry Port (Lab): My Lords, we have heard that various studies and evaluations are taking place. It is an extraordinarily complex area but it seems to me, even as a lay person, that its outcomes will be amazingly innovative and helpful. I, of course, must leave the technology to others, but if any questions raised by these evaluations need a closer ethical and moral look, will somebody be monitoring the situation to make sure they are referred to the data ethics body we have talked about?

Lord Ashton of Hyde: I agree with the noble Lord. Most technology has ethical concerns, particularly the internet and the fact that, by definition, it is cross-border. We not only have to get our own regulatory house in order, and think of these ethical considerations, but we have to work internationally to try to get consensus. The point about distributed ledger technologies is that they build trust without always having regulations because everyone has the same copy of the same data, which provides a great advantage.

Lord Scriven (LD): My Lords, one issue blocking distributed ledger technologies internationally is the jurisdiction of data. What is the Government's thinking and working on the jurisdiction of data for this type of technology?

Lord Ashton of Hyde: The Law Commission is looking at some of the legal aspects of this technology. The noble Lord is right that the ownership of data is an issue that will have to be considered—we are aware of the problem. I cannot give him specifics at the moment but it is one of the things we are looking at and will have to consider, if this technology is to be taken forward.

Primary School Children

Question

3.14 pm

Asked by ***Baroness Garden of Frognal***

To ask Her Majesty's Government what plans they have to increase knowledge of work skills, careers and jobs amongst primary school children.

The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con): My Lords, it is crucial that we inspire children about the opportunities ahead from an early age. The Government have allocated £2 million in the careers strategy to test new approaches to careers provision in primary schools. Our aim is to learn more about what works so that children can develop positive attitudes about work by meeting employers and learning about different career options. We will share the results widely so that other schools can benefit and build their own expertise.

Baroness Garden of Frognal (LD): My Lords, the National Association of Head Teachers, to which about 98% of primary head teachers belong, has over the past five years developed a brilliant programme, Primary Futures, which has attracted international recognition—it even gets a mention in the DfE's careers strategy. It gets volunteers from the world of work to go in to schools to inspire and motivate children and open opportunities for them. The noble Lord has mentioned the £2 million, but why have the Government given it to the Careers & Enterprise Company to replicate this work, instead of ensuring that the NAHT's brilliant programme is rolled out across primary schools in the country?

Lord Agnew of Oulton: My Lords, the noble Baroness is correct about the wonderful work that the Primary Futures programme is achieving. More than 3,000 primary schools are registered, and there are 37,000 volunteers and 10,000 employers. The reason we have allocated the money to the Careers & Enterprise Company is simply to broaden the research base for careers training, or at least awareness in primary schools, which is very important. When I ran into the noble Baroness in the corridor last week ahead of this Question, she said, "I do hope you will come up with something useful in your Answer". What I can say today is that we are now extending the Gatsby benchmark programme— research that has wide support—to take it into primary schools. In January next year, a pilot involving some 70 primaries will translate these benchmarks for use at that stage.

The Lord Bishop of Southwark: My Lords, given the importance of public service and volunteering in our nation, will the Minister give priority to communicating the vocation to serve as part of the formation of our young people?

Lord Agnew of Oulton: My Lords, it is quite right that in society one needs to give more than one takes, and the earlier we can inculcate that into children the better. To paraphrase Aristotle: give me the child until seven and I will give you the man—or the woman.

Baroness McIntosh of Hudnall (Lab): My Lords, does the Minister agree that many of the jobs that children currently in primary school will be doing have not yet been invented, and that therefore the most important thing for those children is that they should have the broadest possible range of educational opportunities? Does he agree further that, in particular, the creative industries have a very hopeful future, given their capacity to innovate, and should be kept firmly in mind when thinking about careers, and that children should learn to see what the opportunities in those areas might be?

Lord Agnew of Oulton: My Lords, the noble Baroness is correct that we cannot be clear on future careers over the next 10 or 20 years. Underlying this, we have to ensure that young children are properly educated in the basics, and I am pleased to be able to report that the provisional key stage 2 data, which came out last week, show an ongoing improvement in the number of children achieving the national standard; it has gone up from 61% to 64%, which in turn was an increase from the previous year. I acknowledge the role of the creative industries, but there is a strong sense that STEM will be increasing the number of jobs at double the rate of other areas between now and 2023, and we are doing a lot to encourage STEM awareness in schools.

Lord Lexden (Con): Does my noble friend agree that children at primary school should concentrate above all on the subjects that need to be grasped firmly at that early stage, such as the basic history of their country?

Lord Agnew of Oulton: My Lords, of course understanding the basic history of our country is fundamental, but to do that they need a good knowledge of basic reading and writing, and that is what I was referring to.

Lord Storey (LD): Does the Minister agree that the primary stage is an opportunity to promote social mobility and challenge stereotypes? I congratulate the Government on the careers strategy. However, I am anxious that, as well as young children, we should also get parents involved in careers education, particularly in subjects such as engineering and in getting young girls to take part in engineering. Does the Minister have any thoughts on this matter?

Lord Agnew of Oulton: My Lords, I do indeed. The noble Lord is right that stereotyping happens at a very early stage and research shows that it is more pronounced among the lower-income groups. That is why I am so pleased that we have initiatives such as STEM Ambassadors, which sends volunteers out to visit children in primary as well as secondary schools. Some 42% of those ambassadors are women and we had over 30,000 volunteers last year. Indeed, I discovered at the weekend that my own daughter, when she was reading chemical engineering, was one of those STEM ambassadors and she visited schools to do as the noble Lord suggested.

Lord Winston (Lab): My Lords, I declare an interest as President's Envoy for Outreach at Imperial College. In the past six months, I have visited between 20 and 30 primary schools dealing with basic scientific issues for children between eight and 10. It is astonishing when you ask them which is the commonest gas in the atmosphere. They might come up with oxygen; they mostly come up with carbon dioxide and sometimes come up with hydrogen. Nitrogen is never recognised. Recently, when a child opted for nitrogen as the commonest gas, the science teacher told him in my presence that he was wrong. The problem is that the basic scientific knowledge of so many excellent primary school teachers is woefully inadequate. While the Government apparently recognise the value of primary school teachers, they do not do enough to ensure proper training in science, which leads children to so many of these careers. What can the Government do about that?

Lord Agnew of Oulton: My Lords, what can I say? I accept that primary school teachers have to be generalists across a wide range of subjects. The noble Lord came across a disappointing example where the teacher was not necessarily explaining science properly. But we are doing more work on improving the curriculum in primary schools, and science is a key part of that.

Railways: CrossCountry

Question

3.22 pm

Asked by ***Lord Beith***

To ask Her Majesty's Government what steps they are taking to ensure that the Cross Country rail franchise, when re-let, continues to provide regular services to stations north of Newcastle.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, the Department for Transport launched a public consultation on 7 June to seek views on the CrossCountry rail franchise and to identify options for improvement. We will consider the responses fully before making any decisions on that route but, as stated in the consultation, there will be at least one CrossCountry train per hour north of Newcastle, to Edinburgh or beyond. The options for intermediate stops to stations north of Newcastle form part of the consultation.

Lord Beith (LD): Does the noble Baroness realise that CrossCountry is a key provider of train services from Berwick, Alnmouth and Morpeth, leading to 475,000 passenger journeys a year? Does she recognise that there are worrying suggestions in the consultation document to which she referred of,

"fewer calls at some stations",

and fewer trains between York and Edinburgh? In his foreword, the Secretary of State states that his priority is to reduce crowding. Will he do that with longer trains, or by telling people in Northumberland to get into their cars while the trains whizz through the stations without stopping?

Baroness Sugg: My Lords, the consultation does indeed ask for passenger views around the stops that the noble Lord mentioned, as for other intermediate stops across the country. We want to address overcrowding, which will be done through additional rolling stock but there are other ways to look at that too. Of course passengers have conflicting demands: some will want quick express services and others will want a stopping service to get around locally. The point of the consultation

[Baroness Sugg]
is for passengers to tell us what they want from that service. I certainly do not want to alarm the noble Lord or the people of the north-east. I know how much the services are valued, and of course passenger views will be properly reflected before setting the minimum requirements for the new operator.

Baroness Randerson (LD): My Lords, the railway in the London area is very congested, in terms both of routes and of the trains themselves, as we all experience on a daily basis. Does the Minister agree that it is vital that CrossCountry routes that bypass London should be not just maintained but strengthened? The idea of reducing CrossCountry services is totally counterproductive. I am sure that she agrees that the Government do not wish to be known as Beeching mark II.

Baroness Sugg: My Lords, I certainly agree with the noble Baroness on that. Part of the problem is the increasing demand from passengers travelling into London on our railways. We want to ensure that the CrossCountry service continues to provide other options for passengers so that they do not have to travel into central London.

Lord Clark of Windermere (Lab): When the CrossCountry franchise is considered, will the Government ensure that the company winning the bid has sufficient trains and, more importantly, sufficient drivers and guards to run those trains, unlike Northern in Cumbria?

Baroness Sugg: My Lords, as I said before, one of the things we will be expecting the new franchise operator to deliver is more rolling stock, to deal with overcrowding. I say from recent experience that we will be looking closely at the train drivers that it has available.

Lord Lexden (Con): Will my noble friend do her best to ensure that rail services to Lincoln remain as good as possible, so that we can all take up the invitation given to us recently to visit my noble friend Lord Cormack and take up the lavish hospitality I know he wants to give us?

Baroness Sugg: My Lords, it is unexpected to get a question about Lincoln from other noble Lords. I reiterate that the Government are looking forward to the new service to Lincoln and I welcome my noble friend to join my other noble friend on its maiden voyage.

Lord Wrigglesworth (LD): If I can take the noble Baroness back to the north-east, is she aware that the sort of problems raised by my noble friend are endemic in public transport throughout the north-east? It has the highest level of unemployment and having a good public transport system to enable people to travel round the whole region is essential to get those figures down. What are the Government planning to do to improve public transport throughout the whole region?

Baroness Sugg: My Lords, I agree that we need to invest in our public transport to enable people to get to work on time. Between 2015 and 2020 we are investing more than £13 billion to improve connections across the north to get people to work and to visit family and friends. We have also seen recent announcements for the Tyne and Wear Metro in the previous Budget and investments in roads to deliver that commitment.

Lord Tunnicliffe (Lab): My Lords, the Question was almost certainly provoked by the CrossCountry public consultation, to which the Minister alluded. The Question has also provoked me into reading it. Excellent document as it is, I am sure she will agree that it will create many more demands than there will be resources to meet them. It will also create an enormous number of trade-offs. Have the Government developed the appropriate algorithms and criteria to resolve these trade-offs and, if those trade-offs are seen to be not the revenue-maximising solution, will the department accept some revenue sacrifice in the interest of passengers?

Baroness Sugg: My Lords, I am sure the noble Lord and other noble Lords agree that, when setting these requirements, it is of course important that we speak to passengers to understand what they want from the service. The decisions on services will be informed by the consultation responses. We will assess the ideas against the department's objectives for the franchise, and will undertake financial and economic assessments to make sure that we deliver the best possible service for passengers and value for money for both passengers and taxpayers. On sacrificing revenue, we do not make the decision solely on the basis of returns. We will always put passengers first but we need to be mindful of value for money for the taxpayer.

Lord Cormack (Con): My Lords, I thank my noble friends Lady Sugg and Lord Lexden for what they said and reiterate the invitation. I also ask that the first three trains are called "St Hugh of Lincoln", "Lexden" and "Sugg".

Baroness Sugg: I thank my noble friend for his repetition of the invitation. Happily, it is not in my remit to name new trains.

Prisoners: Treatment and Conditions

Question

3.29 pm

Asked by ***Lord Ramsbotham***

To ask Her Majesty's Government what steps they will take to improve the treatment and conditions of prisoners in England and Wales following the publication on 11 July of the annual report of HM Chief Inspector of Prisons.

Baroness Vere of Norbiton (Con): My Lords, Her Majesty's Chief Inspector of Prisons is independent and impartial. We welcome his report, and we accept

that there are significant challenges ahead of us. We are facing up to these challenges. We are clear that we must get the basics right. This means prisons that are safe, decent and secure, with clean wings and humane living conditions.

Lord Ramsbotham (CB): My Lords, I thank the Minister for that Answer. When I was Chief Inspector of Prisons and published a bad inspection report, it was invariably accompanied by a statement from the director-general of the Prison Service saying that after the inspection things had improved. I note that, after last week's dreadful annual report by the Chief Inspector of Prisons, the chief executive of Her Majesty's Prison and Probation Service claimed that he had a "robust and coherent strategy" to improve the situation. Will the Minister therefore write to me setting out what that coherent and robust strategy actually is, and put a copy in the Library?

Baroness Vere of Norbiton: My Lords, this could be one of the easiest questions I have ever had to answer: I would be very happy to write to the noble Lord. Last week, the Lord Chancellor announced £30 million of immediate additional funding for safety, security and decency across the estate. Included in that is £16 million to improve the fabric of our prisons. There will be packages for remedial work to cells at some of our worst prisons, such as Liverpool, Wandsworth and Wormwood Scrubs.

Lord Beecham (Lab): My Lords, among many worrying concerns raised in the chief inspector's report is the revelation of a growing increase over the last five years in the proportion of the inspectorate's recommendations not being achieved, from 35% to close to 50%, with only 38% being fully achieved. What steps are the Government taking, and over what period of time, to address this lamentable situation?

Baroness Vere of Norbiton: My Lords, we are already taking steps in this regard, because we are absolutely committed to ensuring that prisons address the issues raised in inspections and that they develop robust action plans to deal with them. The length of time that prisons now take to produce an action plan has been reduced. The Government are now making sure that these action plans are published, so that there is greater accountability. Finally, we have created a specific unit, an assurance unit, that monitors progress against the action plan and holds governing governors to account for the implementation.

Lord German (LD): My Lords, the report from the chief inspector is very disappointing indeed, not just for the increase in the number of recommendations year on year which are not being put into practice. In fact, the chief inspector says that this report, like others, may well be put on the shelf and ignored—I hope that the Government are not intending to do that. More importantly, one of the big recommendations from the chief inspector is that people's life chances are being denied: they cannot turn their lives around because of the quality of the services being provided for resettlement. Do Her Majesty's Government have some plan in place that will make sure that the recommendations of the chief inspector actually happen and that people will be given the opportunity to turn their lives around and reduce reoffending in this country?

Baroness Vere of Norbiton: My Lords, absolutely—this report will certainly not be shelved. We are working on many different areas of the recommendations that the chief inspector made. On people turning their lives around, reducing reoffending is, of course, critical: it costs this country £15 billion a year. The noble Lord may have seen that the department published the *Education and Employment Strategy* earlier this month. It puts governors in control of the opportunities, vocational training and potential jobs within their prisons, so that they can tailor the offerings and services within their prison according to their prison population and the local community.

Baroness Corston (Lab): My Lords, prior to the tenure of Chris Grayling as the Secretary of State, no prisoner serving a sentence of less than 12 months was subject to probation. Since then, anyone who has even served two weeks is subject to probation. What is happening is that people who, for example, miss a bus find that they are straight back in prison because it is a breach of their probation. There are a lot of women now who are stuck in this revolving door. Have the Government taken any decision to reverse this ridiculous position? Has anyone thought of the effect on the children of these women?

Baroness Vere of Norbiton: My Lords, the noble Baroness will be aware that we published our *Female Offender Strategy* on 27 June, and there was a wholesale review of the services available to female offenders. Some £5 million has been put in over two years for community provision, and we will be looking at this so-called revolving door. The flip side to that is that we must remember that to have people come out of prison with no support at all is simply not good enough. We must make sure they have the support and supervision they need.

Lord Deben (Con): Does my noble friend agree that the real problem is that we have too many people in prison? Why is it that we are so much more wicked than the French or the Germans, so that we lock up nearly twice as many as they do? Surely we ought to look at this fundamental question.

Baroness Vere of Norbiton: My Lords, that is indeed a fundamental question and also a very complex one, which takes into account many factors, those being the laws passed in your Lordships' House, the sentencing guidelines and the reasons that people go to prison. We face a significant issue with drugs, with almost 50% of male offenders having a drugs problem, and they are particularly likely to reoffend and come back into the system. I would like to reassure the noble Lord that the Lord Chancellor is cognisant of this and is looking at ways in particular to reduce short-term sentences, which sometimes do no good at all.

Lord Bird (CB): Is it possible to look upon somebody going to prison as, in fact, an educational crisis, rather than looking at it in any other way? As about 80% of people in prison have failed at school, is it not therefore time to do a bit of joined-up thinking, with your department working with education, to prevent the ridiculous situation of the predictable failure of these children of ours?

Baroness Vere of Norbiton: I agree with the noble Lord, Lord Bird. He is of course right: often, people end up in prison because of a failure of education or a failure of all sorts of different reasons. We recognise this across government and, therefore, have set up a reducing reoffending board, which includes the Ministry of Justice, Home Office, Cabinet Office, the Department for Education and DWP. All government departments need to work together to make sure that people who end up in prison have not been failed by the system as a whole and simply fallen through the cracks. In terms of education within prison, information, advice and guidance are now in the hands of governing governors, so they can make sure they provide it for their prison population.

Hereditary Peers By-election

Announcement

3.37 pm

The Clerk of the Parliaments announced the result of the by-election to elect a Conservative hereditary Peer, in place of Lord Glentoran, in accordance with Standing Order 10.

Forty-three Lords completed valid ballot papers. A notice detailing the results is available in the Printed Paper Office and online. The successful candidate was Lord Bethell.

Lord Grocott (Lab): My Lords, it would be wrong to let this occasion pass without pointing out again that we have just heard the result of a by-election that gives us a new Member of Parliament, which would not normally be referred to in just a matter of a few words. Nothing I say is, in any way, a criticism of the person who has just been elected, but he was elected, as the Clerk of the Parliaments has said, with an electorate of 47 people and 11 candidates. Simply to announce the winner is, to put it politely, a bizarre way of concluding a bizarre electoral system.

I ask again and will keep doing so: why the secrecy surrounding all this? Was this item ever on the annunciator? I looked for it but, no, it was not there. It is an important item of today's proceedings. Was it on the Order Paper? There was not a word. The next item is the Mental Capacity (Amendment) Bill, a very important Bill, but for goodness sake should it not be on the Order Paper? Was at any stage the House of Lords Commission involved in this procedure? No, it was not. Will the new Member of Parliament be introduced in the normal way? The answer is no to all these questions.

The truth is that, whenever these by-elections occur, they have all the characteristics of a private admittance to a private club. I say, to quote a former Prime Minister, "Let the sunshine in". We should know more about these by-elections when they take place. Why cannot we have the figures for the winner and for the losers, and the majority, just as a template? I offer this to the Chief Whip, for whom I have great respect given the hugely important office that he holds. Why can it not be announced?

In the last by-election that we had, for example, the winner got 12 votes and the runner-up got five, so there was a majority of seven. I know why we do not announce these results: because they are embarrassing and ridiculous. The bad news is that yet another of these by-elections is coming up. The even worse news is that I shall repeat this statement then. I am not a proud man; I am quite happy for it to be recorded and simply played out whenever there is a by-election. We have got to deal with this issue. It is beyond ridiculous, so let us get on with it.

Lord Taylor of Holbeach (Con): We know the noble Lord's views on hereditary by-elections. He has a Bill before the House, which the House will consider in September. Meanwhile, he really should know—having been Chief Whip himself—that the whole of the information that he requires is available in the Printed Paper Office. In the Printed Paper Office is the notice of election, which tells him on what day the ballot will take place and on what day the election will be announced. All details of every vote are recorded on the document in the Printed Paper Office. He need only to go to the Printed Paper Office to get all the information he requires. Indeed, he could pick up several copies to give to others who he thinks need to be informed.

Baroness Smith of Basildon (Lab): My Lords, I am grateful to the noble Lord the Chief Whip for responding to my noble friend Lord Grocott. He says that this House knows the views of my noble friend. In fact, my noble friend's view is the view of the majority of your Lordships in this House, who think that the time for these hereditary by-elections has long gone. I do not cast any aspersions on our new Member, whom we shall welcome here. The Chief Whip says that my noble friend's Bill will come back in September but it is a Private Member's Bill. Given the overwhelming support in your Lordships' House, can the Government assist in ensuring that that Bill is sent to the House of Commons for them also to take a view on?

Divorce (etc.) Law Review Bill [HL]

First Reading

3.42 pm

A Bill to provide for a review by the Lord Chancellor of the law of England and Wales relating to divorce and judicial separation and to the dissolution of civil partnerships and the separation of civil partners.

The Bill was introduced by Baroness Butler-Sloss, read a first time and ordered to be printed.

Trade Bill
First Reading

3.42 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

Mental Capacity (Amendment) Bill
Order of Consideration Motion

3.43 pm

Moved by ***Lord O'Shaughnessy***

That it be an instruction to the Committee of the Whole House to which the Mental Capacity (Amendment) Bill has been committed that they consider the bill in the following order:

Clause 1, Schedule 1, Clauses 2 to 4, Schedule 2, Clause 5, Title.

Motion agreed.

Creditworthiness Assessment Bill [HL]
Third Reading

3.43 pm

Bill passed and sent to the Commons.

Supply and Appropriation (Main Estimates) (No. 2) Bill
Second Reading (and remaining stages)

3.44 pm

Bill read a second time. Committee negatived. Standing Order 46 having been dispensed with, the Bill was read a third time and passed.

Space Policy
Statement

3.45 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, with the leave of the House, I shall repeat a Statement made in another place by my honourable friend the Minister of State for Universities, Science, Research and Innovation. The Statement is as follows:

"With permission, Mr Speaker, I will make a Statement today on a key development in United Kingdom space policy. As a result of announcements made this week the UK will for the first time ever be able to launch satellites from its own soil. This is a development the whole House should welcome and celebrate.

The space sector is changing globally and at a pace never seen since the race to the moon. It is allowing us to answer questions about ourselves and the universe that curious minds have debated for centuries, but it has also seen the development of technologies that are transforming our day-to-day life on earth. For example, the technology that was developed to provide clean air on the international space station is now being used to control the spread of superbugs in hospitals across the world.

The UK is well placed to be at the forefront of developments in space, and this Government are determined that we take advantage of the vast opportunity available to us as a country. That is why today I met the new NASA administrator, Jim Bridenstine, to discuss UK-US collaboration. We all know that NASA is the biggest space agency in the world, with budgets in excess of $10 billion per year. We discussed how to extend and deepen the opportunities for our two countries to collaborate, especially around the hugely ambitious vision for exploration set out by President Trump.

It has been nearly 50 years since man landed on the moon, and since then we have been no further. Questions remain as to whether or not we are alone in the universe. The UK has been at the forefront of robotic exploration to address this question. Indeed, our space industry built the Mars rover, which will launch in 2020, and I am very excited that later this week I will be able to announce a competition related to this mission.

We want to continue to be at the forefront of the next human exploration missions, working alongside NASA and the European Space Agency. But space is also a fundamental part of our economic future. The UK space sector is growing: it is worth around £13 billion to the economy at current estimates and employs more than 38,000 people right across the country. As set out in the Government's industrial strategy, we are working with industry to grow the UK's share of the global space market from 6.5% to 10% by 2030. The sector has grown at an average of over 8% every year over the last decade and three times faster than the average sector over the last five years.

Space is a growth sector not only in its own right but also as part of our critical national infrastructure, underpinning all other key industrial sectors such as agritech, automotive, aerospace, maritime and energy. Our space sector is one of the most innovative in the world. It is a world leader in small satellite technology, telecommunications, robotics and earth observation. For example, we build 25% of the world's telecommunication satellites, and our universities are some of the best in the world for space science.

This week the UK has seized an opportunity to capture a share of the emerging global market for small satellite launch. The Government are working to create the capability and conditions for commercial spaceflight to thrive in the UK. The Government's industrial strategy includes support for a £50 million programme to kick-start small satellite launch and suborbital flight from UK spaceports. Funding will be used to support the first launches from the UK and deliver a programme of work to realise benefits across the country.

We have made announcements this week which underpin our commitment to the sector. A £2.5 million grant has been announced for a vertical spaceport site in Sutherland, on the north coast of Scotland.

[Lord Henley]
That the first-ever satellite launch from the UK could be from Scottish soil highlights our commitment to the union. With the support of £29 million of industrial strategy funding, Lockheed Martin and Orbex will be the first companies to set up operations in Sutherland delivering capable, commercial and globally competitive small satellite launch services. Not only does the UK have the technical skills and capability but we also have the geography. We are seeing the biggest growth in the sector in small satellites, which are typically launched into polar orbits. This makes the position of the UK a very favourable launch site.

It is not just about vertical launch capability. The Secretary of State for Business, Energy and Industrial Strategy also announced a £2 million fund to help horizontal spaceports to progress their plans from our £50 million industrial strategy-funded UK spaceflight programme. Separately, Newquay airport, Cornwall and Virgin Orbit have signed a memorandum of understanding this week, which is an important and positive milestone towards establishing a leading horizontal commercial launch provider at a UK spaceport.

We cannot underestimate the scale of the opportunity here, from entering new markets such as space tourism, to transforming our intercontinental travel. The Government are not only providing support through funding but putting in place the right regulatory framework to enable commercial success. I am pleased that the Government are not alone in recognising this opportunity. Up and down the country, ambitious local authorities and private investors are coming together to help build our space capability. The rapid growth at the Goonhilly site in Cornwall is further evidence of the excitement in the sector.

As technology evolves and reduces the cost of access to space, there is an exciting opportunity for the UK to thrive in the commercial space age. A sector deal for space aims to build on our global leadership in satellites and applications using space data to create a hub in the UK for new commercial space services. Following the sector's publication of its prosperity from space proposal in May, we intend to work with the sector to explore how a sector deal can drive forward the Government's industrial strategy. We are also developing world-class facilities, including the National Space Propulsion Facility in Westcott and the National Satellite Test Facility in Harwell, as well as business incubators in more than 20 locations to support British start-ups hoping to grow into successful space companies.

The whole of government recognises the strategic importance of space and the immense economic opportunities it can bring. In a week where the focus of this House has been on the process of withdrawal from the EU, it is important to recognise that space is an area where we are leading new international partnerships. This is nowhere better evidenced than in our international partnerships programme delivering tele-education and telemedicine, which provides the backbone of future economic growth. One programme alone reached 17,000 students in Kenya, with a 95% improvement in learning outcomes. This Government are determined that UK companies are at the forefront of this space revolution and that our economy and the people of this country all benefit. I commend this Statement to the House".

My Lords, that concludes the Statement.

3.53 pm

Lord Stevenson of Balmacara (Lab): My Lords, I am grateful to the Minister for repeating the Statement made earlier in another place. We welcome this investment in the UK space sector. Having said that, the ink is scarcely dry on the Space Industry Act, a skeleton Act focusing, quite rightly, on important insurance concerns and on making sure that this fledgeling sector is not stifled at birth by planning issues, complaints about noise or nuisance or environmental concerns. If it is to thrive, the industry we all want to see will require a strong regulatory framework, so when will the secondary legislation that the Minister referred to be brought forward for consideration by this House?

The global space economy market is currently valued at around £160 billion and it is estimated that it will grow to nearly £400 billion by 2030. Most of the expertise and activity is based in the USA, so setting up in direct competition is certainly a bold step. We have heard today that the UK industry is worth £13.7 billion and employs 38,000 people which are big numbers. The target set out in the Statement is 10% of the global market, or £40 billion, which is a big jump. We need a bit more detail about how the Government intend that to happen. The Minister might be aware that the Government's industrial strategy promised £1 billion of investment in space technology over four years. This announcement is significantly less than that. When do the Government expect to announce the release of further funds for developing spaceflight capabilities? Since there has been some mention of it in the Statement, when will the Government publish a sector deal for space which might also give us some of the detail of how the money is to be created and spent?

Finally, the proposed vertical spaceport site in Sutherland will be the northernmost operational spaceport in the world. As a Scot, I am all for the message this sends to the UK and to Scotland—and indeed for the support it implies for the union. As I am sure the Minister will acknowledge, however, spaceports are overwhelmingly sited near the equator. This is not just for the weather; it is where the earth's rotational speed is highest, allowing rockets to harness an additional natural boost. There is a point about polar orbits which I recognise, but this is an outlier decision. Can the Minister confirm that the funding announced today takes into account the potential extra costs associated with this location? Can he also set out the countervailing arguments that were used in choosing this location? Linked to this, what steps are the Government taking to ensure a fair regional distribution of space sector supply chains and the associated impact this will have on good jobs in the sector across the whole of the United Kingdom?

Baroness Randerson (LD): My Lords, these announcements are good news for Sutherland and Cornwall—if we have in future a space industry to use them. I am a member of the EU Sub-Committee on

the Internal Market. We recently visited Harwell, which is mentioned in this Statement. The scientists working in the industry there are very concerned, rather than very excited, because they are already being squeezed out of aspects of the Galileo programme. They reported that companies and highly skilled individuals in the industry are already moving abroad and companies are planning to move abroad in the future.

There is something very Alice in Wonderland about this Statement, in that it avoids mentioning the Galileo programme. Also, of course, it avoids mentioning Horizon. There is also something rather Alice in Wonderland about the naive enthusiasm for President Trump's promises for trade, because they have already proved a rather uncertain basis on which to predict the future. My first question to the Minister is: have the Government now received assurances from the EU that we will be able to continue in Galileo? By that—this is a key point—I mean: will we be able to be awarded contracts under the Galileo programme as well as to undertake research as part of the scheme? The scheme involves paying in and getting out as part of the research programme. As I understand it, the problem that has been raised in relation to Galileo would have an impact on our right to receive commercial contracts.

Secondly, the amounts of money in the Statement are welcome—of course they are—but this is a very expensive industry. As the noble Lord has just said, the Government have promised relatively small amounts of money here in comparison with the overall figures previously mentioned in terms of investment in the industry. So I should like to press the Minister for more detail about planned future government investment in the industry. How does that £2 billion pan out over the next few years?

Lastly, I live in Wales, and I should have liked to see Wales included in this. North Wales offered a potential site for a spaceport. That was supported by the Welsh Government and could have been a very useful partnership. Once again, the people of Wales are in a position where we have put forward a plan for large-scale investment but it has been rejected. First, it was electrification across south Wales, then it was the tidal lagoon in Swansea and now it is the spaceport. A pattern is developing here, and it is a very depressing one if you come from Wales. Why was Wales not awarded this? Was it considered as a serious contender and, if not, why was that information not given out earlier so that expectations in Wales were not raised?

Lord Henley: My Lords, I thank the noble Lord, Lord Stevenson, for his generally positive response to the Statement. I hope I can answer most of his points, but I hope he will understand if I offer to write to him in greater detail on further points. I have to say that this is not exactly my specialist subject or one with which I am totally familiar, but I will do the best I can.

Starting with the Space Industry Act 2018, work is ongoing on the secondary legislation that comes out of that. We hope to be in a position to consult in 2019 and get it in force by 2020, so work is taking place.

On the sector deal, obviously there was a little about that in the Statement itself. I hope we can continue to work with the industry on developing it. As the noble Lord knows, sector deals should be a matter for the industry and others and the Government to work together on to see how they can co-operate in doing things. As I made clear in the Statement, we have already had the *Prosperity from Space* proposal from the sector; we want to build on that and on the areas where we have leadership. As I mentioned in the Statement, we are already pretty good at small satellites. I recently gave the example of a small satellite factory that I visited belonging to an American company, which decided that the place where it wanted to build its small satellites was Glasgow because that area had the right people, the right expertise and all the other things. It is a testament to Scotland and Glasgow that that is why the company wanted to go there. A sector deal should look at our strengths and what we can do.

The noble Lord also asked about the site of the spaceport. In answering him, I hope I can address the concerns of the noble Baroness, Lady Randerson. There was interest from a number of areas for vertical sites, just as there was for horizontal sites, and obviously a number of areas will be disappointed because we picked the site in Sutherland. As the noble Lord implied, equatorial sites further south are used for the very heavy lift that is needed for geostationary sites, but the growth in this area seems to be in small satellites. Small satellites at lower orbits typically require polar orbits and I understand that the further north you go the better it is, but scientists will no doubt be able to explain that in terms that the noble Lord will find easier to understand than my brief explanation. As he knows, Sutherland is further north than Wales, and that is one reason why we took that view.

The noble Baroness, Lady Randerson, addressed the issue of Galileo. That has come up in this House on several occasions, and I can only repeat how disappointed we are by the attitude of the European Commission, whose policy on this can only be described—I think by a Member of this House—as "shooting itself in the foot". It is losing UK money and expertise in an area where we are doing very well indeed; attempting to exclude us from that is a mistake. We have made it clear that we still wish to be part of it. We wish to continue to engage on that basis but unfortunately the Commission's proposals do not appear to meet our objectives. We have set out our red lines for participation in Galileo; they include full industrial access to all other parts of the programme.

If we are excluded, it is open to the United Kingdom to develop options for a domestic alternative to Galileo. We have a new satellite launch programme to bring launch capabilities into the UK and we have announced the first grants from this programme. The noble Baroness, in what I have to say was not the most positive of responses to the Statement, also queried whether sufficient money was being put into this area. I make it clear to the noble Baroness that there is some £50 million for the spaceflight programme, another £100 million or so invested in the satellite testing facility at Harwell, and £300 million a year through the European Space Agency. There is also the sector deal, which we will be announcing in due course; I hope there will be more positive news in that.

[Lord Henley]

As I said, I shall write if there are other points I need to pick up on in response to the noble Lord and the noble Baroness, but I hope I have answered most of their questions.

4,06 pm

Lord Birt (CB): My Lords, I declare an interest as vice-chairman of Eutelsat, which owns satellites rather than launchers. As the Minister says, there is a great deal of capability in the UK in satellite manufacture. There will also be huge growth in small satellites. However, it is not at all clear that those satellites will be launched on small launchers. The economics are very unlikely to allow it; they are more likely to be launched on large launchers, which will be much cheaper. Increasingly, small satellites can be positioned in the sky through electrical propulsion so it is not clear to me why it makes sense for the UK to invest in small launchers. Will the Government publish their business case for the spaceport?

Lord Henley: I shall look into what it is possible for me to release to the noble Lord in response to his question on publishing the business case. I certainly feel that we would want to be as open as possible about why we chose the site in the north of Scotland and what we consider its advantages to be. I will write to him in due course.

Lord Winston (Lab): In the Statement, Britain's universities were praised for being at the top of the tree, but there is a significant problem here. I focused at Question Time on the paucity of qualified science teachers in primary schools. This runs right through our system; if we are to be competitive in the space industry, we need better physics, better mathematics in particular and, of course, as much engineering as possible. There are quite insignificant numbers of A-level physics teachers; far more are needed. As the Institute of Physics and the Royal Academy of Engineers point out, far more of these posts remain empty. What can the Government do to ensure we have more teaching, particularly of physics and mathematics, at A-level?

Lord Henley: My Lords, I am grateful to the noble Lord for his intervention; I am sure the Government as a whole are grateful for the intervention he made earlier at Question Time. I was in the Chamber to hear it; if I remember correctly, I now know, as I did not at the time—and the noble Lord, Lord Campbell-Savours, is with me on this—that nitrogen is the commonest gas. But the noble Lord, Lord Winston, makes a more important point. We have a very strong university sector. We have enormous strengths in science in the university sector and we want to make sure we maintain them. It would not be right for me, in responding to this Statement, to go through all the Government wish to do to improve the teaching of science in our schools. However, I shall certainly make the comments of the noble Lord available to my colleagues in the Department for Education.

Lord Campbell of Pittenweem (LD): My Lords, I hope I will not surprise the Minister too much if I say that I share his disappointment at the attitude being taken by the Commission towards the Galileo project. It is, to put it mildly, short-sighted, but it does lead me to a rather broader question: what military intelligence and security implications arise out of the Statement he has just repeated?

Lord Henley: My Lords, I think that I would prefer to write to the noble Lord on that issue.

Lord Hope of Craighead (CB): My Lords, there is a great deal in this Statement to be welcomed, but there are two practical issues that I wonder whether the Minister can say something about. First, who owns the land on which the proposed site in Sutherland is to be developed? Is the land already in the ownership of the consortium which is proposing to develop the site, or will it have to be acquired from another owner, either voluntarily or compulsorily?

The other question relates to the environmental consequences of what is being proposed. Is it accepted that there will have to be a full environmental impact study? I mention this because it is all very well to think of remote areas as having nothing much in them, but in fact, they often contain very sensitive birdlife, flowers and so on, and great care needs to be taken to see that the construction carried out is compatible with the nature of the environment.

Lord Henley: I am afraid that I cannot help the noble and learned Lord as to the ownership of that land. On the second issue, he is right to point to the environmental impact of such a Statement. I am not fully au fait with the planning processes in Scotland—which local authority deals with which issue, and what the involvement of the Scottish Government is—but obviously, this will have to go through a full planning process and in that process, an environmental impact statement will have to be produced to ensure that we know what the effect is going to be. Coming back to England, we only have to look at what happened recently on Saddleworth Moor to know that when one is dealing with highly inflammable objects in remote areas, such things obviously have to be taken into account.

Lord Craig of Radley (CB): My Lords, I very much welcome the Statement, which is forward-looking and much more proactive than is sometimes the case in this field. Will this site be used entirely for civilian activity or will there be room for Ministry of Defence activity as well, if its northerly latitude does not prevent the launching of MoD-type satellites, which normally go up from nearer the equator?

Lord Henley: I think that would have to be a question for the Ministry of Defence and the operators of the site, in terms of whatever satellites the MoD wanted to put up, the needs of those satellites and whether it wanted to do it from a civilian base or from elsewhere. That would be more properly addressed once it knows what satellites it hopes to launch.

Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Bill

Third Reading

4.13 pm

Clause 2: Higher amount for long-term empty dwellings

Amendment

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

Clause 2, page 2, line 33, leave out from beginning to "effect" in line 36 and insert—

"(1) Section 11B of LGFA 1992 (higher amount for long-term empty dwellings: England) is amended as follows.

(1A) In subsection (1)(b)(maximum percentage by which council tax may be increased)—

(a) after "that day" insert "("the relevant day")", and

(b) for "50" substitute "the relevant maximum".

(1B) After subsection (1) insert—

"(1A) For the financial year beginning on 1 April 2019 the "relevant maximum" is 100.

(1B) For the financial year beginning on 1 April 2020 the "relevant maximum" is—

(a) in respect of any dwelling where the period mentioned in subsection (8) ending on the relevant day is less than 5 years, 100;

(b) in respect of any dwelling where the period mentioned in subsection (8) ending on the relevant day is at least 5 years, 200.

(1C) For financial years beginning on or after 1 April 2021 the "relevant maximum" is—

(a) in respect of any dwelling where the period mentioned in subsection (8) ending on the relevant day is less than 5 years, 100;

(b) in respect of any dwelling where the period mentioned in subsection (8) ending on the relevant day is at least 5 years but less than 10 years, 200;

(c) in respect of any dwelling where the period mentioned in subsection (8) ending on the relevant day is at least 10 years, 300."

(2) The amendments made by subsections (1) to (1B) have"

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, this amendment, which allows for increases to the council tax empty homes premium cap according to how long a property has been empty, follows amendments with the same effect moved in Committee and on Report. I am grateful to the noble Baroness, Lady Pinnock, and the noble Lords, Lord Shipley and Lord Kennedy, for bringing forward this so-called escalator amendment.

As noble Lords will undoubtedly be aware by now, this amendment will allow local authorities to charge premiums of up to 200% on homes empty for at least five years and less than 10 years, and to charge premiums of up to 300% on homes empty for at least 10 years. It will not change the provisions for homes empty for at least two years and less than five years. The maximum rate for such homes will remain at 100%, as proposed by the original Bill. Neither does the amendment fetter the discretion of local authorities, which will retain the right to decide on the precise level of premium charged, taking into account local circumstances, guidance and the maximum thresholds set by government.

4.15 pm

Having reflected carefully on arguments advanced by noble Lords in previous debates, the Government consider that this amendment will further strengthen the incentive for owners of properties that have been empty for excessively long periods of time to bring them back into use. Although such properties are likely to be relatively few in number, they can be a blight on their surrounding communities and the site of crime and anti-social behaviour. It is right that we equip local authorities with greater powers in such difficult cases where a 100% premium might not be sufficiently effective.

We will ensure that home owners are given sufficient notice of this change in order to prepare themselves: the 200% premium will come into effect only from 1 April 2020, while the 300% premium will come into effect from 1 April 2021. The original proposal of a 100% premium will still come into effect from 1 April 2019 as planned.

In light of this amendment, it will be even more important to ensure that the premium is applied fairly. We published guidance in 2013, and will now take the opportunity to look at it afresh, with the aim of publishing revised guidance ahead of the introduction of 200% and 300% premiums. We have already started to engage with representatives from the local government sector regarding how this guidance might be updated and improved.

In particular, we will look to ensure, through the revised guidance, that premiums are applied with due consideration to issues facing low-demand areas and cases of hardship. We anticipate that we will look to strengthen the wording of the guidance to set out the Government's clear expectation that premiums are not applied where home owners can demonstrate that their properties are genuinely on the market for rent or sale and appropriately priced. We will also look to ensure that the guidance takes account of individuals who are struggling to complete or to afford renovations that are necessary before the property can be occupied or sold on, and where progress or hardship can be demonstrated.

More generally, we will also look to set out clearly the range of factors local authorities should have regard to when deciding whether to charge a premium in their area. These could include the average property prices in the area, local demand for affordable homes versus their availability and any other measures that may be available to local authorities to help bring empty homes back into use, which might be more effective in that particular area. Such revisions would, of course, be subject to consultation.

We believe this escalator amendment is a welcome improvement to the Bill that will make a difference in communities affected by properties that have been empty for excessively long periods of time. We are happy to give local authorities greater discretion to

[Lord Bourne of Aberystwyth]
charge higher premiums in such cases, where appropriate regard is given to the strengthened guidance that we will publish. I beg to move.

Lord Campbell-Savours (Lab): My Lords, I was having a conversation the other day in which a matter arose that we did not consider when we were dealing with the provision at earlier stages. Today we are setting out the council tax premiums payable on empty property. The Explanatory Notes state that:

"Since 2013, local authorities in England have had the power to charge a council tax premium of up to 50% on 'long-term empty dwellings'—that is, homes that have been unoccupied and substantially unfurnished for two years or more. This premium is in addition to the usual council tax charge that applies to that property".

It is a power, not a requirement—but that is not strictly true. The assumption that we have all been making is that within the first two years the council tax remains the same as payable at the moment—but that is not strictly true. If you have a single person discount, which is 25%, then the council tax you will pay once your property is empty is not based on the single person discount at all; it is based on dual occupancy.

I will give an example of that, which I have taken from Windsor & Maidenhead. For band G properties the full council tax is £1,767.67 per annum. With the 25% discount it is £1,325.75 per annum. In the current year the total council tax on a band G property is £1,855. After two years, that council tax will double to £3,712, as against £1,325 at the moment. That is nearly a tripling of the council tax payable on that property, because the single person concession is not carried forward. To take the current year, someone in a band G property in Maidenhead will currently pay £1,325, but if they empty it their council tax will immediately increase by a third, to £1,855. That is a 33% increase, because they have emptied the property and, again, because they lose the single person discount.

I raise this because in the Minister's presentation to the House he mentioned that guidelines would be issued. Can we deal with this issue in guidelines? Can local authorities be advised that when they send out those council tax demands for an empty property subject to a single person discount, the new rate will be based on the council tax payable with the discount, not on the rate payable in the event that the property has been occupied by two persons or more?

The Earl of Lytton (CB): My Lords, I am pleased to follow the noble Lord, Lord Campbell-Savours, although I have different reasons for wanting to know what might be included in the guidance. As we are at this stage of the Bill I reiterate my declarations of interest: I am a vice-president of the Local Government Association and a professional who deals with rating, as well as an owner-occupier of residential property.

My concern goes back to a point I made at Second Reading: namely, that we do not always know the full range of circumstances which lead to long-term vacancy. It is probably generally true to say that owners of residential property do not deliberately leave it vacant long term; it simply deteriorates. But there are reasons why it occurs, notwithstanding what one would reasonably suppose is owners' innate desire to make best use of the asset. I am thinking of areas subject to some sort of wholesale blight; those might be areas which are destined for redevelopment and which are held in that form. If they are held by a developer, good luck to them, but if you happen to be a private owner of property that is in part of an area which is destined for long-term redevelopment, you are stuck with it, possibly with none of the end benefits.

Could the Minister therefore give us some clarification and reassurance that where there is an impact of some planning or public policy—perhaps including a local authority's policy for an area—that results in genuine reasons for vacancy, this sort of thing will be covered by the guidance? If it is not, it does not matter how genuinely you are in the market and with what rent or other terms you might wish to let or sell the property; if it is in an area that is subject to serious blight, first, nobody will get a mortgage for it, and secondly, maybe nobody will want to live there. Crime, deprivation and so on are part and parcel of that algorithm. We therefore need to be careful that where there are genuine reasons, not all of which can be imagined at this juncture, provision in the guidance will cover that sort of thing. Can the Minister also say whether the guidance will be subject to wider public consultation than perhaps between just the professions—the sort that I belong to—and local authorities?

Baroness Pinnock (LD): My Lords, I remind noble Lords of my relevant interests, which are in the register, as a councillor and a vice-president of the Local Government Association.

I thank the Minister for accepting the principle of the amendment that I and my Liberal Democrat colleagues tabled both in Committee and on Report. That amendment has now been transformed into a fully fledged amendment, and I thank the Minister for tabling it on behalf of the Government.

We fully support the amendment before us today. Its purpose is clear: to significantly reduce the number of homes that lie empty and unused, which some reports say is as high as 200,000. This is at a time when all agree that there is an urgent need to increase the supply of housing. This amendment is one way of making the most of the housing stock that we have. There are, rightly, exemptions to this policy, and the Minister has outlined what they are. Implementation of the legislation is at the discretion of local authorities, and I hope and expect they will take into account areas that are destined to be redeveloped, and where the sale of a house would be very difficult.

I also welcome the Minister's comment that there will be a review of the guidance attached to the Bill. Like the noble Earl, Lord Lytton, I raised concerns about that guidance in the Bill's early stages, namely that it probably lacked the clarity to ensure that the legislation was properly and fairly implemented.

As I said before in discussion on the Bill, there are some owners who, to my personal knowledge, leave properties empty for no other reason than that they do not want to sell them. One property that I mentioned before has been empty for 29 years. I asked the local

authority concerned what action it has taken. It said that it has discussed the matter with the owner, who simply does not want to sell the property. So it is left there like a historic relic of 30 years ago. There are instances of that happening. My hope is that with an escalation of the premium on council tax, it will be a financial disincentive to leave homes empty for so long.

That is why I am totally supportive of this amendment, based on the principle that I and others laid before the House in Committee and on Report. I thank the Minister for the discussions we had and for his positive reaction to the principle that I set out. I am also grateful for the help I received from the Liberal Democrat Whip's office in formulating this idea as an amendment. We fully support the amendment.

Lord Mackay of Clashfern (Con): My Lords, I wonder whether the situation that the noble Earl, Lord Lytton, described would not be dealt with by the power to require the local authority compulsorily to acquire the property. If a property cannot be sold because of a planning blight implied by the actions of the local authority, this might be a way out of it. The noble Lord mentioned that the rating value of the property should be affected by the way it was occupied. I wonder whether the local authority can make that a matter of guidance, or whether it is part of the statutory provision that the premium is payable on the rateable value of a property, rather than on the way in which it was occupied before it became unoccupied.

4.30 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I draw the attention of the House to my relevant interest as a vice-president of the Local Government Association. I do not intend to detain the House for very long as there is widespread support for the amendment. I am very happy to support the amendment tabled by the noble Lord, Lord Bourne of Aberystwyth, which, as we have heard, came out of a proposal from the noble Baroness, Lady Pinnock, and the noble Lord, Lord Shipley. The proposal introduced the concept of having an increasing scale of how much council tax can by charged on an empty property. It was a very good, sensible idea. This government amendment looks at the practicalities of delivering it and has my full support.

My noble friend Lord Campbell-Savours raised the issue of the single person's discount, and I hope that the noble Lord will address that in his response to the debate. The noble Earl, Lord Lytton, and the noble and learned Lord, Lord Mackay of Clashfern, raised the issue of the blight of empty properties. I hope the noble Lord can confirm that that will be addressed in the guidance that comes on the back of this Bill. As I said, I am very happy to support the amendment, and I thank the noble Lord and the Government for listening to the concerns that have been raised.

Lord Bourne of Aberystwyth: My Lords, I thank noble Lords who have participated in the debate on this amendment. If I may, I will deal with the contributions in the order in which they were made, and turn first to the noble Lord, Lord Campbell-Savours. I understand where he is coming from on this, but the essential point, as was just made by my noble and learned friend Lord Mackay of Clashfern, is that the premium is payable on the value of the property and not on the circumstances of the person or persons who happen to be there at the time. I can provide him with the precise provision that makes this absolutely clear.

Lord Campbell-Savours: We are talking here about an incidence of empty properties which may well increase in times of a depression in property prices. In parts of the country now, property prices are collapsing. The danger is that people will go into negative equity in the event that they are driven into selling because they are faced with what might appear to be extremely high increases in their council tax where they have been living as a single person in a property. I understand what the noble Lord said about the rateable value but I wonder whether it might be possible to detach from that formula and move to the actual sum payable, which is what really affects the council tax payer more than anything else.

Lord Bourne of Aberystwyth: I understand the point that the noble Lord is making but, if he will forgive me for saying so, it is a somewhat different point. I will come on to the hardship issues and the guidance, because hardship could attach to a couple or to a family as much as to a single person. I take his point, but it is a slightly different one. The premium is payable in relation to the rateable value of the property and not the circumstances of the person who was last there. For example, it could be that a single person dies and then a family inherits the property, and so it would be complicated if it were otherwise. It also applies the council tax in the relevant year, and I fully concede that it is more likely to go up than go down. However, it is conceivable that it could go down and, if that happens, that is just the way it is, if the noble Lord will forgive me for saying so.

As I think I said in relation to the point raised by the noble Earl, the guidance we issue will be subject to full consultation and will take care of hardship cases. Hardship is a circumstance that I am very keen we address in the guidance, which will be open to full public consultation for anyone who wants to participate. Ultimately—

Lord Campbell-Savours: My Lords—

Lord Bourne of Aberystwyth: Forgive me, but I will just finish this point and then give way briefly to the noble Lord. Ultimately, this is a matter for the discretion of the local authority. We have been very keen to ensure that that is the case, as the local authority will know of the hardship more than anybody else in the local area.

Lord Campbell-Savours: On exactly that point, according to the statistics that the noble Lord gave the House when we last considered the matter, 90% of local authorities are now choosing this option. It may well be that local authorities feel under pressure,

[Lord Campbell-Savours]
irrespective of the hardship criteria that the Minister may lay down in the guidelines. That is why I want something a little firmer. They are taking the money because it is available, and 90% is the noble Lord's own figures.

Lord Bourne of Aberystwyth: If the noble Lord looks at what I said, I also said that they are exercising their discretion, and there is evidence of that, too. This is not a revenue-raising measure, as is borne out by the statistics. It is very much to deal with the specific case of blight on the local landscape and, as the noble Baroness, Lady Pinnock, said, freeing up homes. That is what is behind this. There is not a great incidence of cases, as the figures will bear out, but it makes a real difference in communities up and down the country.

As the noble Earl, Lord Lytton, said, this is something best left to the local authority. I am grateful for having my powers exaggerated but I cannot enumerate in a list what they may be. They are things for the local authority to look at. We will approach the guidance in such a way that we can give clear indications of the sort of factors that local authorities will want to bear in mind. Once again, it is important that we give the local authorities that discretion and trust them in the exercise of that locally. I stress that this will be subject to full consultation.

I am very grateful to the noble Baroness, Lady Pinnock, who first came up with this escalator amendment and for the work we have done on this together and, indeed, across parties, with the Labour Party as well. We have come to a very happy conclusion on this. As I say, the review of the guidance is the next stage in this process, and I expect us all to engage in that together as well. I am very grateful for the contribution of my noble and learned friend Lord Mackay of Clashfern on compulsory purchase. There are compulsory purchase powers in relation to planning blight. They might not cover every conceivable instance that the noble Earl was thinking of, but that certainly would be part of the solution to that quandary. I am very grateful to the noble Lord, Lord Kennedy, as always, for being supportive and constructive in contributions as we have developed this escalator amendment. It has been a very useful exercise and we have, as is appreciated in government, come up with something that has improved the Bill before us, so I am very grateful for that. With that, I beg to move this amendment.

Amendment agreed.

4.39 pm

Motion

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

That the Bill do now pass.

Lord Bourne of Aberystwyth: My Lords, in moving this Motion, I express my thanks to noble Lords for their helpful insight and support throughout proceedings. I especially thank the noble Baroness, Lady Pinnock, and the noble Lords, Lord Shipley and Lord Kennedy. I am grateful to the noble Earl and other noble Lords who have participated in our discussions. For example, the noble Lords, Lord Campbell-Savours, Lord Stunell and Lord Best, and my noble friend Lord Deben, who is not in his place at present, have contributed as this has gone forward.

I also thank the Local Government Association for its engagement with my officials during the passage of the Bill—indeed, even before it was introduced in the other place. The conversations were constructive, and we will continue these as the Bill takes effect. Additional thanks are due to the Federation of Small Businesses, the Rating Surveyors Association, the Royal Institution of Chartered Surveyors and the Institute of Revenues, Rating and Valuation. Their expertise has been invaluable, and I am grateful for their assistance in developing the solution to the staircase tax, which has enjoyed wide support across both Houses.

I would also like to thank officials and the Bill team who have contributed to the Bill: Joshua Hardie, Gareth Adams, Shaun Morroll, Nick Cooper, John Hutchinson, Peter Bates, Thomas Adams, Antony Henderson and Hannah Ram—my cheerful, charming and efficient private secretary; that has earned me some Brownie points—who has worked incredibly hard on this Bill.

In summary, the Bill is much improved and has enjoyed broad support across the House. I beg to move.

Lord Kennedy of Southwark: My Lords, I join the Minister in thanking everyone in the House for their contributions to the Bill. It is a small, three-clause Bill, but an important Bill, which, as we know, deals with the staircase tax among other things. I also thank the department officials for their work, other colleagues around the House and all the organisations that the Minister listed, including the Local Government Association. Though small, the Bill is useful and will make a difference. I also thank the Minister, as always, for his management of the House.

Bill passed and returned to the Commons with an amendment.

Northern Ireland Budget (No. 2) Bill

Second Reading (and remaining stages)

4.40 pm

Moved by ***Lord Duncan of Springbank***

That the Bill be now read a second time.

The Parliamentary Under-Secretary of State, Northern Ireland Office and Scotland Office (Lord Duncan of Springbank) (Con): My Lords, with regret and despite our best efforts to restore devolved government in Northern Ireland, the Northern Ireland political parties have not yet been able to reach an agreement to enable an Executive to be formed. As a result, and as noble Lords will be aware, it has fallen to the Northern Ireland Civil Service to continue to deliver public services in the interests of all communities in Northern

Ireland. I join my right honourable friend the Secretary of State for Northern Ireland in commending the Northern Ireland Civil Service's ongoing professionalism and commitment in these trying circumstances.

I assure the House that the UK Government have noted the recent Buick ruling and the questions that it has raised on the wider ability of the Northern Ireland Civil Service to continue to take decisions in the absence of an Executive. Both the NICS and the UK Government are considering the judgment very carefully indeed.

In the continued absence of an Executive, the Government have taken all necessary steps to support the Civil Service, to ensure good governance and to protect the delivery of public services in Northern Ireland. Of course this is not the first time that I have asked the House to consider a budget for Northern Ireland and I therefore beg noble Lords' forgiveness if the explanation that I am about to provide is a little familiar to some of you gathered here.

Noble Lords will recall that my right honourable friend the Secretary of State provided a Northern Ireland budget for 2018-19 in a Statement to Parliament on 8 March. That budget position set out headline departmental allocations for the 2018-19 financial year providing the necessary certainty to the Northern Ireland Civil Service to manage and maintain public services throughout the early months of this financial year.

Building on that certainty, Parliament then approved as part of the Northern Ireland Budget (Anticipations and Adjustments) Act in late March 2018 a vote on account, which essentially provides the Northern Ireland Civil Service with the legal authority to actually incur expenditure and allocate funds in line with this budget position in the early months of the financial year. As is normal process with a vote on account, the limit is set to a maximum of 45% of the previous financial year's allocations. As a consequence, further legislation is now required to provide the legal authority for the Northern Ireland departments to access the full funding available for the whole financial year. Without such legislation, the only avenue available would be for the Northern Ireland Civil Service to deploy the emergency powers under Section 59 of the Northern Ireland Act 1998 to allocate resources. The Government are committed to avoiding that necessity.

In order to put my right honourable friend the Secretary of State's budget Statement on to a legal footing, to provide the Northern Ireland Civil Service with the legal authority to fully access available funds, and to avoid the need for the Northern Ireland Civil Service to resort to using emergency powers, I ask that noble Lords consider this necessary budget Bill.

This is a short, technical Bill. It would authorise the Northern Ireland departments and certain other bodies to incur expenditure of up to £8.9 billion and to use resources totalling up to £9.9 billion for the financial year ending 31 March 2019. The figures in this schedule of the Bill are in keeping with the Secretary of State's budget Statement of 8 March.

While the legislation sets the headline departmental allocations only, it does not prescribe how the Northern Ireland Civil Service departments allocate these funds. In the absence of an Executive, it is for the Northern Ireland departments to implement their own budgets. How the Northern Ireland departments allocate these budgets is set out in a detailed main estimates Command Paper.

While this is a Northern Ireland budget being brought forward by a UK Government, it does not and should not be taken as a move towards direct rule. Nor does it remove the pressing need to have locally accountable politicians in place to take the long-term decisions needed to secure the future for the people of Northern Ireland.

While this is a technical budget Bill, we recognise the constitutional significance of Parliament having to deliver this for Northern Ireland. I therefore draw noble Lords' attention to two important issues that do not form a part of the Bill expressly but which will be of interest to your Lordships as we debate the Bill.

First, as my right honourable friend the Secretary of State highlighted in her budget Statement, the overall figures allocated to departments include a further £410 million of UK Government money from the £1 billion supply and confidence agreement. To be clear, the figures in the Bill include the £410 million. The Bill is not legislating for this amount. It was approved by Parliament for release as part of the UK main estimates Bill. This Bill simply allows the £410 million to be spent by the Northern Ireland Civil Service, and details of how it will be spent are set out in the Northern Ireland main estimates document. It should be noted that this is on top of the £20 million already released in 2017-18 to help address pressures in the areas of health and education.

Secondly, there is the matter of the accountability structures in place. In addition to placing all NIAO audits and value-for-money reports and the associated departmental responses in the Libraries of both Houses to enable accessibility and visibility to all interested Members and committees, my right honourable friend the Secretary of State will also write to the Northern Ireland political parties, highlighting publication of the reports and encouraging engagement with their findings. This is as robust a process as is possible in the circumstances. However, the best form of overall accountability and scrutiny of Northern Ireland's public finances would, of course, be that undertaken by an Executive and a sitting Assembly in Northern Ireland.

The UK Government remain committed to providing Northern Ireland with good governance and political stability while efforts continue to restore devolved government at the earliest possible opportunity. Northern Ireland and its people deserve strong political leadership from a locally elected and locally accountable devolved Government. This remains our firm and absolute priority for the weeks and months to come. That said, in the absence of devolved government in Northern Ireland, the UK Government will always deliver on their responsibilities for good governance and political stability. On that basis, I beg to move.

4.46 pm

Baroness Suttie (LD): My Lords, before I begin my remarks today I will briefly pay tribute to my colleague, David Ford, the former leader of the Alliance Party

[Baroness Suttie]
and Justice Minister, who has stepped down as an MLA. David is a person of great integrity and honour, who made many personal sacrifices as leader of the Alliance Party. Given how controversial the devolution of policing and justice was at the time, it is thanks to David's skill and leadership that it was so stable during his tenure as Minister for Justice. Northern Ireland will miss his political judgment and courage, and from these Benches we wish him all the best in his retirement.

I thank the Minister for introducing the Bill before the House today. However, I deeply regret that it has been necessary for him to do so. There seems to have been little, if any, progress made to restore the power-sharing Executive in Northern Ireland since the last budget Bill was discussed in March.

In recent years, the run-up to the 12th has been largely peaceful. However, last week we witnessed levels of violence we have not seen for many years. I pay tribute to the bravery of the fire officers and police officers in Northern Ireland for their courage and professionalism in recent days and for all they did to protect the public during this upsurge in violence. This repugnant behaviour came from a minority of thugs who care nothing for their local communities. Local residents are sick and tired of violence, and the vast majority of people want this violence to be stopped—and as soon as possible. We know all too well in Northern Ireland that violence can easily fill the vacuum created by an absence of a political process.

I recognise and welcome the joint statement from the leaders of the main political parties to condemn the recent violence, but I am deeply concerned that most of the political parties, and indeed the Government, have shown very little leadership in recent months. It is extremely disappointing that there is virtually no visible evidence of any progress towards recreating an Executive since we debated the previous budget legislation in March. At that time the Minister stated:

"We are in a period of reflection".—[*Official Report*, 27/3/18; col. 756.]

He hoped that this period would be short. That was four months ago, and I wonder how much longer we need to reflect on the issues in contention, when politicians in Northern Ireland, so many of them present in this Chamber today, have overcome much more difficult issues in the past. There currently appears to be no impetus for the parties to actually get round the table and resolve their differences. The obstacles to forming an Executive are minimal, but the political will is lacking and party-political advantage by both the DUP and Sinn Féin is being put ahead of the wider good.

In the meantime, it is the people of Northern Ireland who are bearing the brunt of the stalemate at Stormont. In the absence of an Executive, key decisions affecting economic planning, infrastructure, health, education, housing, transport and the local environment are not being taken. There is also no prospect of social issues, such as abortion and equal marriage—issues that affect ordinary people's lives—being resolved at a devolved level. Does the Minister agree that a further consequence of the continued absence of an Executive is that important social issues, such as abortion, continue to be unresolved? The Minister previously said,

"we should not be relying on a Victorian law. It is time for change".—[*Official Report*, 23/5/18; col. 1024.]

So are the Government giving active consideration to taking some of these issues of disagreement off the table by legislating at Westminster?

The Minister told me during the debate on the previous budget Bill in March that,

"there is no alternative model ready to be pulled off the shelf".—[*Official Report*, 27/3/18; col. 757.]

Can he now say whether serious consideration is being given to the proposals from the Alliance Party to kick-start the talks process? Can he say what concrete measures the Government are planning to take during the summer to bring the parties back around the table? In earlier legislation, the Government took powers to reduce MLA salaries. They have not yet used these powers. Alliance has produced detailed proposals to allow some functions of the Assembly to take place without an Executive. Have the Government given serious consideration to these proposals, which are made with the intention that they would operate in parallel with any talks? This would at least provide some sort of democratic oversight and engagement, which is, sadly, very much lacking at the moment. As has been said in many previous debates—indeed, it was said by the Minister this afternoon—the Civil Service in Northern Ireland is doing an excellent job, but continued government by civil service is neither desirable nor sustainable.

I asked the Minister in the debate in March whether the Government would consider legislating for the funding of legacy inquests, and to provide compensation for victims following the historical abuse inquiry, as well as pensions for victims and survivors. What consideration have the Government given to these matters in the intervening months?

The Good Friday/Belfast agreement was entrusted to the political parties in Northern Ireland, as well as to the British and Irish Governments, for safekeeping. On these Benches, we remain committed to devolution and we want to see the Executive restored, but we must beware of making the best the enemy of the good. The best solution is, of course, to have a fully restored Executive—I do not think that anybody in this Chamber would disagree with that—but doing nothing, or not giving proper consideration to all alternative proposals to bring back some confidence in the democratic process, is simply not sustainable.

As Brian Rowan wrote in the wake of the violence of the 12th:

"What happened was a reminder of a still imperfect peace and a wake-up call to shake all of us out of our complacency".

For the sake of the people in Northern Ireland, the Government must now take urgent action to inject some urgency into the talks process and end the current political impasse.

4.53 pm

Lord Empey (UUP): My Lords, one of the primary duties of any elected body, whether it is a local authority, a regional authority or a national parliament, is to deal with budgetary matters, to scrutinise them, to assess them and to determine how budgets are spent. This is the second occasion in a few months when a

budget has come before this House which has not been scrutinised or subject to the views of elected representatives, but has been produced here as a fait accompli without any proper scrutiny. I accept the logistics of there being no alternative to having this measure before us today, but it is a sad reflection of the absolute, complete and total failure that has been the hallmark of events in Northern Ireland over the last couple of years—not the last few months. This is not a new phenomenon; it has been happening for some considerable time.

The noble Baroness, Lady Suttie, has just reflected on some of the events that have occurred on the ground over the last few weeks. One of the outstanding issues is police pay. We depend on these people, who are out there being shot at, stoned and abused. I quote the Police Federation of Northern Ireland, which has now,

"formally submitted its pay claim for 2018 with no sign of Officers getting what they are entitled under the 2017 recommendations".

What provision has been made in this budget for a possible pay rise? How is such a pay rise to be implemented, or will the issue just sit here while the morale and position of the police continue to be left in this vacuum? I do not believe that is satisfactory in any set of circumstances, and the House is entitled to hear a positive response from the Minister as to how this is to be dealt with. Other pay rises for other public sector workers have been resolved, but this one has not. There are few groups of people in public service, in Northern Ireland or anywhere else, who are entitled to have their pay rises resolved over the police.

The noble Baroness also mentioned the Hart inquiry, which dealt with historical abuse. We raised this in the debate we had in March. I entirely accept that there is more than state involvement here. There is the responsibility of various Churches and other organisations, which may have insurers, which have to play a role. However, the people who were abused are being abused all over again. Some of them are reaching advanced years. Some of the people who have suffered most have recently died. This is moving away from them, despite the absolute unanimity from all parties and MLAs. There is not a single one that disagrees with the distribution of resources as a result of Judge Hart's inquiry, yet we are still sitting here paralysed and these people are suffering once again.

I also ask the noble Lord whether any provision has been made in this budget for an appeal that is to be heard on behalf of the RHI boiler owner-operators. They are appealing against the cap that was put on them by the Assembly last year. That appeal is coming up in October. Has any provision been made in these estimates for that appeal being lost because, if it is, we will go back to the regime that was originally installed by the then Minister, Mrs Foster? That could have significant budgetary implications. We know that that whole escapade is one of the most disgraceful and disreputable examples of grossly inefficient government. In fact, as the Minister and her £85,000-a-year adviser admitted that they had never even read these few pages of legislation, the people of Northern Ireland are entitled to some explanation and also to know whether any provision has been made for that.

We also have the biggest challenge of all, which has barely been mentioned. That of course is Brexit, which is coming up. I know the Prime Minister is visiting tomorrow and Friday, and I welcome that. I hope other people will not describe her arrival as a "distraction", which happened on the last occasion she went. We keep being told by the Minister that the Government are consulting people in Northern Ireland. Are they consulting Members of this House? I do not know which people are being consulted. I hope the Government are consulting, but can they tell me who they are consulting? I do not know, apart obviously from Members of Parliament in the other place, which is right and proper. They are entitled to be consulted, and should be, but they are not the only people who represent or have a view. Who else is being consulted? We are at a critical point and, whatever the shenanigans at the other end of the building earlier this week, this matter is not resolved. There is no guarantee that the present proposals will resolve it. I believe that a functioning Assembly could unlock a series of opportunities to resolve the matters. Sadly, we seem to have abandoned any significant attempt to bring that about.

When we last debated these matters—this is going back into last year—the Minister said in a number of interventions that the Government were going to think outside the box. The sad thing is that the Northern Ireland Office does not have a box outside which one can think. It has a sarcophagus, which was sealed hermetically in ancient times, and no one dares let any light or fresh air into that box to bring in new ideas. There are no new ideas. Has anybody heard of a new idea coming forward in the last number of months? I have heard nothing. We are at a complete standstill and this is being allowed to go on and on. Great damage is being done. When it could be so helpful to the Government's efforts on Brexit, you would surely think that a serious effort would be made to resolve it and find alternative ways forward. There is no new thinking; that is the problem.

I want to move to another serious matter, which is the question of health. In the last statistics, produced on 31 March, 269,834 people were waiting for a first consultant-led out-patient appointment. That is out of a population of 1.8 million and it is the worst figure by far in any area of the United Kingdom. Of those 269,000 people, 83,392 had been waiting for more than 52 weeks. Imagine that it is your husband, son, daughter or sister who has significant problems. Waiting for a year for an appointment—over a year in many of these cases—is a life-and-death decision. Because Northern Ireland has the worst health figures, not a single health target has been met there in years. Whether it is on waiting for A&E or no matter what, not a single target has been met and these figures are getting progressively worse.

There is one step that the Government could take on health, which would not take a lot of new thinking or set a precedent. The Minister will recall that when Stormont got into trouble over welfare reform, the power over welfare was brought back here and, when the matter had been resolved, it was then sent back to Stormont. We are talking about a Northern Ireland budget, which is the job of the Northern Ireland Assembly, and we have had to take that back here

[Lord Empey]
because it is the only way to keep the lights on. I appeal to the Minister, on humanitarian grounds, to do something for these people whose lives are endangered. I have heard anecdotally of cases where I am absolutely convinced that the delays have caused deaths. On humanitarian grounds, I ask him and the Government to take the power over health back here in the short term, pending the final re-establishment of devolution. What more important issue could there possibly be? What political sacrifice are we making? Who is going to be annoyed? Who do we not want to upset by taking the health power, so as to have a Minister who can take decisions—after the decision of the court in the Buick case, which means that civil servants cannot take decisions?

I believe that it would be appropriate to bring that health power back here now. It could be done in September. We could then at least resolve some of the worst aspects of the health issue back home, by having somebody who could take decisions. When devolution is restored—we hope—the power can go back. We have already done that with welfare, and we are now in the middle of doing it for finance. There is no reason why it cannot be done for health. This should not be a political thing; it is a humanitarian thing, and I think there are lots of people back in Northern Ireland who would warmly welcome it.

I appeal to the Minister: if there is any new thinking, please tell us what it is. Even if there is none, this is not something that would arouse great hostility in this House or in the other place, and I believe that it would be warmly welcomed by the people of Northern Ireland.

5.05 pm

Lord Bew (CB): My Lords, I first thank the Minister for giving us the statement today. I know how reluctant he was to do that, and he has done the best that can be done with what is essentially an impossible and depressing task. My remarks are designed to help ensure that a year from now he does not have to do it again, and I hope that he will accept them in that context, and that spirit.

The noble Baroness, Lady Suttie, mentioned the retirement of David Ford. May I say how strongly I echo those remarks? I, and other Members of your Lordships' House who sit on the British-Irish Parliamentary Assembly, will greatly miss him. I am glad that the noble Baroness paid him that tribute, because she was absolutely right. The devolution of policing and justice was a difficult, complex, dangerous task, and he played a major role in getting it right.

I support the proposal of the noble Lord, Lord Empey, about health, and I add one footnote, which is a comment on devolution as well as on the period of direct rule. Everybody in the United Kingdom knows that we are told that we have such major problems with our health service because of our ageing population. But that does not apply in Northern Ireland. Ours is a relatively youthful population, so there is a question mark over why the figures are as dire as the noble Lord said—and they are dire. This is as difficult and sensitive an issue as the noble Lord said, and the need for a policy is pressing. His analogy with how welfare reform was handled not long ago was interesting and powerful.

As is openly stated in paragraph 43 of the helpful explanatory notes to the Bill, we are meeting on the wilder shores of the Sewel principle. This has been made an even more difficult moment by the recent judgment of the judiciary in the Buick case, which basically means that, as the noble Lord, Lord Empey, has just said, civil servants can no longer make decisions. The judgment was provoked by a relatively small case involving an incinerator in County Antrim, but the implications are massive.

On 9 July in the other place the Secretary of State, when questioned by Lady Hermon, the Member for North Down, seemed to be saying that the Government were considering an appeal—or at least that they were not ruling one out—in the context of that ruling. It is now 18 July, and I have not heard that the Government have changed their mind on that; as I understand it, it is still under consideration. I tried to check with the Northern Ireland Office today. I strongly support the case for an appeal. I do not mean this as a criticism of the Northern Ireland judiciary. I have sometimes heard some dry and droll comments in this House about that judiciary, but I do not say this for that reason. I just think that the principle is so important. If we are stuck with a period of direct rule, although it is a bad thing in principle for civil servants to make decisions, it is simply not practical for a modern Government to be in a place in which some basic moves and decisions cannot be made. I know there are issues of expense, but I hope that the consideration that is apparently still going on in the NIO leads to another appeal because it is a ridiculous place for us all to be in.

The noble Lord, Lord Empey, also mentioned Brexit. It is the big problem about the restoration of devolution, which we all wish to see. Everybody knows there are a number of other issues. In recent times, the Irish language Act has possibly been the most difficult, but there is also equal marriage, abortion law reform, legacy issues and, in my opinion, libel law reform. They could technically all be dealt with by this House at this time. It would be better if they were dealt with locally as a means of moving this forward, but difficult as all those issues are, the thing that is really causing the blockage is the mood of politics as it is affected by Brexit. It has been polarising in Northern Ireland, not so much, as some speculate, because the unionist middle classes have suddenly decided that they would rather be in the European Union and in Ireland, but the stunning rise in the DUP vote in some of the most prosperous areas of Northern Ireland in the general election makes one realise that there has not been a great mental shift among that class of people, but that Brexit has inflamed and aggravated large sections of even the moderate Catholic and nationalist community. That creates an opportunity for Sinn Féin and therefore it is quite likely that we will not see a return to devolution until this question is moved to a safer place.

I want to put it on record to see whether the Minister agrees that the Chequers White Paper has many problems. People hate it and love it from different angles, but I do not want to engage in that line of debate. I simply want to make the point that the section on Ireland has been taken by many serious commentators north and south, unionist and nationalist,

as moving the question of the Irish border towards a saner and better place. Until that is done, we are unlikely to get progress in the talks. I really hope I am wrong, but it is a merit of that paper that many people of different views in Dublin and Belfast seem to be saying that it is going make handling the Northern Ireland border easier. I say that as somebody who believes that it is a serious question but that it has been exaggerated.

I groaned when I had to listen to the Irish Foreign Minister saying on "The Andrew Marr Show" a few weeks ago that there could be no checks on the island of Ireland. Anybody who knows anything about travelling in Ireland knows that at this moment, before Brexit, there are significant checks on the Irish side of the border. I am quite certain that many millions of people listening to Marr simply did not realise how inflated that rhetoric was. I can see that the debate around the border has been inflated, but that does not mean it is not a real problem. A lot of people previously alarmed by it believe that the proposals in the White Paper help shift us towards a better, safer place in terms of the Irish debate on the border. This may be helpful. I will be interested in the Minister's views.

Finally, the Government have decided, quite correctly, to hold a meeting of British-Irish Intergovernmental Conference with the Irish Government later this month. It is in the Good Friday agreement, and for that reason, among others, this meeting should be held. It is perfectly clear—I will be interested in the Minister's views—that fundamentally in the agreement that body is designed to focus on east-west issues rather than on the internal affairs of Northern Ireland. Let me remind the House, as this document does with its talk of £8 billion or £9 billion, that without the UK subvention, which is probably somewhat more than that, Northern Ireland just does not function. It is paid by the United Kingdom taxpayer, not by taxpayers of any other country. It is true that the Irish Republic could take up this slack but, as Irish papers have said in recent days, that would require paying no pensions to anybody in the island of Ireland, and no Irish Government are going to decide to take up the slack from the UK taxpayer and not pay any pensions to anybody in the island of Ireland. For economic reasons alone, it is appropriate that the focus of this meeting should primarily be on east-west grounds. That would be entirely right and within the context of the Good Friday agreement.

5.14 pm

Lord Browne of Belmont (DUP): My Lords, I welcome the Northern Ireland Budget (No. 2) Bill and I acknowledge that, in the continued absence of devolved government in Northern Ireland, this legislation is essential, as it will secure money allocated to departments to keep them operational. It also provides departments with the necessary reassurance that full funding will be available until the end of the financial year.

This is now the second budget Bill that has been laid before your Lordships' House for consideration. Although this is welcome, it is far from ideal. Issues such as specific budgetary allocations and the monitoring of money—how the money is spent—require detailed scrutiny, analysis and examination. This is the standard level of accountability one should expect when dealing with a budget. Naturally I would much prefer if we were in a situation where Bills such as this were being presented in the Stormont Assembly by a locally accountable Minister.

For a lengthy period, we had devolved government where such accountability existed. Contrary to what some people would wish us to believe, it is worth repeating that much progress and much work has been achieved. Northern Ireland has travelled a considerable distance during the last 10 years. This is progress we must continue. Equally, during that time, we had a situation where locally elected representatives were regularly able to debate and analyse spending, and were thus able to raise specific matters relating to local areas. Unfortunately, this is not now possible to the same degree. The reality is that there is little prospect of a return to local decision-making at present. Most of the parties in Northern Ireland, however, want to get back into government and into the Assembly, but one party is preventing this. Regrettably, instead of a fair and balanced solution, the party that collapsed the devolved institution 17 months ago and refused to return to it, continues to halt progress in re-establishing devolved government.

MLAs were elected to serve the people. However, unless all the parties agree to one party's list of preconditions, they are prevented from doing their jobs fully. Sinn Féin has placed the fulfilment of its demands ahead of governing in the interests of everyone. None of us wants to be in this situation. However, the people of Northern Ireland should not be punished further because of one party's agenda.

This budget, as with any budget, presents challenges. Specifically, challenges are presented here when allocations are based on historical decisions taken by the Assembly. When allocations are made by individual departments, we cannot always be certain that the finances will go to areas that the public might expect to be prioritised. For example, after inquiries with the Department of Education, my party discovered that some of the additional money that was made available for education and was meant to go towards front-line schooling, had been allocated by the department to finance the deficit of the Education Authority. This is one instance where civil servants prioritised administration first.

While the budget and the current situation present their challenges, those challenges have been reduced considerably by the £410 million of extra new money as part of the Democratic Unionist Party confidence and supply agreement with the Government. The DUP has sought to deliver for everyone in Northern Ireland, not just for narrow sectional interests. There is £100 million to progress health transformation, £20 million to tackle deprivation, £10 million for mental health services and £80 million to tackle health and education pressures. Had this money not been included in this budget, the public would have felt the impact of a much more severe settlement.

Senior civil servants have been tasked with taking the majority of the decisions within departments for the past 17 months. However, in a number of instances, decisions are not being made. We have a situation where a growing number of decisions still need to be

[Lord Browne of Belmont]
made on education, health, infrastructure and public services. These decisions in many cases are about allocation and prioritisation. Decisions need to be taken on school places and teaching staff, and new school enhancement and development programmes have been paused. When inquiries are made with the various departments regarding decisions that have yet to be taken, the reply is often the same: "There are no Ministers in place. We cannot make a decision at this time".

Reference has been made to a recent High Court judgment. The examples that I mentioned previously referred to decisions taken before that case ever reached court. The court ruling could impact departments further and could have far-reaching implications for the decision-making processes. So I ask the Minister: do the Government intend to appeal the court ruling as it deals directly with a key decision being taken by a Permanent Secretary, as the noble Lord, Lord Bew, has referred to? Equally, has that court case now set a precedent? Could we see further such cases being taken to trial and decisions already made by civil servants being reversed?

I am sure all Members of this House will wish to condemn the violence of the last few weeks in Londonderry and east Belfast, which have been orchestrated by sinister elements in the paramilitaries. Budgetary decisions need to be taken urgently on policing. This is a vital issue, raised by the chief constable of the PSNI when addressing the committee in the other place. Additional money is urgently required to train more officers. I join the noble Lord, Lord Empey, in asking the Minister whether there is any special mechanism that can be invoked to obtain additional money to help the much pressurised Police Service of Northern Ireland.

I recognise and have previously welcomed the actions taken and commitments given by the Government. Given these recent developments, though, further action is required to deliver good government in Northern Ireland. Can the Minister today provide some assurances to departments that relevant ministerial guidance, direction and decision-making authority will be provided? The people of Northern Ireland need these assurances because, when urgent decisions are not being made, this impacts on them. We must not allow a situation to develop where the decision-making process grinds to a halt.

We will all continue to work hard towards our aim of seeing a return to locally accountable government in Northern Ireland. In its absence, my party will continue to work hard for everyone, as it has done in relation to the confidence and supply agreement. We will also continue to press the Government on all these important matters in the coming days and weeks. I support the Bill and trust that the Government will make every effort to restore the Assembly and Executive as soon as possible.

5.23 pm

Lord Dubs (Lab): My Lords, I am grateful to the Minister for the briefing that he gave us yesterday. It was very helpful although it did not actually come to any firm conclusions. I find this whole process rather curious. I cannot think of any other topic in the British Parliament where neither individual Members nor the Minister can have any influence at all on what we are debating. As I understand it, the Minister has no power to change anything. We have no powers; we cannot vote anything down or change any of the headings. I cannot think of any other occasion when we are completely neutered in terms of what we would like to achieve and the Minister cannot do anything either. Of course this is a consequence of the very sad situation in Northern Ireland where we do not have a functioning Executive. All of us would like the Executive and the Assembly to be up and running so that these decisions could then be made speedily by locally elected politicians. I would just like to ask the Minister this: is there any method by which the people of Northern Ireland can actually have an input into the process whereby the budget is set or will be set in future? In other words, has there been—or could there be—any consultation that would enable the people of Northern Ireland to take up the issues? Some of those issues have been raised by the noble Lord, Lord Empey—for example about the Police Service of Northern Ireland. Other noble Lords have raised other issues. Is it not important that the people of Northern Ireland should have some chance at least of an input into what is going on? At the moment, nothing can be done.

I would like to raise two specific issues. I understand that the Assembly was reasonably supportive of integrated education. I think that it is a key issue indeed. By leaving it to officials, are we not denying the wishes of the Assembly to increase the resources going into the development of integrated education in Northern Ireland? The Minister will argue that people can listen to what we are saying and, when the Assembly and Executive are restored, they will perhaps take note of what was said. If that is so, it is a very complicated process. But at any rate, I would like to put on record my belief, shared by many people I know in Northern Ireland, that integrated education is important and that as many parents as possible should be given a choice over whether or not they would like their children to be in an integrated school. The evidence is that the majority of parents would like to have that choice, but many are not able to exercise that choice at the moment.

My other policy issue is a slightly different one. It concerns refugees, and child refugees in particular. I do not want to go into the whole debate about child refugees, except to say this. The Government—the Ministers close to this issue—have wanted to get local authorities to offer to provide foster places for child refugees up and down the country. There has been a response, and I believe it has been a much more positive response than the Government have acknowledged, certainly in the cases of England and Wales and to a certain extent in Scotland, where I understand there is also a willingness. But my question concerns Northern Ireland, where I understand people are willing to be more supportive of refugees and to accept them into local communities. Even if district councils in Northern Ireland want to do more on behalf of child refugees, is there any way for money to be made available for it?

It seems to me that we are in a total logjam on this one. It is the wish of the Government that local authorities do more for child refugees. I believe it is the

wish of most people in this country that we support doing more, yet in Northern Ireland there is no mechanism for taking it further. We can wait until the Assembly is restored, but I think the situation is more urgent. I would like to feel that the people of Northern Ireland can share their commitment and do as people up and down the country in England have done by making more resources available to child refugees. I think I have made my point; it is just a pity. If there were an up-and-running Assembly, some of us would make a beeline for Ministers in the Northern Ireland Executive and ask them: "What about child refugees? What are you going to do about them?" At the moment, all we can do is voice our concerns here in the House.

5.28 pm

Lord Alderdice (LD): My Lords, I echo the remarks of my noble friend Lady Suttie and the noble Lord, Lord Bew, in respect of the contribution made by David Ford during his time as a Member of the Legislative Assembly and, indeed, as Minister of Justice. I also echo the concerns that have been raised in respect of the recent violence in my own part of Belfast and in other parts of Northern Ireland. These two things are not unconnected. One thing that we all recognised, throughout past years, was that when politics was not working, other people stepped into the vacuum. Power was exercised by some people outside of democratic politics.

When David Ford was the Minister of Justice, there was remarkably little debate about justice. He addressed policing and—not always to people's pleasure—he addressed the legal system and how much lawyers were paid. He also did a lot of work on prisons. In many ways, public debate became much more thoughtful, reflective and quiet because he was there. It is easy to forget that he was there because he was prepared to take a considerable hit and a lot of criticism, as those in the two major components of politics—unionism and nationalism—were unable to reach an agreement about who the Justice Minister should be. He was prepared to make sacrifices to ensure that the Executive and the Assembly continued.

Now that we do not have that contribution, we have drifted into a totally unsatisfactory situation. Let us just reflect. Clause 5 says that the provisions in the Bill are to take effect as though this was the Northern Ireland Assembly. It is not the Northern Ireland Assembly and it is not even remotely like it. Let us remember that there are no nationalists at all in this Chamber. When people talk about alternatives to devolution and think about some or all powers being brought back to this Parliament, we need to remind ourselves that the solution that would be proposed by nationalists and republicans in Northern Ireland would indeed be that powers should be taken back but taken back to joint authority with the Irish Government. If we had a reasonable representation of the people of Northern Ireland in this House or the other place, that would be the debate that would be had, and we must not forget it. I do not say that because I support that position—I do not—but we have to be realistic about it.

We have drifted into this situation. As the noble Lord, Lord Browne of Belmont, rightly pointed out, it is now 17 or 18 months since we had a devolved Administration in Northern Ireland. In January 2017 the Assembly was stood down. We had a debate about Northern Ireland in February, in which I spoke. We then had a debate in March, in which I again spoke, and we had another debate in April. We did not have one in May because we had an election. We debated it again in June, and on 18 July last year we had a debate on Northern Ireland that centred particularly on justice and security. We talked about the problems of the paramilitaries and said that, if things were not resolved, those problems would get worse. A year later that is absolutely the case. None of this should be a surprise.

However, there is worse news than that. In the Northern Ireland Act 1998, to which the Minister referred, there is a very clear injunction on the Secretary of State for Northern Ireland that if the Executive falls, within seven days—not seven weeks, seven months or indeed 17 months—he or she will propose a date for an election. There might be a delay in that election of a reasonable period, but no judge anywhere would in any way regard the period that there has been as reasonable. Does that mean that one cannot move to direct rule? It would be very difficult to carry support across the community in Northern Ireland for a move to direct rule without at least implementing what was in previous agreements and in the Northern Ireland Act 1998—that is, an election. If an election did not produce or result in the formation of an Executive, I could then understand how there would be a need to move to direct rule or whatever arrangement was proposed, but I think that it would be very difficult politically, and possibly even legally.

My personal view is that the Secretary of State for Northern Ireland has effectively been operating ultra vires for months. On any reasonable reading of the 1998 Act, it is quite clear that there should have been a decision to have an election long before now. Would an election bring about any change? I have no idea. In the last few years I have given up predicting the outcome of elections in any part of the world, and not just elections but referendums as well. We have no idea whether it would bring about a change. The last election did change the overall political balance in Northern Ireland, but whether that was or was not a good thing is open to question. The noble Lord, Lord Dubs, asked whether there is any way in which the people of Northern Ireland can have a say about some of these issues. There is a very obvious way in which they can have a say and that is by having an election, whatever the result—good, bad or indifferent.

This legislation carries us through in terms of the budget until 31 March 2019. A couple of days before that there will be quite an important development: Brexit will happen on 29 March. What we are saying is that this would carry us through to the other side of Brexit. The noble Lord, Lord Adonis, is getting excited about the possibility that Parliament might not be here over the next few weeks to debate the issues of Brexit, because Brexit is so important. The people of Northern Ireland have had no representatives debating Brexit over this whole period. Now we are speculating over the possibility that Brexit may have already occurred before their representatives are back. This is a wholly unsatisfactory, unreal and possibly illegitimate position to take according to the legislation, never mind any political agreements.

[Lord Alderdice]

I ask the Minister what undertakings have been given. Enda Kenny, the former Taoiseach, said that the Prime Minister, Theresa May, gave an undertaking that there would not be a move to direct rule. We have legislation that makes it clear that a date should be set for elections. How can Her Majesty's Government justify not making any moves and allowing drift? And there is a further problem. If there were a move to hold elections, that would not immediately give civil servants political accountability unless a Government were formed.

A lot of nice things have been said about those in the Northern Ireland Civil Service, and I am not going to say nasty things about them. However, all my experience of them has been that they are very conservative in their decisions. They do not take risks. The last time they took a serious risk was probably over DeLorean, and that did not work out terribly well. It is not a question of whether or not something is legal, but this case referred to by other noble Lords puts a blight on any creativity by civil servants. They are not going to take a risk that they might be out of order. Whatever the legalities, and even if there were an appeal against them and the appeal was won, it would not take that sense of caution away from civil servants.

The Government, if they do not move, are simply creating more and more problems for themselves and for the people of Northern Ireland. The Government have to take a decision. Although I am sure that he is not in a position to take such decisions when he gets to his feet today, I plead with the Minister to tell his colleagues, including those at the most senior levels, that whatever their preoccupations about Brexit for the United Kingdom as whole, there are things going on in Northern Ireland that cannot be allowed to drift if there is going to be any responsible government and any reasonable outcome.

5.37 pm

Lord Kilclooney (CB): My Lords, I commence by agreeing with the noble Baroness, Lady Suttie, in the tribute she and other noble Lords paid to David Ford, as Minister of Justice in Northern Ireland. As a former Minister of Home Affairs in Northern Ireland, I know very well the challenges that he faced, and the dangers he would have experienced. It is right we place on record a tribute to what he did. I did not belong to the political party that he belonged to, but in politics one has to respect things when they qualify for respect, and he should be respected.

The background to this debate is that we have no Assembly or Executive at Stormont. Why is that? It is because the Sinn Féin Deputy First Minister, Mr Martin McGuinness, resigned, and that automatically meant the resignation of the Executive and the downfall of the power-sharing Assembly. This Bill, as pointed out by the noble Lord, Lord Alderdice, means that funds end on 31 July 2018, and that is why we are urgently proceeding with it this afternoon. The budget then goes on to the 31 March next year—a fairly important week for the United Kingdom, and especially Northern Ireland, where we have both the Brexit decision and the final budget. No extra funding is involved in this measure, but I want to join the Minister in paying tribute to the Northern Ireland Civil Service for the way in which it has helped to administer Northern Ireland in these difficult 18 months, where we have had no devolution in the Assembly or the Executive. It is only proper that we pay tribute to the service that civil servants have given across Northern Ireland to the entire community.

One of the reasons why no Executive has been formed in the last 18 months is the red lines stated by the Sinn Féin party. Some in Northern Ireland say that Sinn Féin does not want to be in the Executive until after the next southern Irish general election, because it does not want to have responsibility for making governmental decisions prior to that election. However, other reasons have been given. The red lines include same-sex marriage, abortion, and, as has been mentioned, an Irish language Act. For me, the first two—the marriage and abortion issues—are matters of individual conscience and should not be party policies. When we negotiated the Belfast agreement, in which the noble Lords, Lord Empey and Lord Alderdice, and I were involved, we made sure that there would be a petition of concern, whereby no one community could impose its will on the other community. But when it comes to matters of personal conscience, it is not about one community imposing its will on another. For example, today in Northern Ireland, many Roman Catholics and Protestants are united against abortion, while many other Roman Catholics and Protestants are united for it. It is not an issue that should be subject to a petition of concern but should be a matter of personal conscience.

When it comes to the Irish language, you would think that it did not exist in Northern Ireland, but of course it does. Unionist Governments and subsequent systems of government in Northern Ireland have financed the teaching of the Irish language in every school that wants it. Not only that: they have financed and promoted the creation of schools where Irish is the only medium of teaching and learning. Irish is promoted in a big way across Northern Ireland. So what is this Irish language Act that Sinn Féin wants? What more does it want than the teaching of Irish and the creation of all-Irish schools? Is it a quota system for Irish speakers in the Civil Service? That would be discrimination. Is it the provision of Irish interpreters in hospitals and GP practices? We need to have clarification, because the people in Northern Ireland do not know what is meant by the Irish language Act. If these provisions for people who speak Irish are made, others will require similar interpreters. After all, more people in Northern Ireland today speak Polish or Chinese than Irish on a daily basis. That is the position on the ground.

As one who helped to negotiate the Belfast agreement, of course I prefer devolution as the basis for the system of government in Northern Ireland: a power-sharing devolution, with local people making local decisions. But if that cannot be until after the next Irish election or until the red lines are removed or met, the only two ways forward are a new election, as the noble Lord, Lord Alderdice, mentioned, or direct rule. Contrary to what the Minister said, I see the measure before this House today as another step towards direct rule. After all, it is a decision being made by us here in Westminster and not by a devolved Assembly in Stormont. In practice it is already direct rule.

If we had another election in Northern Ireland—and the noble Lord, Lord Alderdice, has already yielded the fact that he is not a good judge of election results, and we know why—I doubt very much whether there would be real change in the political situation there. Secondly, I think it would be a very divisive election because of the Brexit issue, which has divided Northern Ireland. Thirdly, I fear that the election turnout would be very small indeed. Elections to Stormont have been having reduced turnouts in recent years because people on the ground are getting bored and tired of the deadlock in Northern Ireland.

Regrettably, I have to say, as someone who prefers devolution, the way ahead must be to grasp the challenge of direct rule soon. Although it will be criticised by nationalists, as has been mentioned, it will be welcomed by the large majority of Catholic and Protestant people on the ground. They want to see the deadlock broken.

Mention has been made of the £1 billion for Northern Ireland gained by the DUP in their supply and confidence agreement with the Conservative Government. How much has already been transferred to Northern Ireland? I have heard the figure of £410 million. When will the balance be made available? No one has ever mentioned that. I suppose it will be before the next election, but the problem is that the next election could be sooner than we expect. So when will we get this £590 million that was promised us? I do not want to see it slipping away, because of a general election.

This £1 billion was dishonestly presented by nationalists as funds for the DUP. It was called the "DUP money". That is dishonest politics at its worst. It was stated clearly at the time that it was to be for the benefit of all traditions in Northern Ireland for programmes such as infrastructure. I am no defender of the DUP. More than any other person in Northern Ireland, I have contested elections against the DUP: in local elections, in Stormont elections, in European parliamentary elections, and for 20 years in our national Parliament here in the House of Commons. So I do not defend the DUP, but in fairness, I think we should hear when the rest of that money, which it successfully negotiated with the Conservative Government, will be coming to Northern Ireland. It was mentioned that some of that money was to go into infrastructure. Living near the border in Armagh, I know about the traffic deadlocks in that old city. I am horrified to find that of the MLAs—Newry and Armagh had six of them, but there are now five, and they claim they are all working even though Stormont is not in session—not one has asked for any of that £1 billion to be spent on required bypasses at Armagh city.

I keep saying southern Ireland, because I live on the border and what is called Ireland these days makes no sense to me. Living on the border suggests I am going to travel down to Ireland and that is crazy. I am travelling down to the south of Ireland—that is where it is and always will be geographically. The reason Ireland came into being was due to the Conservatives. The 1948 Act said it was the Republic of Ireland, but on the day in which the United Kingdom signed up to join the treaty of Rome, Jack Lynch—because the Republic of Ireland was joining the same day—asked the then Prime Minister, Edward Heath, if he minded Lynch signing as the Prime Minister of Ireland. Heath agreed. Up to then, legally, it was the Republic of Ireland. From that day onwards, the country to the south of where I live became known as Ireland. I find that odd, because I live on the island of Ireland, and I am proud of it.

I regret that the Dublin Government refuse to discuss the economic challenge of Brexit with our Government, because the Republic, more than any of the other 27 nations in the European Union, will suffer most. It is a challenge that needs to be met and discussed. I was recently at a meeting of the British-Irish Parliamentary Assembly in Sligo, just south of the border. I was interested to find that people there, from Sligo, Monaghan, Leitrim and Cavan, were saying that they would suffer much from Brexit and were tired of listening to the Dublin politicians talking about the border. It was interesting for me as a unionist to hear nationalists in that area say this. They said, "It's all right for the people in Dublin and Dún Laoghaire to complain about the border, but we live at the border and we are the ones who are going to suffer, because the common agricultural policy allocations from Brussels to Irish farms will be reduced in our area". There are no farms in Dublin or Dún Laoghaire; it is easy for them to ignore the issue.

I welcome the new British-Irish Intergovernmental Conference—some people objected to it. I hope that, when it meets, it will consider the issue of Brexit and how it affects the economy on our island: Northern Ireland and the Republic of Ireland. There are major problems there. An impoverished Republic of Ireland is not to the advantage of Northern Ireland. Before the conference meets, I want to remind people of the relevant chapter of the Belfast agreement.

When we negotiated the agreement—as the noble Lord, Lord Empey, will know because he was in charge of strand 1 talks on behalf of the Ulster Unionist Party—we expelled and excluded the Dublin Government from all strand 1 talks. They were not allowed to be involved in the internal affairs and devolved issues of Northern Ireland. I specifically and successfully argued—it was included in the Belfast agreement—that, when it came to reference to the British-Irish Intergovernmental Conference, it should state clearly that there can be no talks at the conference about the structure of devolution. That is stated clearly in part 5 of the agreement, which deals with the British-Irish Intergovernmental Conference. I advise anyone who thinks that the Dublin Government can use that conference to discuss devolution or the internal affairs of Northern Ireland to look carefully at page 15 of the Belfast agreement. This conference should be a matter of co-operation between the United Kingdom and the Republic of Ireland and certainly not a forum in which to raise the issue of devolution in Northern Ireland.

5.53 pm

Baroness Harris of Richmond (LD): My Lords, I echo the warm remarks made about David Ford by my noble friends and the noble Lords, Lord Bew and Lord Kilclooney, for which I thank them. He is a remarkable politician who has served Northern Ireland well over many years. I wish him a long and very happy retirement from Northern Ireland politics.

[Baroness Harris of Richmond]

Almost everyone in Northern Ireland voted in support of the Good Friday agreement. That brilliant piece of political architecture led to the intervening years of relative peace and stability. So much was achieved by a coming together of widely differing views that Northern Ireland was looking forward to a bright future—that is, until the leadership of the country broke down in mutual recriminations and name calling, fit for a children's playground, which I would liken it to were the consequences of their actions not so appalling for the very people they purport to serve. Both the DUP and Sinn Féin must carry the blame for the consequential mess that they have left behind—their leaders are entirely responsible for it. Something needs to be done to make them both see sense, and urgently.

It seems to me that the only party advocating sensible solutions to break the impasse is the Alliance Party. Under the leadership of Naomi Long, it is suggesting a range of measures needed to bring the Assembly and the Executive together again. These include the Secretary of State legislating quickly to help in devolved matters such as the Irish language and equal marriage, which we have heard about from noble Lords this afternoon. On reserved matters, reform of the petition of concern could see it be limited to matters of a constitutional nature and to institutions which were established under the Good Friday agreement.

It is felt that significant reform of the petition of concern would future-proof the Assembly to deal with other social policies and equality issues and prevent any one party being able to evade scrutiny or accountability to the Assembly. In fact, as we have heard from a number of noble Lords today, scrutiny and accountability have gone by the board since January 2017. This is an absolute disgrace considering the amount of money given to Northern Ireland to enable it just to function without proper government.

Is the Minister prepared to seek multi-party talks, which should be led by a totally independent facilitator? The time has certainly come for this to be considered: so bad have things become in Northern Ireland now, it is imperative that this is quickly implemented. Alongside this attempt to bring the two factions together, there is a need to reconvene the British-Irish Intergovernmental Conference, which we have heard about; to reconstitute the Assembly departmental scrutiny committees; to re-establish the Northern Ireland Policing Board; to recall the Assembly to meet in plenary to vote on the legislation that had almost reached the statute books; and, finally, to establish a cross-party Brexit committee. The latter suggestion would enable MLAs to re-engage on issues of substance and make them take some responsibility in return for their large salaries.

That brings me to the budget. A great deal of money goes to Northern Ireland and I very much want to know what has been happening to it since January 2017, when the Assembly collapsed. In fact, the total budget for Norther Ireland is around £10 billion. This amount is for an area not much bigger than my county of North Yorkshire—how it would love to get even a small portion of that. According to the figures for 2016-17, Northern Ireland gets public spending per head of £11,042, versus the UK average of £9,159 and the England average of £8,898.

Noble Lords may say that there is not a lot of comparison between these figures and my county, but what I do know is that, had the absolutely disgraceful scenes we have seen in Northern Ireland in the past days happened anywhere else on this side of the Irish Sea, major questions would have been asked about our security. The fact that hooligans, ludicrously calling themselves "loyalists", could get away with building an enormous bonfire close to houses—80 pallets high, I was told—beggars belief. Then we have dissident republicans throwing dangerous fireworks at Gerry Adams' home—what an outrageous act—when there were young children nearby.

Once again, the Police Service of Northern Ireland has had to take the brunt of all this mayhem—the noble Lord, Lord Empey, referred to this. Their numbers have dropped to around 6,600, nearly 400 below what their chief constable said he needed in his 2014 resilience review and 900 below the number recommended by Patten. Also, as we have heard, the PSNI has been due a pay rise, which has been delayed yet again, probably due to the lack of an Administration. Nevertheless, that is extremely poor, given the amount of pressure the police are constantly under in Northern Ireland. The chief constable has asked for extra funding—£60 million over five years—to deal with current legacy issues and, of course, Brexit. Underresourcing has left them unable to cope with any surges or increases in terrorist activity or serious public order incidents. The police need more funding. The Police Federation for Northern Ireland is already paying for its well-being projects out of its own funds, whereas those in England and Wales are being paid for by the Government here. Will the Minister please look into this and give the PSNI the same consideration as England and Wales?

Another major concern is education in Northern Ireland. A huge amount of money is provided for this—rightly so—but how much of it is going into integrated education? I agree with the noble Lord, Lord Dubs, that major consideration should be given to this. Shared education in Northern Ireland is not the same as integrated education. It means using others' facilities; it does not mean shared in the sense that students of both schools use those facilities together at the same time. Only integrated education can overcome the years of segregation that Northern Ireland schools have had to endure, with their consequent underpinning of difference between the communities.

The noble Baroness, Lady Blood, who is not in her place today, has been the greatest supporter and instigator of integrated education, and her wise words and total commitment to it will be sorely missed in this House when she retires in a few days' time. Northern Ireland owes her a massive debt of gratitude for all she has done to promote these schools for future generations of Northern Irish children. They are all fortunate indeed to have had her as their champion and will continue to do so.

Some of the funds authorised in this budget are drawn from the £1 billion agreed as part of the Government's confidence and supply arrangements with the DUP, as we have heard. How has this expenditure been authorised? Apart from the debates in this House and the other place, what other scrutiny has been,

or will be, applied to this expenditure—indeed, not just to this expenditure, but to all spending decisions that will flow from this budget? Can the Minister inform us what the current status is of the remainder of that £1 billion? If it is not going to be spent to help all the people of Northern Ireland, I hope it is sitting in a bank account gaining a decent amount of interest. The noble Lord, Lord Kilclooney, commented on that.

This budget has no Administration to deal with it, only the Northern Ireland Office, and it has had to defer many decisions because there is absolutely no leadership from the politicians who should be held responsible for allocating the huge amounts of money we pass to Northern Ireland. I urge those politicians now to do the right thing: come together, iron out your differences around a negotiating table and get on with the job you were elected to do.

6.04 pm

Lord Morrow (DUP): My Lords, this has, to say the least, been an interesting debate. Having listened to some of the speakers, I detect a degree of real honesty in attempting to deal with the issues that persist in Northern Ireland. I also detect a degree of misinformation from some of those who have spoken. However, not least, I listened to the noble Lord, Lord Kilclooney, reminisce about the times that he fought the DUP—and lost, incidentally. But that was then and this is now. Therefore we have to move on, as we are being constantly urged to do, and my party, the DUP, is up for that—for moving on and taking Northern Ireland forward and into a new place. The whole Province yearns for that, no matter which side of the debate people come from. Let us move on to a better place, a better future and better prospects for the future generations of Northern Ireland. The DUP is up for that—it has been and it continues to be.

The Bill before us today is vital because we have to pass this budget in order for general public services to function. It is vital to ensure that the day-to-day running of departments can continue. It is, however, a Bill that should have been brought forward by the Finance Minister for the Northern Ireland Executive and debated by the Northern Ireland Assembly. That is the proper place for it, and we regret that that is not happening.

It was perhaps an early warning sign of Sinn Féin's unwillingness to govern for the good of everyone in Northern Ireland that the Sinn Féin Finance Minister in the Assembly, before it was collapsed, failed to bring forward a budget. It was the single most important job for any Finance Minister and for the then Minister, Máirtín Ó Muilleoir, and his party ducked taking tough decisions. Sinn Féin never liked taking tough decisions. Sometimes tough decisions, and indeed unpopular decisions, have to be taken, but Sinn Féin is not up for that.

Budgets will always contain making tough choices and prioritising often scarce financial resources. I am pleased that, as a result of the extra resources secured for Northern Ireland by the DUP, this is a better budget settlement than would otherwise have been the case. The increase in resources for health represents an extra £71 million for patients in Northern Ireland. We know that demand, as always, continues to increase, but it demonstrates not only the benefits of the extra funding secured but the need to ensure that the long-term process is carried out.

Similarly, the 4.3% increase for the Department of Education represents an extra £36.5 million for schools—and we do not exclude integrated education; we never have. The DUP has sought to deliver for everyone in Northern Ireland, not just for narrow sectional interests. We see some of that funding delivered through this budget. There is £100 million to progress health transformation, £20 million to tackle deprivation, £10 million for mental health services and £80 million to tackle health and education pressures. Had this money not been included in this budget, the public would have felt the impact of a much more severe budget settlement.

I turn to another issue. Last year in another place, the Parliamentary Under-Secretary of State for Health stated,

"the hon. Lady is right when she says there should be genuine choice. We do not want anyone to feel that they cannot have an abortion, any more than we want them to feel that they have to have one. We really want women to be able to make informed choices and to feel empowered to have the child, if that is what they would like to do. The important thing is that we empower women. That is the whole purpose of what we are trying to do here—to empower women and allow them to make choices that are safe for them".—[*Official Report*, Commons, 6/11/17; col. 1307-08.]

Given this very clear commitment on the part of the Government not to incentivise women to have abortions or not to have abortions but to empower them equally to make whatever choice they prefer, I would like to ask the Minister how this relates to the free abortion services provided for women from Northern Ireland in England.

When announcing the proposal in another place on 23 October, the then Equalities Minister stated:

"The funding will be accessed via a grant scheme that will be administered by the Department of Health. The cost of this service will be met by the Government Equalities Office with additional funding provided by HM Treasury. A small number of procedures will continue to be provided through the NHS where this is necessary for medical reasons. NHS providers will also be reimbursed by the Department of Health".—[*Official Report*, Commons, 23/10/17; col. 6WS.]

In this context, will the Minister please explain how the relevant resource is being allocated to equally empower women from Northern Ireland to decide to continue their pregnancy as to terminate it? Clearly, if the Government in England are only offering finance through the Government Equalities Office, with additional funding provided by HM Treasury, to empower women to make a particular decision in relation to pregnancy—namely, termination—it is not about empowering women per se but rather concerned with incentivising them to abort. I am sure that the Minister would agree with me that that would be inappropriate.

In raising this issue, however, I note that in the Scottish Parliament on 31 October 2017 when the Minister, Aileen Campbell, was asked by an MSP how free abortions for women from Northern Ireland would be funded by the NHS in Scotland she responded saying:

"However, it is also important to recognise that the Scottish Government will receive consequentials because of the new spend that is required to fund the equivalent policy that the UK Government announced for England. Those consequentials will be used to fund the service in Scotland".

[Lord Morrow]
Mindful of this, can the Minister tell us what the budget consequential is for Northern Ireland and whether, if the balance of resource in other UK jurisdictions is being spent on providing abortion rather than supporting women to continue with their pregnancy, the Northern Ireland consequential could not be spent to try to balance things out from the Whitehall perspective, empowering women to keep their babies, so that the net effect of the money across the UK as a whole is not effectively to incentivise abortion? I recognise that the Minister may not be able to answer that today, but I am quite prepared to accept an undertaking from him that he will write me on that matter.

6.13 pm

Lord Murphy of Torfaen (Lab): My Lords, it has been an interesting, short and fascinating debate. I add my tribute to my noble friend Lady Blood, who is due to retire in the next week. I have known her for just over 21 years. She played an enormous role in the Good Friday agreement as a leading member of the Women's Coalition, but since then as well. I know no one who is less prejudiced than May Blood and I wish her well. I know she will continue her good work in Northern Ireland even though she might not take a regular part in your Lordships' proceedings. We will miss her.

Similarly, I add my tribute to David Ford. I have known him for over 20 years. He has been a great servant of the people of Northern Ireland and a great Minister. He introduced the changes in security and became the first homegrown Minister responsible for security in Northern Ireland. Again, I am quite convinced that David will play his part still, even though he might formally be retired.

I understand and accept that the Bill is necessary, but I do not welcome it. The Minister said that it is short and technical, and indeed it is—it is both those things. But it is also a monumental symbol of failure because, at the end of the day, this has to go through, but it is effectively going through because events have proved to have failed in Northern Ireland. It is a failure that civil servants have had to take big decisions affecting people's lives for nearly two years in Northern Ireland. Even their decisions are now suspect because of a court case. I share the view of the noble Lord, Lord Bew, that there should be an appeal because if they cannot take decisions because of the law then no one will and, frankly, that is crazy.

If noble Lords read *Hansard* for the debate on the Bill in the other place, they will see that every single Member of Parliament—all, of course, on the unionist side in the House of Commons—referred to individual services in their constituencies and on a wider scale in Northern Ireland now being affected by the absence of an Executive and an Assembly: the health service, education service, planning, the environment, roads, highways and so forth. It is also, as the noble Lord, Lord Alderdice, said, quite obvious that there is now no nationalist voice in either Chamber of the British Parliament, mainly because members of Sinn Féin decided not to take their seats in the House of Commons. It does not mean that there are not literally hundreds of thousands of Catholic and nationalist people who should be represented in our British Parliament but are not. Anything that we and the Government do must be predicated on the basis that both the nationalist and the unionist communities will be comfortable with it.

I noticed in the papers the other day that Derry City and Strabane Council was concerned about the future of its airport. It meant that the chief executive of the local authority had to write to the Permanent Secretary of the Northern Ireland Civil Service to see if he could come up with a decision—I do not think he will—on the future of that airport. I had to take a decision on it myself when I was Secretary of State. It is hugely important to that part of Ireland, including the Republic of Ireland, which borders County Derry. Things are becoming intolerable.

One of the difficulties we have is that, in all these 18 months—and presumably in the months that lie ahead—there has been no accountability for the decisions that have been taken. There is no imagination to try to work out what sort of accountability there could be in the absence of devolution. Any Member of Parliament in the House of Commons or the House of Lords cannot table a Question about the domestic affairs of Northern Ireland, which is wrong. MPs and Members of this place should be able to do that. The Northern Ireland Select Committee could take a wider role in the absence of devolution. There is a case—the Alliance Party has made a good case, as has the Select Committee—that there is a role for Members of the legislative Assembly in Northern Ireland to meet at least to question Ministers on the budget and other issues that affect people in Northern Ireland. When I was Secretary of State with responsibility for finance in Northern Ireland there was no Executive, but I went to Stormont and was questioned for two days about the budget. Why can that not happen?

However, it is all inadequate because the only answer, inevitably, is the restoration of the institutions of the Good Friday agreement—the Executive and the Assembly. The noble Lord, Lord Empey, was absolutely right. We have not seen any new ideas. Nothing has changed over the last year as to how we can try to tackle this situation. I repeat some of the things that have been suggested and some of the things I have suggested over the last year.

The Prime Minister is engaged on other matters. I can understand the pressures she is under and the pressures that the Taoiseach is under. However, all the negotiations that led to success in Northern Ireland had the detailed involvement of two Prime Ministers in trying to persuade political parties to come to a deal. No proper attempt has been made by either Prime Minister to do anything thing like the Prime Ministers in the past, including John Major and Tony Blair, did to move the situation. That should happen despite Brexit.

All the parties should meet in a proper round-table forum. I know that there has been a problem and the two main parties are reluctant to do that, but there would not have been a Good Friday agreement or a St Andrews agreement if all the parties had not met together, irrespective of their size. They can talk about significant issues relevant to the parties within their

own community. The noble Baroness, Lady Harris, mentioned the Alliance Party and gave us a list of possible things we could do to look at these matters. Why can they not be discussed in a proper forum of all parties? It has not been held.

Going into a couple of rooms in Stormont House and talking to the different parties for half an hour is not all-party talks. They have to be proper round-table talks and they have to go on and on. You cannot make peace and political process part-time. It has to be a full-time thing—that is what we have discovered in Northern Ireland. We have taught the world how peace processes can operate—in the Philippines and elsewhere. Of course, there should be the possibility of an independent chair. It has been dismissed for some reason; I have no idea why. We should be able to have another George Mitchell. No one will be quite as good as him but there must be a person somewhere in the world who is able to take on the task, if it is agreed by the parties, of course.

There have been occasions when parties have been taken elsewhere. Sometimes it works; sometimes it does not. It failed in Leeds Castle. I was there. It succeeded in St Andrews. I was not there. Perhaps there is a correlation between the two—I do not know. It is worth a try. The problem, of course, is trust—or lack of it. The political parties in Northern Ireland currently do not trust each other, but it was always thus. A number of Members of your Lordships' House have said, "Look at the issues we had to deal with 20 years ago, or since". They are hugely more significant than an Irish language Act and other issues that are now deadlocking the process. I think there is a role for this Parliament, possibly in taking on issues such as the Irish language Act. Perhaps there should be a commission on it and then this Parliament could take it through.

Perhaps this Parliament could deal with the legacy issues that the Minister has asked the people of Northern Ireland to look at. We can help out. It is right that the two Governments meet together. The British-Irish Intergovernmental Conference is part of the Good Friday agreement. It is not—nor should it be—joint authority, but it gives opportunities for the two Governments, who are guarantors of the Good Friday agreement, to try to break a deadlock. No one is suggesting for one second that the Irish Government should suddenly take part in chairing the negotiations on strand 1 of the Good Friday agreement—the institutions. I chaired them for two years and would not allow any Irish Minister in; it was not their business. The business of the Irish Ministers was, together with the British Ministers, to try to persuade the political parties that they had to come to a deal—not to interfere with the internal affairs of the United Kingdom: that was for British Ministers alone—and talk about ways of breaking that deadlock.

I was a direct ruler for five years. I did not care for it much. In fact, the less pleasant parts of the media there called me "Direct Ruler Murphy" from time to time. I did not care to be doing it, but it had to be done. Somebody had to take a decision as a politician. I was a Welsh Member of Parliament taking decisions about issues of grave importance in Northern Ireland. I do not want direct rule. No one wants it because, once you get it, you cannot get out of it easily.

The noble Lord, Lord Empey, referred to health and to welfare. There is a slight difference because although welfare was technically part of the Northern Ireland budget, it was still effectively following the British model while the health service is totally devolved. These things are worth looking at. There is a possibility that you can bring in very limited direct rule, by bringing in a sunset clause that says you can have direct rule for six, seven or eight months and bring down the deadline. Let that be the deadline for the end of the talks. However, we must have new thinking because there is so much at stake. The Good Friday agreement itself is at stake. Every party that decides not to take part in the institutions of the Good Friday agreement is ignoring that agreement.

As a number of noble Lords have said, in Northern Ireland, more than in any other part of the United Kingdom, when there is instability and uncertainty, where there is a vacuum, violence will fill it. We have seen that in the last couple of weeks, from both sides, loyalists and dissident republicans. That would not happen if we did not have an Assembly in Cardiff or a Parliament in Scotland. It happens, though, if we do not have an Assembly in Northern Ireland. We cannot take any more risks. We cannot drift any more. We must come to a conclusion. I know we cannot do it in the next few weeks. There is Recess; it is summer. However, there is no reason in this wide world why, when September comes, Parliament starts again and politicians return from their holidays, there cannot be a renewed, proper effort to restore devolution and restore those institutions. In the absence of restoration, I cannot believe what is in front of the people of Northern Ireland.

6.26 pm

Lord Duncan of Springbank: My Lords, I echo the tributes paid to the noble Baroness, Lady Blood. She grabbed hold of me in my first week in the Northern Ireland Office—I do not mean that figuratively; I mean quite literally—took me aside and explained some issues about education, which she was most passionate about. She will be missed here but I do not doubt that her voice will continue to be heard. I also pay tribute to David Ford. He fulfilled an extraordinary role in the Assembly and did good work. His voice also must continue to be heard in the counsels where his experience can be drawn on. I suspect both have long careers ahead of them where they may yet give great service to Northern Ireland.

It is not often that I get my own words repeated back to me but, again, it is a sign that I have been doing this for quite some time that my words are now being interpreted. It is in itself quite a pleasure. I am never quite sure if I did indeed say certain things but I will take them on board.

This was an extraordinarily wide-ranging debate. I think the best way I can address it is like building a jigsaw. I will start with the outside square edges and then try to build into the centre. I will begin with a very categorical statement. It is a rhetorical question. How many more times can I do this? The reality is not many. The budget that rests in Northern Ireland, and which we are moving forward today, is based on the priorities set by the outgoing Administration. However,

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we are moving further and further away from that particular piece of certainty. It is like pulling apart a piece of toffee. It is still holding together but it is getting more and more tenuous and it will break. We cannot extend it too far.

Some have said that nothing has changed, but actually a lot has. The people of Northern Ireland are growing weary of the situation there. Their priorities are not being acted on. We are having to interpret them—often within legally challenged constraints, with more constraints yet to come—and we are trying our best to deliver against objectives that are becoming more and more difficult to maintain and to deliver at the very time when there are greater challenges ahead.

I will come on to speak about the money within the budget, but I want to stress one other thing. It might seem an odd thing to say in the middle of a debate about the budget, but money is not everything. Money is not the whole answer to this dilemma. The reality remains that we need full scrutiny and a situation where the Civil Service is not exposed to legal challenge, where it is given the support of democratically elected politicians. We also need the nuances that are brought in when we have to interpret how money should be spent, rather than historically gazing over our shoulder at how it was once spent and how we might be able to continue to spend it.

I echo the words of many noble Lords today who said that they speak with some regret. There should be no doubt that I too speak with some regret: I have no desire to be taking forward a budget for Northern Ireland. That responsibility rests more naturally and sensibly elsewhere. I shall try to address some of the more fundamental points raised by a number of noble Lords. It is appropriate, in this week of all weeks, as we recall the violence of the past few days, to consider exactly what a struggle we are witnessing inside Northern Ireland. Many noble Lords have said today that if there is a vacuum, violence will fill it: we are seeing evidence of that again already.

I emphasise that the Government have spent a considerable sum of money. Since 2010, almost £250 million has been invested in additional security services in Northern Ireland. Since 2015, £25 million has been invested through the fresh start agreement. Would it not be great if the money did not have to be spent on those things? Think of what we could do with a quarter of a billion pounds. Yet, sensibly and necessarily, that money has been made available and will continue to be made available. On the question raised by the noble Baroness, Lady Suttie, about the wider legacy issue and pensions, which I know is a matter dear to the heart of the noble Lord, Lord Hain, who is of course not in his place today, we have referred this to the Victims Commissioner. We are looking for further guidance on this point, but we cannot lose time: we need to be able to move forward, so once we are in receipt of information from the Victims Commissioner we shall take that on board and move forward with it.

When we talk about the importance of re-establishing an Executive, these are matters that rest more comfortably in the devolved sphere, but in the absence of that, we cannot allow this simply to drift. I know that the word "drift" has been used by a number of noble Lords today: we cannot allow that drift to continue. In the past I have used the phrase "thinking outside the box". I note that the noble Lord, Lord Empey, condemned me by saying that it is not a box but a sarcophagus. From the papers over the last few days, I recall that a great, black sarcophagus has been found in the depths of Alexandria and there is a great fear of what will happen when it is opened. Will it be like some kind of Pandora's box, when all the horrors of humanity pour forth? As I said a moment ago, I cannot keep doing this; we are at stage where change is coming. The question is what form that change will take.

The noble Lord, Lord Murphy of Torfaen, put forward a number of issues, not least of which is whether there can be an independent chairman. I note that his noble friend Lord Hain has already referred a name to me in that regard. I emphasise, as I did in the past, that we cannot set aside any of these issues. A number of noble Lords asked about the evolution in Northern Ireland: what can happen next? Noble Lords will know that there are broadly three options: we are at that tripartite road. We can continue to try, as best we can, to string out that piece of toffee, hoping it does not snap in the middle: that is one option. I am the living embodiment of that today. The other options are, of course, to move towards an election, and that is certainly on the table—my right honourable friend the Secretary of State for Northern Ireland has not in any way ruled that out. The final option, of course, is direct rule. Some today have said that this budget itself represents a form of direct rule. In truth, it represents a necessary and essential step to preserve good government in Northern Ireland.

Noble Lords will be aware that we have reached a critical stage: the previous budget Bill allowed us to allocate funds—45%. We will reach the point over the summer where we will have spent those funds, and we therefore need to move forward to ensure full allocation of the total amount of money. That will be a critical reality check for the civil servants in Northern Ireland. Of those three routes, one will have to be taken: the question is when and how it will unfold. The greatest hope of all is the magic option: that each of the parties will come back together again and be able to broker a deal that will address all these issues. I note, as a slightly ironic comment, that the last time all the parties were gathered together in Belfast was at the PinkNews awards only a few weeks ago: that, in itself, is a reminder of how far many of those parties have come over the last short period.

The noble Lord, Lord Empey, and many others, spoke of the importance of the court cases that are coming up, and the question of an appeal. That is being strongly and actively considered by the Northern Ireland Civil Service, which will have to move that forward. It is being actively considered by ourselves. As many noble Lords noted today, if we are found in any way not to be able to act in this regard, we will be in a very difficult position indeed. That is also true in regard to the RHI case: that would place even greater constraint upon us. We cannot be in a situation where good governance can be delivered neither by an absent Executive, nor by the UK Government in our current

formation, so we will need to make progress to deliver, and to be cognisant of the realities of what those court cases will mean.

The noble Lords, Lord Empey and Lord Murphy of Torfaen, asked about the role of the Prime Minister. I can state today that the Prime Minister will be spending the next few days in Northern Ireland. I can also confirm that she has spent much time speaking with the parties. The point I make to noble Lords is that it is not just a question of what happens inside that room, and drawing the people into the room; it is how the individuals in the room communicate with their supporters outside the room. There is a bigger test here that we need to be able to wrestle and bring to the ground.

On the question of the supply and confidence money, the noble Lord, Lord Morrow, was quite right to stress that it does not rest in one single community; it is for all communities. Of the £1 billion total which has been set aside, £430 million will have been spent as we progress this budget Bill. Some £20 million was spent in the last period; that leaves £410 million. The noble Lord, Lord Morrow, was quite right to stress that much of that money will rest inside the health spend and the education spend: that is additional spending that would not be in Northern Ireland but for the supply and confidence fund. Importantly, £10 million of that is for mental health issues. It is also important to stress that, as a consequence of the Prime Minister's commitment to funding for the NHS, there will be a significant Barnett consequential uplift in Northern Ireland—a figure, I imagine, of around £760 million, if my maths is correct, during the period 2023-24. That is jam tomorrow, not jam today, but it represents a significant investment of money which I hope will be available for health in Northern Ireland.

On the issue raised by the noble Lord, Lord Dubs, the Government have made funds available for the accommodation and housing of refugees and refugee children in Northern Ireland. If the noble Lord will allow, I will write to him in greater detail, to make sure he has all the information he is looking for. I am also very cognisant of the importance of integrated education. It is important for me to stress that that is, of course, a devolved matter and one which I hope will be able to be progressed. I suspect that if the noble Baroness, Lady Blood, is taking some time off from here, she may well wrestle some of these issues to the ground in Northern Ireland—she will be welcome there, I hope. We are supportive of the idea of an integrated educational approach in Northern Ireland, cognisant of the devolution settlement itself.

The noble Lord, Lord Alderdice, continues to ask me challenging questions, to which I do not always have appropriate answers. To take up some of his points, we cannot right now place upon the shoulders of civil servants the pressures they have had to withstand—the two impending court cases and appeals stand testimony to that—and we must therefore move forward with a new way of thinking. I am conscious, as he rightly points out, that civil servants are conservative—with a small C—and that is why we end up with very cautious spending, rather than the spending that elected representatives might be willing to embrace. I am conscious that we need to make sure that we are in a position where the realities of the challenges in Northern Ireland are dealt with.

I was struck by the note raised in the debate by the noble Lord, Lord Bew: the demographic time-bomb which many of the home nations are wrestling with is not actually the same challenge in Northern Ireland. I would be fascinated to understand more about that. I am going to do my own investigations to understand more about exactly how that will work in practice. In so recognising, it therefore means that the solutions to the challenges of Northern Ireland cannot be taken from a textbook. They need to be tailored to the situation that we witness.

The noble Lord, Lord Kilclooney, took us again into the back story that brings us to the point we have reached. It is a reminder that many of the challenges that we face today have a lengthier pedigree. Importantly, the noble Lord stresses the value to the communities of Northern Ireland of this additional supply and confidence money. We need to make sure, however, that that money can be spent. There will come points when we cannot, by our current methodology, create funding proprieties to spend all of the money. It simply will not be deliverable under our current arrangements so, although the £1 billion will remain an important sum of money, unless we can make some serious progress, it will remain at least partially underspent.

As to where the money that has not yet been spent is, I do not think it rests in a big bank account somewhere, but it might do. The reality is that it is money that is fully available to the communities of Northern Ireland, which will be spent delivering the very good work that the noble Lord, Lord Morrow, stressed throughout his speech. It is important to remember that that money can indeed do good things. Making sure that we can spend it will be the ultimate test.

The noble Baroness, Lady Harris of Richmond, raised a number of technical points about how we could move things forward. I admire the points that were being raised and I recognise that, if we could do them, we would make some progress. I fear that the first step in that process is a challenging one—how we get from where we are to delivering against them. We need to be in a situation soon, however, where a lot of these issues are addressed, I would hope, by an incoming, re-established, sustainable Executive. We need to be conscious that this is a necessary step.

The spending of monies will continue to be scrutinised, as it has been before, by the various bodies that are responsible for auditing in Northern Ireland. Those figures and reports are made public and I will ensure that, when they are published, a note of that publication is registered with your Lordships to make sure that they are fully aware of them.

I note with some curiosity the question of libel law reform from the noble Lord, Lord Bew. I would like to learn more of that, so I am going to invert tradition and ask him to write to me, so that I can learn more about what he had in mind. He was also correct in stressing the importance of how information can be used and misused. He was absolutely correct when he was talking about the checks around the Irish border. We need to be clear that we are not talking about a

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borderless border; there are still realities that interface between Northern Ireland and Ireland itself—or, as the noble Lord, Lord Kilclooney, would say, the Republic of Ireland—depending on how they touch together. The purpose of the British-Irish Council is to deal with east-west issues. That is its principal purpose and what it should continue to do, within the context of the Good Friday agreement.

The noble Lord, Lord Morrow, carefully raised the issue of abortion and wider abortion services. He also gave me an opportunity to write to him, and I will take him up on that kind offer. That is more appropriate, so that I can be absolutely clear what the answers are and make sure that I am not short-changing him in any way. I note again that the figures quoted are serious contributions to Northern Ireland financially, and that they stem from the passing of this particular budget Bill.

I conclude with the remarks of "Direct Ruler Murphy", or the noble Lord, Lord Murphy. I like it as a term although I recognise exactly what it means. I hope there is a recognition that we are not going to shirk responsibilities. We have not been successful in delivering what needs to be delivered. There is enough blame to rest upon a number of shoulders, and we do not claim ownership rights over all of it. We will, however, need to make progress. I am not invoking the sarcophagus of the noble Lord, Lord Empey, but rather the needful elements that we must embrace; in the next few months each of the issues raised by the noble Lord will have to be seriously considered. We cannot continue to move forward on the basis that we have established so far. It is now without the underpinnings to give it the confidence of the people of Northern Ireland or, indeed, wider democratic confidence itself.

Lord Empey: I am sorry to interrupt the Minister, but he goes back to his analogy in his three-way split: the current position, direct rule or a restoration of devolution. That worries me, because it does not introduce any new thinking. The answer in the short term will have to be somewhere between those different options. I was hoping to hear that there would be a look at options, whatever they might be, before we close all those doors. I raised a question about police pay and the Hart inquiry. Perhaps the noble Lord would write to me on those matters.

Lord Duncan of Springbank: I thank the noble Lord for this intervention. We have not reached a fork in the road; technically, we have reached a trident in the road as there are three options. In response to the noble Lord, Lord Murphy, we must find new ways to travel along those roads. There need to be new ways of thinking about this so I cannot, in good conscience, rule out any of the issues that I believe the noble Lord, Lord Murphy, has brought to the debate today. Each of those may yet play its part and will have to do so sooner than might have been the case had we not been where we stand right now, cognisant of the challenges of delivering this budget within the timescale that we have. I am very aware of that.

I am aware that policing is a devolved matter, but it deserves a greater response than trying to swipe it away with that statement. I will again take the opportunity to write to the noble Lord and give a fuller answer.

A number of noble Lords raised the question of MLA pay. In short order, my right honourable friend the Secretary of State for Northern Ireland will be addressing that matter. It is time to do that.

In finally responding to the noble Lord, Lord Murphy, I am aware and pleased that he is able to support the necessary steps, recognising that it is what it is, which is necessary. The measure is short and technical, but it also recognises that we do not wish to be where we are. That is something I am very conscious of. I have no desire to stand here and do this again, fun though it is.

I am going to slightly change the tone of the debate, because that might be useful. Many noble Lords will know one of the poets of Northern Ireland whose name is Carol Rumens. She wrote "Prayer for Belfast" and I am going to read it, because it is perhaps apropos today:

"Night, be starry-sensed for her,
Your bitter frost be fleece to her.
Comb the vale, slow mist, for her.
Lough, be a muscle, tensed for her.

And coals, the only fire in her,
And rain, the only news of her.
Small hills, keep sisters' eyes on her.
Be reticent, desire for her.

Go, stories, leave the breath in her,
The last word to be said by her,
And leave no heart for dead in her.
Steer this ship of dread from her.

No husband lift a hand to her,
No daughter shut the blind on her.
May sails be sewn, seeds grown, for her.
May every kiss be kind to her".

Bill read a second time. Committee negatived. Standing Order 46 having been dispensed with, the Bill was read a third time and passed.

Obesity

Question for Short Debate

6.48 pm

Asked by ***Lord McColl of Dulwich***

To ask Her Majesty's Government what plans they have to address the incidence of obesity.

Lord McColl of Dulwich (Con): My Lords, I say at the outset how much I am looking forward to the maiden speech of the noble Baroness, Lady Boycott, with all her expertise. We hope to hear a lot of her expertise in the years to come.

I start by recounting the story of Labour's deputy leader Tom Watson, which he recently broadcast in the media. He explained that he was 51, very overweight and had tried many diets. When he started looking into the problem, he realised that all the advice given by the authorities was completely wrong. His research showed that he needed to cut down radically on sugar and starchy carbohydrates, and find ways of getting fat into his diet. Fat stops one feeling so hungry during the day. He also overcame his craving for sugar. This regime resulted in him losing seven stone, or 39 kilograms.

What Mr Watson rediscovered was what had been well known during the war. In 1939, one-third of the British people were either underfed or fed on the

wrong food. Food rationing cured that rapidly. For the first time, people had the right quantity and right kind of food. There was no obesity then because they ate food that satisfied them: food they had to chew, including wholemeal bread with plenty of dripping on it—there is nothing wrong with fat, except saturated fats. Also, of course, there was very little sugar and less starchy food. I should explain that when we eat fat it leaves the stomach and goes into the duodenum, releasing a hormone which specifically delays the emptying of the stomach and makes one feel full. Hence, it limits the amount we eat. After the end of rationing in the 1950s, the food industry wished to increase its sales and profits. Realising that it was not selling a great deal of food and that fat was actually a brake on how much people ate, it decided to demonise fat and encourage carbohydrates. A low-fat, high-carbohydrate diet is pretty tasteless because it is fat that gives it the taste. The industry had to add large quantities of sugar so that people would eat it, and so began the obesity epidemic.

Another story I would like to tell is of a Member of your Lordships' House who was paralysed and in a wheelchair. Being overweight, he decided to take three stone of weight off. He could not exercise and so decided on a really revolutionary way of losing weight. He lost three stone simply by eating less. Politicians and that organisation, NICE, have repeatedly stated that all the calories we eat are expended on exercise. This simply is not true. Only a fraction of the calories we eat are used up on exercise. Anyone who disputes this can go to the gym and exercise on one of the machines for half an hour. If they slave away and look at the dial to see how many calories have been used up, it will be about 300 calories in half an hour. That is what one gets from a small bar of chocolate.

The press and the media have been very helpful in the last year or two in drawing attention to the real cause of obesity, which is putting too many calories into one's mouth. Many people find it difficult to eat less, so it is probably worthwhile looking at preventable problems that make obesity more likely. A lady of 42 with an eating disorder gathered together about 45 other ladies with a similar condition to see whether they could help one another with their problem. When they went round telling their stories, they had all been sexually abused as children. That is of course an anecdote—anecdote being Greek for "unpublished", which is arguably what most anecdotes should remain—so let us look at science.

An excellent paper published by Danese and Tan in 2014 demonstrated without doubt that the maltreatment of children is associated with a substantial elevated risk of developing obesity. There is so much domestic violence and sexual abuse of children that a greater drive on reducing these risks might also help to solve the obesity epidemic. There has also been a suggestion that as mothers increasingly work outside the home, that may lead to families increasingly relying upon ready-made junk food, which never satisfies hunger and therefore leads to people eating far too much of it and hence obesity. This may be an important contributing factor.

Some elements of the food industry have made an effort to stem the obesity epidemic. The late Professor Terence Wilkin produced some very good scientific work, which clearly showed that obesity leads to inactivity but that inactivity does not lead to obesity—so do not call children couch potatoes. When one examines the genetics of all this, it is not a question of simple inheritance. It has been shown that the children of obese parents are six to 10 times more likely to be obese but, even then, it is not inevitable that they will become so. They will become obese only if they put too many calories in their mouth. There are some medical conditions which affect appetite but none that directly lead to obesity. The tendency towards obesity looks as though it is established early on in life, long before children go to school. As Professor Wilkin stated, this questions the rhetoric around school meals, computer screens, playing fields and of course physical activity, which is fairly unstructured in early childhood.

It is important to restate that physical activity is important for mental health, the heart and the body's general well-being and functioning. But I hope the Minister will finally put to rest the repeated statements from the Department of Health and Social Care and elsewhere, saying that obesity can be solved by increasing activity and diet. They link those two but only a fraction of the calories we eat are used up in exercise. In their advice, exercise and diet should not be coupled together. They should be separated, not put in the same sentence.

The obesity epidemic is probably costing £30 billion a year. Saving on that would be a great help to the NHS. This whole subject has been bedevilled by, first, the food industry demonising fat and promoting sugar and carbohydrates—by the way, among five to eight year-olds tooth decay is far and away the leading cause of hospital admissions, which are mainly caused by excessive sugar consumption. Secondly, there is the false statement that all the calories we eat are expended in exercise, when only a small fraction are, as I said before. Thirdly, there is blaming and insulting other people, such as calling children couch potatoes when in fact inactivity does not lead to obesity.

Fourthly, there is the nonsense of skimming milk. Skimmed milk is so tasteless that sugar has to be added to get children to drink it. There is no need to skim milk. Eight thousand children in Canada were given whole milk from birth until the age of eight; their calcium metabolism was good and they were not fat but very healthy. Whole milk can actually reduce the incidence of stroke, as in the work published quite recently by Professor Otto in Texas. Human breast milk contains 3.5% fat, as does cows' milk. I do not think they have started skimming human breast milk yet but you never know.

A fifth part of the department's advice was to have only two eggs a week. There is no scientific basis for this at all. You can have an egg every day if you want. The sixth thing was that GPs were told not to call patients obese because it was judgmental. There is a difference between being judgmental and making accurate diagnoses. Seventhly, psychological reasons may have a role in obesity but we do not quite understand how.

What is the answer to all this? It is an all-out campaign involving every man, woman and child, every institution, school, university and government department to try and reduce the obesity epidemic.

[Lord McColl of Dulwich]

I believe that the Department of Health and Social Care is moving in the right direction. The idea is not to tell people what to do but to tell them the truth—not in a patronising way, as in the old days, when at 7.50 every morning, at breakfast time, you turned on the radio and the radio doctor would say, "I'm the radio doctor and I'm going to talk about your bowels". The answer to that was to switch the thing off, saying, "We're not having bowels for breakfast".

There have been some very good programmes such as "The Archers", "Horizon" and many others, which have been very professional in promoting preventive medicine. In a recent campaign against AIDS—

Baroness Manzoor (Con): May I remind the noble Lord that he needs to wind up, because this is a timed debate? I am so sorry.

Lord McColl of Dulwich: I was just going to say that there was a successful campaign against the AIDS epidemic, run by the present Lord Speaker when he was Secretary of State for Health. Why was it so successful? Because he was honest and straightforward, and did not beat about the bush. He said, "Don't die of AIDS. AIDS is lethal". That is how we need to fight the obesity epidemic, which is killing millions and costing billions. The cure is free. Eat less. Put fewer calories into your mouth. We must do this: we owe it to our children.

Baroness Manzoor: My Lords, to assist the House, before the next speaker starts may I remind all speakers that when the clock strikes five minutes, time is up?

7.01 pm

Lord Brooke of Alverthorpe (Lab): My Lords, I am grateful to the noble Lord, Lord McColl, for securing the debate and for the wise words he always gives us on this topic, from an authoritative position. Like him I look forward greatly to the maiden speech of the noble Baroness, Lady Boycott. I am sure that she will add greatly to our deliberations not only today but in the future.

I shall focus on child obesity. I am sorry that our time is limited, because this is a very big subject. I do not understand why, because we have no further business today—

A noble Lord: Yes, we have.

Lord Brooke of Alverthorpe: We have some more business, do we? Then I withdraw that comment.

I shall focus on the child obesity plan. Contrary to some of the criticisms I have made in the past—although I shall make a few today—I share the view of the noble Lord, Lord McColl, that we are at last moving in the right direction. I believe that the publication of chapter 2 of the plan, which came out not too long ago, included some bold adventurous measures. My first question to the Minister is therefore to ask him whether the current consultations are within a specific timeframe. If so, when they conclude, will there be additions to chapter 2, or will the Government produce a chapter 3 to follow it?

I ask that question because I have previously raised a number of points about two or three fundamentals that had been missed from both the first plan and chapter 2. In particular I, like the noble Lord, Lord McColl, believe that there is a case for a wide-ranging and focused national campaign involving everyone but focusing especially on children. I argued that there was no mention of the broadcasters in chapter 2 or the earlier plan, other than in the context of the watershed and advertising, which is an entirely separate issue. I believe that there is a role for broadcasters working with government to try to ensure that this major problem that we face is addressed properly and over the widest possible front.

I have had some conversations with the BBC, and asked it to point me to a major programme that it had produced focusing solely on child obesity and communicating primarily with children. It is doing a lot of programmes, but it struggled to identify such a programme. I am pleased that Public Health England has now taken up the baton, is in conversation with the BBC and will have further talks early in September. That is good progress in the right direction, but I would welcome some advice from the Minister about how that will fit in with the present plan.

To make my second point I return to what the noble Lord, Lord McColl, said. To recover from any problem we need a diagnosis in the first instance. The real problem we have now with obesity is that people do not think that they are overweight: there is great dispute about that. We do not know what the weights of children from 11 to 16 or 18 are. We have a lot of evidence about children aged four and 11, but once they get to 11 we move to a different system of measurement, and only a couple of thousand people aged from nought to 16 are analysed. Of those, surprisingly, 50% required a visit by a nurse, which suggests there is a problem there that has not been fully examined.

I notice that I am running out of time, so I shall conclude quickly. I have been writing about the need for weighing people so that they are aware of what they weigh. Public Health England does not as yet agree with that, and neither do the Government, but I believe we need to get back to the hard facts to take the programme further forward. I hope that the Minister will be prepared to have a look at this topic with others who, like me, believe we need the facts in the first instance to make the progress required.

7.05 pm

Lord Addington (LD): My Lords, the noble Lord, Lord McColl, is going down a fairly well-trodden path when he speaks on this subject. My steps will not be exactly new to anybody who has been listening to debates on this subject either. This is an interesting debate, and I look forward to hearing the newer voices: the noble Baroness, Lady Boycott, will, I hope, prevent ourselves repeating ourselves for ever.

There is one very odd aspect of the current obesity problem, which has never occurred in history before: it seems to be concentrated among those who are less well-off. For the first time in history food is very cheap. It may be the wrong type of food, and consumed in the wrong way, but it is very cheap. It is also odd

that the poor are those in society who take the least exercise and are the most obese. It is difficult for people who live in poorer communities to organise themselves to do the right amount of activity or sport, or to be in the right environment to take casual exercise. If people live in nice areas with wonderful walks, they may walk either with or without a dog; they will take that amount of exercise. But if people live somewhere where it is difficult, unpleasant or even dangerous to walk around, they will not. Nobody does something that is unpleasant unless they have to.

Sitting at home with a full-fat, or fully leaded, cola—or fizzy drink; let us not be brand-specific—and a packet of crisps is a nice thing that everybody will do every now and again. The difference is whether someone thinks that they are having a guilty pleasure every now and then, or whether that is the norm. People also have to adapt what they think they should be getting out of this. Simon Stevens, CEO of the NHS in England, described exercise as a miracle cure or wonder drug. It works. People burn up calories and put on muscle mass, and as they put on muscle mass they burn up more calories, and make themselves much healthier.

Throughout our lives, especially towards the end of life, those with the least muscle mass and those who cannot move very well are much more likely to be ill in later life. That is a fact. As for the ideas about weight, I have news for you, my Lords: every single prop forward should be dead, according to the height/weight index, as should anybody who does any form of exercise like sprinting or canoeing—you name it. Weight is not the best guide; it is carrying the wrong type of weight that matters. A sprinter, or someone whose sport requires sprinting, will be taking a different type of exercise and acquiring muscle mass. All these things come together.

What are the Government going to do to allow people to get the best out of all this? Education and information about the right types of food is an important factor, and that is being provided. There are also tax incentives. The action taken on smoking has shown us what can and cannot be done, and told us about the long timescale and lead-in. Things can be done. There is also a NICE policy about bringing together sport and exercise, and involving local government and the Department for Education. The department of health is probably the only department that has sufficient power and gravitas within government to make sure this happens. Local government is under tremendous stress at the moment, and the DCMS just does not have the bite when it comes to budget and power. It has to be led by the department of health. When the Minister replies, will he say how the department is leading this exercise and bringing its colleagues in? We cannot do it unless we bring them all tighter—unless we make sure that everybody has the same hymn sheet.

7.10 pm

Baroness Neville-Rolfe (Con): My Lords, I thank my noble friend Lord McColl for initiating this debate, and I declare my interests in the register. I very much look forward to hearing the maiden speech of the noble Baroness, Lady Boycott, who I remember so well for her achievements in journalism and for her unique food web. My noble friend Lord McColl is always a mine of fascinating doctors' stories, and I wholeheartedly agree that we need an honest campaign to tackle obesity. It is a problem of plenty, which makes one feel uncomfortable when one thinks of those in parts of Africa, North Korea and even Venezuela where people still suffer from malnutrition.

Obesity poses a serious health risk in the UK. It causes real harm and costs the NHS a fortune in treating diabetes, high blood pressure, heart disease, liver disease, kidney disease and other conditions. It is brought about by the actions of the individuals concerned. In brief, it will occur if, over a prolonged period, intake of calories significantly exceeds calories consumed, so both diet and exercise are relevant. It is not exogenous, like many cancers. Accordingly, an important need is to help those concerned demonstrate greater self-control by reducing consumption, increasing exertion or both. I prefer this approach to indirect actions such as sugar taxes or advertising bans, which are costly in resource terms, limit choice for those not at risk, and are at best scatter-gun.

Our greatest priority must be to tackle the habits of our children. We must teach them self-restraint and the habit of exercise. I believe one of the cheapest and best things we could do is to require all children to run the Daily Mile, and perhaps half a mile for the little ones. There are reports springing up everywhere of its success in terms of weight and health. I heard only yesterday of the impact in my grandchildren's school as year 4 run a mile round the playground, and we should thank the *Daily Mail*, INEOS and ITV for giving this initiative real legs. It is also good for children to walk to school, so maybe children should be asked at register whether they have walked as a bit of behavioural psychology to encourage parents and carers from every walk of life.

We should also find some very simple and memorable ways of helping children to eat well. For me, there is simple magic in fresh fruit—five pieces a day if possible and not juice, which is high in calories—salad, freshly cooked vegetables and, indeed, vegetable oil, the fat we need, which can be transformational. Schools should teach cooking and projects should look at how to prevent and tackle obesity.

Our second-biggest priority is to help young adults under 40 not to gain weight, so delaying associated diseases. Essentials here are keeping up daily exercise with simple habits like walking from the bus stop or up the escalator. Employers have a duty to encourage healthy eating habits—for example, in canteens and in public procurement. I have said before that Tesco provided free fruit for children. Diet and health featured strongly on training courses, and I remember publishing a good book on the glycaemic index to help staff with weight problems. Such ideas need to be extended and to become an important part of a firm's contribution to society and to worker welfare. Above all, the NHS needs to take a grip on its own staff's issues with obesity. It is not fair on them or a good example to users of the NHS.

Our third priority is to stop the bulge in middle age and beyond in the majority of us who are not naturally willowy. In recent decades, I have found it essential to keep an eagle eye on the scales and to take action when

[Baroness Neville-Rolfe]
the weight creeps up. I bought a Fitbit so that I walk 10,000 steps a day and get my beauty sleep. As the Minister knows, sleep is positively correlated with slimness and health and negatively correlated with weight gain and with dosing on Twitter, Facebook and Netflix.

Obesity has become rather a gloomy subject characterised by slow progress and huge public health costs. We need a new culture of self-restraint and a less tolerant attitude to obesity in society and in ourselves.

7.15 pm

Baroness Boycott (CB) (Maiden Speech): My Lords, first I am grateful to the noble Lord, Lord McColl, for this debate, which has enabled me to make my maiden speech so early, and to noble Lords for their kind words and welcome. I am incredibly honoured to stand here before you today. The first thing I would like to say is how very grateful I am to everyone from all parts of the House for their kindness towards me, to the noble Baronesses, Lady Kennedy and Lady Jenkin, who introduced me, and to my noble friend Lady Kidron who has been such a splendid mentor. I will always be very grateful to all the people who work in this amazing building for showing me where to go, providing a welcoming smile and always making me feel, literally from the moment I walked in, really welcome and at home.

After a long career, which has included founding a feminist magazine *Spare Rib* when I was 21 and editing three national newspapers, in 2008 I accepted the post of chair of the London Food Board, working first for Boris Johnson and then for Sadiq Khan. For the past decade, all aspects of food have been central to my life and my professional life: food policy; food poverty; urban food growing; the effects of the way we eat and grow food on climate change; children's holiday hunger; animal welfare; and—you name it—very much so, obesity.

Life does not happen without food. Its construction is a miracle. We are all ultimately powered by plants, which in turn are powered by the sun. Food builds our bodies and provides our daily fuel, and what nature gives us is precisely calibrated to enable us to thrive. No one in this building or in this country would dream of filling the tank of their precious Ferrari with Coca-Cola, yet we are happy to fill the world's most complex machine—the human body, the bodies of our little babies—with weird, highly processed junk which bears scant relationship to what I would call food. Yes, of course, it is tasty. It is tasty beyond belief. It is salty, sugary and spicy. I am far from immune, but this availability has triggered a health crisis which is, across the world, spinning out of control.

Food-related disease is now the world's number one killer, but it is not so just as a result of heart disease and cancers. Bad diets lead to obesity which means living with ill health for much of your life, and it is sadly the poorest in our society who carry the biggest burden here. Diabetes, one of the possible outcomes of obesity, is not a pretty disease; it leads to lost limbs, loss of energy and kidney failure. Twenty limbs are amputated every day in this country as a result of diabetes. Did you know that last year in Vietnam they chopped off more limbs than they did at the height of the Vietnam War because of diabetes?

For me, obesity is not an individual problem. We are quick to blame the individual as a fat failure, but all the evidence points to the culprit being the ready availability of high-fat, high-sugar foods—foods that overwhelm the impulse control of children, young adults and adults, which are packaged and promoted to create the impression that they are fun, cool and life-enhancing. Many are placed in shops where children are bound to encounter them: at the tills and at grasping height. If noble Lords need further evidence, in this country 99.8% of advertisers' budgets is spent on what I would call unhealthy food and only 1.2% on fruit and vegetables.

Changing diets can completely transform health outcomes in lots of ways. It is time for an integrated approach to food policy with it no longer being sectioned out to different departments. We must recognise that the huge burden that is being placed on the National Health Service, which other noble Lords have referred to, could be lifted if we all ate better. It is not just about obesity. One of the things that shocked me when I was chair of the London Food Board was to discover that, in this great city of ours, one of the prime reasons that the elderly go into hospital in London is malnutrition and dehydration. So a council saves—let us be generous here—£15 a day on a meals-on-wheels and a person ends up in a high dependency £600-a-night hospital bed. This is because of cuts. Councils cannot afford it. Why can we not rethink this system? One pot of money. We all deserve to eat well.

I am both humbled and very excited to be amid so many of you who care so much about a subject that I care so much about. I hope that by adding to your number, I can add to your strength. We can, through food policy, achieve a better world—one that is fairer, that calls a halt to the inequalities that we see now where the poorest in our society are not only condemned to poorer lives, but all too often to poorer health outcomes. I know that food lies at the heart of many of the problems we need to fix, but it is also the route to so many of the solutions where everyone, whatever their background, can enjoy a good life, made possible through good food. It is my privilege and my pleasure to join your Lordships to work to that positive outcome.

7.20 pm

Baroness Jenkin of Kennington (Con): My Lords, it is an honour and a pleasure not only to have been one of the noble Baroness's supporters last week, but to be following her now. Like many women in this country, I feel I have been following her for most of my life. The noble Baroness no doubt feels that her younger self—founding *Spare Rib* aged 21—would have been amazed to see herself here today. Well, I can assure her that my 16 year-old self, in awe of her many achievements, would have been far more astonished at the thought of being here with her today.

The noble Baroness, Lady Boycott, has had an extraordinary and wide-ranging career to date, from 1970s feminist, newspaper editor, writer, farmer to chair of the London Food Board and fearless campaigner

on many other issues. As she starts yet another new career, all of these experiences will have given her skills and expertise which will significantly enhance our deliberations, not least in the fields of women's rights, food and obesity, which we debate today, and I look forward to continuing working with her on many of these vital topics.

My noble friend Lord McColl and I share an office. Tackling obesity has become a shared passion, which we discuss regularly, and I am grateful to him for giving us the opportunity to open up our daily conversation to the Chamber today.

May I start by congratulating the Government on chapter 2 of the childhood obesity plan? As the introduction says,

"Childhood obesity is one of the biggest health problems this country faces".

It also acknowledges that it is a social justice issue disproportionately affecting children in low-income households in the more deprived areas. The plan makes a good start, and I look forward to the consultation. But I am aware, from the challenges of chairing the Centre for Social Justice's childhood obesity report *Off the Scales* last year, that keeping food campaigners and the food industry in the same room is not easy.

Last month, I stumbled across a BBC programme "The Big Crash Diet Experiment", which took four obese people with serious weight-related health issues—fatty liver disease, heart problems and type 2 diabetes—and, under medical supervision, put them on a nine-week 800-calorie-a-day regime. The presenter, a doctor, was sceptical at the start, like many of us viewers. The programme included interviews with a number of medical experts, including former government obesity adviser Professor Susan Jebb. The results were immediate and dramatic. All four volunteers lost a considerable amount of weight—to the extent that they changed shape before our eyes. Overall, there was 20% less of Father Paul, and his diabetes went into remission; Rebecca lost nearly three stone; Yolande's liver fat was reduced by a third. I know that ITV has also recently shown a similar programme with similar results.

Curious to know more, I got in touch with Professor Roy Taylor, from Newcastle University, who also featured in the show. He told me that the current position is exciting. It is now accepted by all UK diabetes specialists that type 2 diabetes is a potentially reversible condition. My noble friend the Minister may be aware that the national clinical director for diabetes and Simon Stevens are actively discussing how to roll this out in the NHS. Last month, the American Diabetes Association changed its official position and recognised for the first time that remission of type 2 diabetes was possible.

Changing long-established beliefs about any medical matter takes time, quite rightly. It is 10 years since the publication of the hypothesis of type 2 diabetes being a simple and reversible state, and it is seven years since publication of the proof that real people could actually achieve this. Early next month, Professor Taylor's paper describing the mechanisms in liver and pancreas as people achieve remission of diabetes will be published in the internationally leading journal *Cell Metabolism*.

Noble Lords will not be surprised, however, to hear what his research participants report as the greatest barrier to success. They describe very clearly the personal and social difficulties in maintaining reasonable long-term control of food intake in the current obesogenic environment. Although around one-third report no trouble in avoiding weight regain, the majority—like most of us—have to struggle against our food-centred culture: unthinking acceptance of the notion that eating between meals is okay; unregulated fast food production with high added-sugar content and hence lack of feeling full despite significant calorie intake; and the lack of simple, clear labelling of calorie content. He also said that the argument that voluntary regulation by the food industry might help is flawed. The need for action is eloquently illustrated by the simple fact that the average man and average woman are now over 10 kilograms heavier than in 1980. At a current estimated cost to the NHS of £30 billion a year, this cannot continue. I urge my noble friend to act.

7.26 pm

Baroness Massey of Darwen (Lab): My Lords, I thank the noble Lord, Lord McColl, for introducing this debate with his usual clarity and passion. I also congratulate the noble Baroness, Lady Boycott, on her invigorating maiden speech. I loved *Spare Rib.*

We know a lot about obesity. We know its side effects, which include illnesses such as cancer and diabetes. However, there is a warning. Our experience of public health shows that just giving people of any age the facts about the health detriments caused by smoking, alcohol and poor diet is not enough to change their behaviour. We also need to examine the more complex aspects of these issues.

Like many other countries, we have an obesity crisis. I am currently writing a report on adolescent health for the Council of Europe, where I chair the sub-committee on children. Our report will focus on three aspects of adolescence: mental health, sexual health and obesity. Those topics might seem diverse and unconnected but I think that they have some points in common, chief among which is the development of self-esteem in young people. As we know, young people who have high self-esteem are more likely to have better social skills, better decision-making skills and better resilience, enabling them to resist pressure and seek help when needed.

The same things tend to influence young people's mental health as influence their sexual health and possible obesity, namely their parents and family, social and other media, advertising, gender, laws and policies, friends, school, and so on. Surely we need to focus on what those influences are doing to children rather than on one simple issue, even if it is a health issue. For example, we know that children from lower-income backgrounds tend to be more obese, so poverty is the driver, and we need to look at poverty. Surely we also need to look at how the media is influencing children and works to their detriment.

One in five children in this country is already overweight or obese before starting school. That is not a child's problem; it is a parental and societal responsibility. In particular, it is the responsibility of the food industry to make its labelling of sugars more accurate. Interestingly, and the noble Lord, Lord McColl, mentioned this, I have not seen much reference to the importance of

[Baroness Massey of Darwen]
breastfeeding in relation to its impact on future obesity. I know that I have read evidence of this but it was many years ago. I wonder if the Minister has any advice on breastfeeding and its impact on obesity.

I know there is more demand generally for healthy food and that this has had an impact on sugar content in food, and that many schools have taken very seriously their attack on sugary drinks and healthier school meals. I know some schools are encouraging children to walk to school and do more exercise. Exercise, as the noble Lord, Lord McColl, was saying, is good for us, and perhaps the feeling of well-being from doing exercise can help to raise self-esteem and the wish to look good. Yes, exercise eats up some calories but, as the noble Lord says, the crucial thing is undoubtedly diet.

What can the Government do? This would be my list, for a start: stop making people poorer so that they do not have to rely on food banks for family food; educate parents about obesity; start now with a firm strategy on school meals; insist immediately on child-friendly watersheds on advertising food that is high in fat, sugar and salt; involve local communities in decisions about reducing obesity; help schools to develop personal, social and health education programmes that increase self-esteem and decision-making skills and to provide consistently healthy food; and set clear goals and targets for reducing obesity, with measures which can be evaluated and learned from. Does the Minister agree?

As I said at the beginning, we know what and where the problems are. Now is the time for swift and breath-taking action to combat obesity. The NHS cannot afford such a problem. Apart from financial concerns, society, and especially children, cannot be allowed to suffer the side effects of obesity. There is much to do, and I shall be most interested in the Minister's response to this important debate.

7.32 pm

Lord Blencathra (Con): My Lords, I congratulate my noble friend on introducing this very important subject. I also congratulate the noble Baroness, Lady Boycott, on her outstanding maiden speech; she delivered it with passion and knowledge, and we look forward to hearing further contributions from her.

To my mind, there are three elements to obesity: first, the type of food that we eat; secondly and most importantly, the quantity that we eat; and, thirdly, the exercise that we take or fail to take. I feel that the debate in this country has focused far too heavily on the first aspect. We have demonised some foods and not paid enough attention to maintaining a balanced died and burning off the calories that we consume. There are no bad foods, only bad diets. Any food eaten in excess and to the exclusion of others is bad for a person.

For years the Department of Health had a vendetta against dairy products—milk and cheese—based on old, discredited research that fat products were bad for one. I can safely say that when I was Food Minister many years ago, every bit of advice that I was told by our health experts to issue to the public was countermanded at least twice over the next few years. Can any noble Lord tell me authoritatively how many glasses of red wine you should take each day? It seems to change every year whether or not one is pregnant. No wonder there is public cynicism about government diktats on food.

Nothing was sillier than taking action against sugary drinks but not against the giant cakes and buns now prevalent in all Starbucks, Caffè Neros and other similar places. A few years ago, a croissant was a little thing about five inches long. Now they are gigantic things about 10 inches long and stuffed with chocolate. Many mornings, I witness people popping into a Starbucks near here and ordering their decaf soy skinny lattes—and then a chocolate chip muffin. We used to have something called fairy cakes or angel cakes when I was a boy, but now there are gigantic muffins at 650 calories apiece, which is one-third of a woman's recommended daily intake.

That brings me to the second problem: the amount that we consume. The official recommendations for calorie intake are 2,500 for men and 2,000 for women, but those were set way back in 1990 in the US. In fact the Library tells me that the first ones were suggested by a splendid American called Wilbur Olin Atwater in 1888. They are generations out of date and were set at a time when we were a much more active population, when children played outside rather than sitting in their bedrooms texting, when we walked to school rather than being carted, and when more adults were doing manual work. It is nonsensical to retain these grossly excessive calorie levels now. What is worse is that they are being exceeded. Apparently many of those who know about the levels and want to follow them do not realise that they are exceeding them on a daily basis, while the other half of the population either do not know or do not care. We seem to be waiting for a magic pill so that that we can continue our gluttony and our lazy lifestyles in the hope that the NHS will fix it for us without having to change our behaviour one iota. Apparently Public Health England now suggests a guideline of 1,800 calories but does not want to change the advice of 2,500 and 2,000. What stupidity is that?

When I was in the 51st (Highland) Division I would eat a huge fry-up for breakfast, an enormous lunch and an even bigger dinner—about 5,000 calories a day—and I lost weight and was fit. Now I do not do much exercise. In fact I do not do any at all; I sit on my backside all the time. If I consume more than 1,000 calories a day then I put on weight. What a major scientific breakthrough that is: if we scoff more calories than we burn off then we get fat and obese.

Obesity is not an illness; it is a lifestyle choice. We are creating a nation of fat, idle people who will bankrupt the NHS, and we should have the courage to say so in blunt terms. Our strategy must be threefold. First, it must tax excessively sugary foods—all of them, not just some—and penalise excessively large food items. Secondly, calorie intake guidance must be revised downwards to recognise our indolent, lazy lifestyle. We need constant campaigns on that. Planning guidance should force councils not to have high streets full of takeaway food shops; research suggests that locations with supermarkets provide better diets than streets without such shops. Thirdly, we must have a

huge campaign to get the whole nation exercising. Exercise alone does not compensate for overeating but it has a part to play. I too commend the Daily Mile initiative, which gets children exercising for a mere 15 minutes per day. It should be compulsory in all schools. My wife has tried to force me to do it as well.

There is no easy answer, but at the moment I do not think we are even asking the right questions.

7.37 pm

Baroness Grey-Thompson (CB): My Lords, I thank the noble Lord, Lord McColl, for his ongoing interest in this subject, although I suspect that I may have some slightly different views. I also take this opportunity to welcome my noble friend Lady Boycott. When the list of new Peers came out, my roommate, the noble Baroness, Lady Kidron, was delighted to see her on the list, and she is so sorry that she is unable to be here tonight. I draw your Lordships' attention to my declaration of interests: I am chairman of ukactive, which works in the area of physical activity.

I am particularly interested in childhood obesity. We now have a generation of children in primary school who are more likely to die earlier than their parents because of obesity, so I am a huge supporter of the Daily Mile and structured play. Measuring children is incredibly important because we must know what we are dealing with. We do not allow our children to do trigonometry without doing basic maths but we try to teach them sport without teaching them basic physical literacy. So there is a long list of things that we could do in schools to improve physical activity and tackle obesity.

Sadly, we are not going to be able to turn back the clock to a time before fast food and coffee-shop pastries on every street corner, but moderation is part of the answer. Of course it is about what you eat, but it is also about the energy that you expend. I believe obesity and physical activity and exercise should be inextricably linked. It is a complex issue but we have to look at the whole self, the whole individual, to ensure that they are mentally and physically well. It is not just about the size of our waistlines; it is about the health of our hearts. A lack of physical activity causes up to 37,000 premature deaths in England alone. Physical inactivity is the fourth-greatest cause of disease and disability in the UK. Globally, it is linked to more than 5 million deaths per year—similar to the number of lives lost to smoking, and higher than the number caused by obesity. The key priority should be to tackle the obesity and inactivity crises together, in a way that recognises the complexity of the issue and takes a holistic approach to improving the nation's mental, physical and nutritional health.

I was delighted with the second childhood obesity strategy, which was recently published. However, what are the Government doing to adopt a comprehensive approach that promotes the nutritional and physical activity sectors working together to tackle obesity in the UK? Physical activity has a significant benefit for everyone. Not only does it have a major positive impact on weight management; it can also improve the health of those from the youngest to the oldest in society.

We need to look much more closely at what happens in the workplace. PricewaterhouseCoopers estimates that workplace absenteeism costs the UK around £29 billion per year. That, too, is linked to inactivity. I am pleased to see that progress is being made in this area. Earlier this year, the Government and ukactive published guidance for workplaces, encouraging them to prioritise the health of their employees and to take part in physical activity. But we need to do more. I know from personal experience that although I can walk a couple of miles around this building every day, we have to find different ways of integrating physical activity into our lives. It might mean going to the gym or getting off the bus a couple of stops earlier. It must be something that is filtered through the day, not something that is done just a couple of times a week. This is about educating people to think about how they can be more physically active and about what they consume.

The guidance is promising but, alone, it will not improve health or activity levels or reduce the prevalence of obesity among the people of the UK. We need a campaign to build on this guidance. There are proposals to expand the cycle-to-work scheme to include a much broader array of health-related purchases. This is important and could generate savings of around £240 million per year.

Let us think about the danger that we are putting young people in with obesity. I have a 16 year-old daughter. My aspiration for her has never been that, due to obesity or physical inactivity, her life will be shorter than mine. I urge the Government to look at this problem in a joined-up manner so that we can tackle it and help future generations of our young people.

7.42 pm

Lord Balfe (Con): My Lords, I thank first my noble friend Lord McColl for initiating this debate and, secondly, the noble Baroness, Lady Boycott, for her excellent maiden speech—clearly we have another person joining those interested in this subject. I declare my interests as the president of the British Dietetic Association, a TUC-registered trade union that looks after dieticians working in the health service. I can perhaps give my noble friend Lord Blencathra the answer to his question: how much red wine should we drink per day? I am informed by a doctor friend of mine that the figure is two units more than the doctor himself consumes and that, whichever doctor you ask, you will get the same answer.

I want to cover two issues in my brief allotted time. The first is the veracity of the numbers in the obesity debate. There is a great tendency today to exaggerate numbers, seemingly on the principle that the bigger the better. If noble Lords look at the House of Commons briefing on obesity, which has been circulated, 61.4% of all adults are obese or overweight. This may be true but it becomes a meaningless figure—many will say, "That's all of us then isn't it? We don't need to do anything about it". I have some evidence that a BMI of around 26 or 27, which is technically overweight, has been shown as the best BMI for a longer life; we need to look at the figures. As the noble Lord, Lord McColl, would agree, BMI is an inaccurate measure anyway; the waist circumference to height factor is much better. We need to concentrate our resources on

[Lord Balfe]
where the problem actually exists. Clearly the biggest problem concerns people with a class 3 BMI of over 40—those are the people who have real difficulty with weight problems. The second group are those with a class 2 BMI of 35 to 40. We tend to pepper-gun the problem, rather than dealing with it discretely.

I would like the Minister to go back to the department and look at the overall figures. Looking at the briefing—and this is confirmed in other briefings—we are asked to believe that obesity among children aged 10 to 11 is roughly 20%. On the exact same page of the briefing from the Library, we find that at 16 it is 11%. I do not believe the figure has dropped by 50% during those five years at school. It does not make sense. In Australia, the obesity level of 16 year-olds is 7%. The Minister needs to look at how these figures are put together.

My second point concerns the treatment of obesity. Clearly, current funding has been cut for local authorities. If we are to concentrate on the people who suffer from what I would call the top level of obesity, you need proper funding to do it. We have again—it is a bigger question—to look at how funding for health works. There is too much division between local authority, general practice and hospital practice; we need to look at joining them together.

I want also to talk about food and tax. The sugar tax is actually quite popular; I think any popular tax is a jolly good thing. I invite the Minister to initiate a few cross-party discussions on the extent to which sugar-laden goods and highly processed goods can be further taxed. If we can raise money for the NHS by taxing things—and being popular with it—I suggest that is a good thing.

Finally, I endorse what the noble Lord, Lord McColl, said about tooth decay. This is directly linked to sugar; it impacts particularly and very directly on five year-olds and is something we need to tackle. We cannot have a system in which the dental profession says 90% of decay is preventable, yet we do not have a strategy for it; I ask the Minister to look at a dental strategy.

Overall, the message I bring is that we need a good, well-targeted programme, particularly directed at gross obesity, rather than wringing our hands and saying, "Everybody's too fat, but there's nothing we can do about it". We need a targeted programme. Please, Minister, look at these statistics.

7.47 pm

Lord Kirkham (Con): My Lords, I congratulate the noble Baroness, Lady Boycott, on a smashing maiden speech. The Duchess of Windsor famously observed, "You can never be too rich or too thin" and I have often reflected on both parts of that proposition. If we accept the Dalai Lama's analysis that the purpose of life is to be happy, the jury is definitely out on wealth—I have met a number of billionaires who are utterly miserable. On weight, though, I have no doubt whatever there is a definite correlation between increased girth and reduced enjoyment of life. As evidence of this, I cannot think of ever having met anyone who actually wanted to be obese.

Other vices, from smoking to drug-taking and sex addiction, have their enthusiastic defenders and of course there are many who shamelessly revel in the delights of eating and drinking. But who will speak positively of the consequences? Who lauds the up side of obesity? I know of no one. Most severely overweight people want and try to lose weight, so what is the issue? The NHS website, in a perhaps slightly oversimplified way, captures succinctly what we all know:

> "Obesity is generally caused by eating too much and moving too little".

If that is truly the case, surely the answer—we have heard it from lots of people today—is simply: eat less and move more. Obesity is clearly preventable and reversible.

I will concentrate on the "eating less" element—that is, eating less and eating better—and on how the Government can help. The importance, or otherwise, of exercise for health and well-being has been well covered by other noble Lords. Thankfully, the Government are on the case and have made an excellent start with their strategy and aim to halve childhood obesity by 2030, but plans and targets are not enough—not in a life-or-death situation, and not if the doctor is reluctant to treat you or the airline to fly you and people snigger when you give it your best shot at running for the bus.

Implementation of an effective plan is key, but the use of words such as "debate", "consult", "encourage" and "voluntary" are not very encouraging. They will take us nowhere and certainly do not reflect the urgency of the need to act right now to contain, curb and reverse this frightening, pernicious epidemic, which I believe is threatening our society. I prefer words such as "regulation", "mandate", "legislate" and "controls". In that way we might just stop our food manufacturers and supermarkets selling food full of bad fats, sugar and salt, which are slowly killing us. This is a serious situation by any measure and it requires strong, determined and unambiguous action, not words. As the noble Lord, Lord Addington, said, this is a topic that we have talked to death in this Chamber.

We have already enjoyed past successes in changing anti-social and personally destructive habits. These include smoking and driving without a seatbelt or with a hand-held mobile phone. I believe that we just need to take more of the same action because it is proven. However, I suggest, without any wish to be humorous, that tackling obesity is the biggest challenge of them all, so let us institute, without undue delay, a powerful, emotive, heavy-weight, long-term and high-profile advertising and marketing campaign, certainly online and on TV. It would be self-funding, with the aim of educating, influencing, encouraging and supporting, and it would help to counter the prolific advertising of junk food, which it is to be hoped the Government will tightly regulate soon. Such a campaign should of course be judiciously combined with an essential strong and clear regulatory framework, sanctions and fiscal measures designed to encourage or discourage as appropriate.

By succeeding in reducing obesity, the savings to the NHS alone, as has been mentioned many times, would be mega, but the real benefits, which are hard to overstate, would be accrued through fitter and healthier members of our society enjoying a more fulfilled, productive and happy life. Therefore, let us make this debating Chamber an action Chamber.

7.52 pm

Baroness Walmsley (LD): My Lords, I thank the noble Lord, Lord McColl, for bringing us back to this important subject, and I welcome the noble Baroness, Lady Boycott, to your Lordships' House.

Travelling on the Tube yesterday in the middle of the afternoon, I sat opposite a gentleman who took up two seats. His stomach was protruding out of his shirt. He looked very uncomfortable, and he was eating a pasty. I thought, "Sir, this is not good for your health". It took me back to an occasion soon after I entered your Lordships' House when I sat down at the long table in the Home Room with a plate of salad. A former very personable Member of the House sat next to me, looked at both our plates and started to laugh. She said, "Oh look! The slim lady is eating salad and the fat lady is eating sausage and chips". I was too polite to say, "Well, yes, don't you think there's a connection?" Of course, the noble Lord, Lord McColl, is right. What matters most is what we eat and drink.

Many clinicians now feel that it would help to regard obesity as a disease. We would then be less judgmental and recognise that many people suffering from it have been conditioned since childhood to respond to sugary or carbohydrate-rich foods, with those foods then becoming a need. The gentleman on the train is probably one of them. They need help and services, not judgment, and those must include mental health services. For some, one of the services needed is bariatric surgery, with a multidisciplinary team to help them return to a healthy body weight. I talked recently to an eminent paediatric bariatric surgeon. He told me that the service he provides is not widely available and yet it can save the lives of his patients and reduce the eventual costs to the NHS. Therefore, I ask the Minister what plans are in place to make this service available wherever it is needed. Of course, it is a last resort for very serious cases, and I want to emphasise that the surgeon I spoke to spends a great deal of time working with public health services to prevent people becoming obese in the first place. Prevention, I believe, is the key.

I was interested in two items on the news this morning which chimed exactly with what I wanted to say today. First, there was new guidance from Public Health England's Scientific Advisory Committee on Nutrition about the number of calories that should be consumed by young babies. It was reported that many are consuming far too many calories and this is laying the foundation for obesity later in life. We were reminded that exclusive breast-feeding, at least for the first six months of life, lays the best foundation for health, not just because of the many antibodies and good micro-organisms passed on from mother to child but also because breast milk is perfectly balanced nutritionally and has just the right number of calories for healthy growth. Therefore, I call Public Health England in aid when I ask the Minister what is being done to encourage more mothers to breast-feed—we have a bad track record in this country—and to ensure that they can do so comfortably wherever they need to do it.

The second news item was about the Football Association saying that many days of play are prevented because of the state of the pitches. This is because of years of underfunding of local authorities, which cannot afford the necessary upkeep. As my noble friend Lord Addington told us, what we eat may be a major part of the obesity problem but keeping active is also vital. Incidentally, it is also important for mental health. A senior tutor at an Oxbridge college told me recently that, of all the students coming forward for counselling for mental health problems, not one took part in regular sport. She found that very significant and I am sure she is right.

However, my main concern is with young children. We have had the statistics from the Royal College of Paediatrics and Child Health, and I join its demand that there should be a 9 pm watershed ban on advertising on TV foods that are high in sugar, salt and fat. I am pleased that chapter 2 of the childhood obesity plan promises a consultation on this. I am quite sure that the evidence will show that the majority of TV watched by children is not children's programmes, which already have a ban, but family viewing between 6 pm and 9 pm. If your Lordships are looking for evidence that advertising these foods influences people's choices, they have only to look at how much the food companies spend on it. The noble Baroness, Lady Boycott, reminded us of that. They would not do that if it did not work. People are influenced by messages that tell them how delicious these foods are and how happy they will be if they eat them, so I hope the Minister will assure me that when the Government get this evidence in the consultation, they will act decisively.

7.57 pm

Baroness Thornton (Lab): My Lords, the noble Lord, Lord McColl, is nothing if not persistent in his determination to challenge obesity. Essentially, his message to eat less is the one that he has expanded on on many occasions. I agree with him that we definitely need a national approach.

I welcome the noble Baroness, Lady Boycott, to your Lordships' House and I congratulate her on her maiden speech. She brings great experience, not least of the media, and indeed she was a hero of mine when she edited *Spare Rib*. I understood slightly less well her editorship of the *Daily Express*, but I think that that experience will bring great weight to our debates.

There have been some excellent contributions, as ever, and pertinent questions to the Minister about the Government's progress on their obesity strategies, particularly for childhood obesity. We have also received many excellent briefings. I particularly enjoyed the contributions of my noble friend Lord Brooke—I congratulate him on his work with the BBC—and my noble friend Lady Massey, who called for an action plan. It is fair to say that we have not cracked this one yet. I think that we are slow in having any impact in our attempts to halt the growth of obesity rates and the related, and very expensive, health and social problems that follow.

There is an even greater and more serious societal problem here which will not necessarily be resolved by the exhortation from the noble Lord, Lord McColl, to eat less, and which might be only partly resolved by the Government's obesity strategy. We have both an obesity and an eating disorder crisis, and in my view they are different sides of the same coin. Obsessive eating and self-hate, compulsive eating and body

[Baroness Thornton]
dysmorphia are handcuffs that women, but not only women these days, place on themselves and assume they have to escape from. There are assumptions that people are weak-minded, greedy and undisciplined. When Susie Orbach wrote *Fat is a Feminist Issue* 40 years ago, she said that there were specific realities to the conditions of both fat and thin that we were all chasing and escaping through our eating. She was right then and she is right now. If the Minister and the noble Lord, Lord McColl, have not read *FIFI*, I recommend that they do so when it is reissued.

We are now 40 years on and the pressures to be thin and to have no hair on your body except on your head, or this year to have very thick eyebrows or next year none at all, are not exclusive to women. Huge damage is caused by the pressures put on our girls and boys and our men and women by social media, the media and advertising campaigns, from stereotyping of all types and the misogyny illustrated by the #MeToo campaign, and the production and advertising of high fat, salt or sugar foods. Parents are constantly fighting a battle to either afford or persuade their children into a healthy lifestyle, and sometimes both. Who would have anticipated the explosion in non-food foods that contain chemicals and sugars that do not get metabolised by the body? Who would have linked obesity to class? There is no doubt that obesity is linked to social class, being more common in the routine and semi-routine occupational groups than managerial and professional groups.

We have what you might call a perfect storm. No doubt big action is definitely required, but that has to be accompanied by a greater understanding of the nature of the problem and the challenge that we face. Can the Minister request that his right honourable friend the new Secretary of State convene a summit that seriously addresses the issue of body hatred and body image, and the factors that create it and have led to this explosion in obesity and eating disorders? I also ask that his right honourable friend address the solutions to these huge societal challenges, which cannot just be left to public health and educational policy agendas alone. It is time to look beyond the strategies that the Government are pursuing at the moment.

8.02 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord O'Shaughnessy) (Con): My Lords, first, I congratulate my noble friend Lord McColl on calling this debate and showing his usual enthusiasm and tenacity in doing so. I have a feeling that, given his injunction to us is to eat less, the timing of this debate, which means speaking between 6.49 pm and 8.02 pm, is perfect as we have all missed dinner. I also congratulate the noble Baroness, Lady Boycott, on a very passionate and persuasive speech; she will obviously bring many strengths to this House. I note that in 1984 she wrote a book called *The Fastest Diet*. I think she might have been one of the first people to promote the idea of fasting. I skipped breakfast this morning in her honour as I am on currently going through the fad of the 16:8 diet. I do not know whether it is helping; I generally just feel a bit tired, but that could be something else.

This is a topic we talk about a lot, but I think we are making progress and getting good ideas from it. I think we are making progress in government policy, too, and I will talk more about that. We know the level of the problem: a quarter of children aged five are overweight or obese, rising to a third by the age of 11, and six out of ten adults are overweight or obese. I am, however, mindful of my noble friend Lord Balfe's point about accuracy. Strictly speaking, of the adults who are overweight or obese, a quarter are obese so most are overweight, and there are question marks about that. Nevertheless, that is a lot of people—a significant part of the population.

As many noble Lords pointed out, including my noble friend Lady Neville-Rolfe, there is not only a poverty dimension but an age dimension, so there are all sorts of social justice issues at work here. There are also huge economic costs: £6 billion a year to the NHS and about £27 billion to the economy at large, as the noble Baroness, Lady Massey, pointed out, endorsed by my noble friend Lady Neville-Rolfe. There are health costs linked to cancer, cardiovascular disease and diabetes—I thought the Vietnam example was terrifying. Though, as my noble friend Lady Jenkin pointed out, there is cause for hope about type 2 diabetes being a reversible condition, and I will return to that. There are other costs, too, including worklessness, oral health and the emotional and mental health costs, as the noble Baroness, Lady Walmsley, and my noble friend Lord Kirkham pointed out. I think it constitutes a crisis, and as the noble Baroness, Lady Walmsley, pointed out, it should be thought of as a disease, if not an epidemic, because it appears to be catching. It appears that if your peers are overweight, you are more likely to be overweight—that is a catching thing. Whether it is a meme rather than a disease, it is something that can be spread.

As has been said today, it is not simply as easy as saying you should eat less and exercise more, especially in what my noble friend Lady Jenkin evocatively called an obesogenic environment. It is a phrase I had not heard before, but I thought it was very evocative. Ultimately, we need to help people build up good habits of personal responsibility.

Lots of noble Lords talked about the role of schools, and I will return to that, but it is notable that Ofsted has said today that we cannot lump all this on to schools and every part of society needs to take responsibility. I could not agree more. As the noble Baroness, Lady Massey, pointed out, families and parents need to be equipped to give good advice and good parenting. As the noble Baroness, Lady Grey-Thompson, and my noble friend Lady Neville-Rolfe pointed out, corporates need to play a role in this, as of course do the Government. We all agree with that. We need to be guided by evidence and research, although, as my noble friend Lord Blencathra pointed out, sometimes the evidence and research, and all the advice that is based on it, can change.

We are trying to do something about that. We have made a significant investment in a policy research unit to help make sure there is more consistent advice. I think there is generally a better understanding of the causes of obesity now.

My noble friend Lord McColl talked about the fat versus sugar debate. That still rages on and views still differ. Noble Lords also talked about calories versus exercise or inputs versus outputs, as I always think about it. The noble Lord, Lord McColl was firmly on one side of that debate, with the noble Lord, Lord Addington, firmly on the other, and other noble Lords, such as my noble friends Lord Blencathra, Lady Neville-Rolfe and Lord Kirkham and the noble Baroness, Lady Grey-Thompson, somewhere in between. I think of it in physics terms, as the law of conservation of energy: what comes in either goes out or stays. It is simply the case that in an isolated system, energy is conserved.

We need to look at this holistically, and that is what the Government have been trying to do. Noble Lords will know about what we call chapter one of the obesity strategy. The centrepiece of that is the sugar levy, which my noble friend Lord Balfe called a popular tax. There you go—they do exist. That has had a really big impact for everybody, children and adults, with 45 million kilograms of sugar being taken out of circulation as a consequence. As well as this, there have been big investments in school sports, breakfast clubs and food tech being in the national curriculum, which the noble Baroness, Lady Grey-Thompson, and my noble friend Lady Neville-Rolfe asked about.

We also know that chapter 1 did not have the full effect that we wanted, especially on reformulation, which is the point that my noble friend Lord Blencathra was making about the kinds of food everybody eats, not just one category or the other. This is what led to chapter 2, announced on 25 June. I was glad to see noble Lords welcoming that. There were really big moves forward, including a watershed for advertising unhealthy food, which the noble Baronesses, Lady Massey and Lady Walmsley, asked about. Also, there was a ban on price promotions of high-salt and high-sugar foods—trying to take the fun out of processed food, as the noble Baroness, Lady Boycott, said, which is a really good way to think about it. We ended the sale of energy drinks to children, which was one of the things that really worries me. If you look at the impact on school life, teachers will tell you that is a really big problem. It includes consistent calorie labelling outside the home, although, as my noble friend Lord Blencathra pointed out, it might not always help to know how many calories are in that Starbucks chocolate muffin. But it does help to provide a nudge. We are also introducing stronger government standards for food and catering services, something raised by my noble friend Lady Neville-Rolfe. And, of course, there is the Daily Mile, which has proved very popular—so popular that I wonder whether we, as an institution, should do it before Prayers. We might be able to show genuine leadership on that.

The point that the noble Lord, Lord Addington, and the noble Baroness, Lady Grey-Thompson, made is critical. I hope that noble Lords will see in chapter 2 that this is a cross-government effort. These are not just health things but encompass different departments, although I appreciate that we can always do more.

The noble Lord, Lord Brooke, asked about the consultations; I do not have a date by which they will be instigated, but they will be launched by the end of 2018. I absolutely salute the work he is doing to try to drive that campaign with national broadcasters, and I have brought that to the attention of my colleagues in the department.

The noble Baroness, Lady Walmsley, asked about prevention. It is interesting that our new Secretary of State has an interest in that whole agenda, and I think we will see more of that from him. Given the department he has run, he also understands the media and how you influence people's behaviour when you do not have lots of money to spend—which the DCMS rarely has. We therefore also now have quite an interesting ally in the new Secretary of State.

We are trying to do other things. The noble Baroness, Lady Grey-Thompson, knows better than all of us in this Chamber about the importance of exercise. She has done it—she is a Paralympic champion herself. We are encouraging walking to school—there is a good joint project with Living Streets—more money is going into the Bikeability scheme, and there is the Sport England strategy and the CMO's daily physical activity deadline. A lot is going on, but I agree that perhaps there is a need to wrap all this together, not just to talk about the food and health bits of it.

My noble friends Lord McColl, Lord Blencathra and Lord Kirkham emphasised different eating habits. There is a successful public health campaign called Change4Life, which has some quantifiable impacts on the way people eat food—the quantity as well as the quality—and there is more emphasis on preparing food from scratch rather than eating processed food. I encourage noble Lords to look at that, because it has been quite effective, and it uses public campaigns as well as other ways of promoting good eating habits.

My noble friend Lady Jenkin talked about the potential of fasting. The ancients understood this but we now have an evidence base, as she described, which means that we should probably put more emphasis on fasting as a technique, not just for losing weight but for better health as a whole. The department as a whole will need to take that forward.

On tackling other causes of obesity, my noble friend Lord McColl talked about stress and abuse, which was an incisive point. That goes hand in hand with what the noble Baroness, Lady Massey, said about building self-esteem, which in a way sometimes corrects the consequences of stress and abuse. She will know very well that some important steps forward have been taken in schools in this country to try to increase well-being and build character—I tried to do that in the schools I set up—which will have benefits for both mental and physical health.

Finally, on a few other issues which noble Lords raised, my noble friend Lord Balfe and the noble Lord, Lord Brooke, asked about weighing people. There is an issue about weighing teenagers forcibly, but clearly we need ways to sample age cohorts. I will investigate that further and see exactly how we do it. My noble friend Lady Neville-Rolfe talked about sleep, which we have touched on before. I am increasingly of the view that there may be a need for some government work on promoting good sleep—not that I am the Public Health Minister.

[LORD O'SHAUGHNESSY]

The noble Baronesses, Lady Walmsley and Lady Massey, asked about breast-feeding. We are absolutely promoting it and we recognise the advice of the Scientific Advisory Committee on Nutrition. It is also a part of the maternal health strategy. The noble Baroness, Lady Walmsley, mentioned bariatric surgery. There are NICE guidelines for that, so if people meet certain criteria it should be available to them.

Once again, we have had an interesting and wide-ranging debate, although obviously there are some areas of disagreement among us. I will end on the point the noble Baroness, Lady Thornton, made. I will certainly speak to the Secretary of State about it, and I think he is open-minded on this. You can look at the attitude he has taken to the role of social media, for example, which goes beyond what most pro-business Governments would be prepared to do. I think he will be sympathetic to this. In the end, this is about helping people to develop a healthy relationship with food. It brings to mind a book I read a few years ago, which is not about food at all, called *The Case for Working with Your Hands*, by Matthew Crawford. He talked about the alienation that comes from working in an office environment, such as in bureaucracies, because you are unable to feel what you have produced—you cannot touch it. He ends up, having done a philosophy degree, becoming a motorcycle mechanic—so it is a bit like *Zen and the Art of Motorcycle Maintenance*. It is about something physical. There is something about growing food or foraging for it—it is about going out to experience it, and knowing what it feels like. If we want to develop those good habits and a sense of personal responsibility, we have to get people involved—children, but adults as well—in the experience of growing food. That is not easy to do in cities, but we could discover that and do more of it.

Finally, these debates are incredibly helpful, because this is an iterative process. We have had chapter 1 and chapter 2, and I dearly hope that we will have chapter 3. I am sure that many of the ideas that noble Lords have suggested tonight will feature in it. Long may it continue, and I look forward to the next debate on obesity, which I am sure will take place before long. Once again I thank my noble friend Lord McColl for instigating this debate, and I congratulate the noble Baroness, Lady Boycott, on a superb speech.

Domestic Gas and Electricity (Tariff Cap) Bill

Commons Amendment

8.15 pm

Motion A

Moved by ***Lord Henley***

That this House do not insist on its Amendment 1 and do agree with the Commons in their Amendment 1A in lieu.

1A: After Clause 8, insert the following new Clause—

"Protection for domestic customers after termination of tariff cap conditions

(1) Before the tariff cap conditions have ceased to have effect as provided by section 8, and afterwards at such intervals as the Authority considers appropriate, the Authority must carry out a review into—

(a) the pricing practices of holders of supply licences for the supply of gas and electricity under domestic supply contracts, and

(b) whether there are categories of domestic customers paying, or who may in the future pay, standard variable and default rates for whom protection against excessive charges should be provided.

(2) Such a review must, among other things, consider—

(a) whether there are domestic customers who the Authority considers will suffer an excessive tariff differential where on the termination of fixed rates the customers move to standard variable or default rates, and

(b) whether customers who appear to the Authority to be vulnerable by reason of their financial or other circumstances are in need of protection.

(3) If the review concludes that protection should be provided, the Authority must take such steps as it considers appropriate by the exercise of its functions under the Gas Act 1986 and the Electricity Act 1989.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, I spoke against Amendment 1 on Report, so I will not repeat my detailed arguments. However, I remind the House that the amendment would insert provisions for an indefinite relative price cap. The Government cannot accept a permanent price control being put in place. Members in another place have returned the Bill, having removed this House's amendment, but with an amendment in lieu, which was agreed without a Division. I will now speak to that amendment in lieu, and I hope that the House will agree with me that it is a sound and sensible amendment.

Amendment 1A will ensure that Ofgem must conduct a review before the removal of the price cap into the pricing practices of suppliers and where there are categories of consumers who are currently paying, or may in future pay, excessive charges for SVT and default tariffs. In reviewing the practices of suppliers, and where the consumers are paying excessive charges, the regulator must consider whether there are consumers who will be excessively negatively affected when they move from fixed rates to SVTs and default rates, and whether vulnerable consumers require protection. If the regulator's review concludes that protections are indeed required, they must take necessary steps to provide those protections, using their existing powers under the Gas Act 1986 and the Electricity Act 1989. The amendment rightly provides the regulator with the discretion to consider the form that any protections may take so that Parliament does not prescribe a solution today for what may well be a distinctly different concern in the future. The Government view Amendment 1A as striking the most appropriate response to the concerns that were articulated by noble Lords in this House during the Bill's preceding stages.

I thank noble Lords across all Benches for their interest in the Bill and for their constructive engagement in its development, both in the Chamber and outside. I believe that the Bill is now in the best shape it could be, which is due in no small part to the work put in by this House. I hope that we may swiftly agree with the

amendment made in another place so that the Bill may proceed and the price cap can be in place by the end of the year. I beg to move.

Lord Stoneham of Droxford (LD): My Lords, I am speaking on behalf of our Front Bench spokeswoman, my noble friend Lady Featherstone, who unfortunately cannot be here tonight.

We too do not believe that the retail energy market currently operates to the advantage of customers. This Bill is a very blunt instrument, and one that is intentionally temporary—a sticking plaster while the Government desperately search out for a long-term solution. In coalition, we were proud to stimulate switching to a level way beyond what had happened before. But while successful, it is not sufficient. We still believe that a part of the solution lies in a relative price cap mechanism. That is why we supported the original Lords amendment, although we would have preferred it to have been stronger.

The fundamental issue is one of the "tease and squeeze" sales tactics used by energy suppliers, which would be far better tackled by a relative cap. However, we acknowledge the Government's Commons amendment in lieu has recognised some of these concerns. We also recognise that, however imperfect this Bill might be, it is important to get it on to the statute book in good time before the winter weather and the escalation of consumer energy consumption. It is for these reasons that these Benches do not intend to call a Division this evening.

Lord Grantchester (Lab): My Lords, I am grateful to the Minister and I very much welcome this amendment in lieu of the amendment passed in your Lordships' House on Report.

This is necessarily a Labour-inspired amendment. It addresses our concerns over the domestic energy market at the termination of tariff-capped conditions. On Report, the House supported the contention that there should be ongoing monitoring through the implementation of a relative tariff differential. The incoming chairman of Ofgem, Martin Cave, whose appointment is very much welcomed, has expressed scepticism before the BEIS Select Committee that a fully competitive market will have returned by the end of 2023, when tariff-capped conditions will ultimately end. He has expressed doubt that vulnerable customers will be able to access competitive deals within this timeframe.

Furthermore, the amendment on Report was explicitly designed to deal with the exploitative behaviour of suppliers, known as "tease and squeeze", whereby customers are moved over time from a competitive deal on to a much higher rate. This behaviour operates now and could continue even if the market be deemed later to be operating under competitive conditions. There is the twin effect that vulnerable customers could continue to be at risk post 2023 and that this particular behaviour of "tease and squeeze" across the market will not be dealt with.

I am very grateful to the noble Lord the Minister, and to the Minister for Energy and Clean Growth in the other place, Claire Perry, for considering this most carefully and engaging with our team so constructively. I thank them for considering that Ofgem must continue to monitor the market and to take appropriate action, should pricing practices of suppliers continue to put customers under disadvantage through excessive charges. Too often in the past, Ofgem has not used the powers it has in order to combat anti-competitive behaviour and excessive pricing.

The temporary nature of the Bill is to correct a clear existing fault in the present operation of the market. But the action to be taken through this Bill must take account of all anti-competitive behaviour, including "tease and squeeze", and once concluded under the terms of the Bill on or before 2023, to continue to make sure all customers will be protected, including special measures for vulnerable customers.

Most people admit that they find the monitoring and switching of tariffs cumbersome and confusing. The debate over energy market intervention has run for several years, and certainly for too long. I am very pleased that, last year, the Conservative Government finally conceded that action is urgently needed to tackle unfair practices and excessive charges. Customers have been paying up to £300 per annum more than they might have done under a more competitive market.

Both the Conservative Government and the Labour Opposition are committed to have this legislation on the statute book to bring real benefits to consumers this winter. Ofgem must fulfil its functions and be seen to take appropriate action. The industry must realise that unfair behaviour will not be tolerated. Consumers will be protected.

I would like to pay tribute at this stage to all the staff who have worked so hard at both ends of Parliament, and especially the Bill team at the department. I would like to thank my Front Bench colleagues, my noble friends Lord Stevenson of Balmacara and Lord Lennie, for their support and attention, especially at the early stages of the Bill when I was absent due to ill-health. I am very grateful to my noble friend Lady Crawley, who spoke so passionately about the need to tackle the "tease and squeeze" tactics so prevalent in the energy market, and on the Liberal Democrat Benches to the noble Baroness, Lady Featherstone, and the noble Lord, Lord Teverson, for championing vulnerable customers, where we are very much aligned. I certainly do not want to forget or underplay the crucial legislative support of our Opposition adviser, Rhian Jones.

I very much support the amendment and the Bill and look forward to the benefits it will bring.

Lord Henley: My Lords, I thank the noble Lord, Lord Grantchester, for his intervention, in which he welcomed the amendment and acknowledged that a great deal of work has been done by me, my right honourable friend Claire Perry, the noble Lord and his colleagues, and others, both in the Chamber and outside it. I think we have reached a satisfactory conclusion that provides Ofgem—I am grateful for his welcome of the new chairman of Ofgem—with the appropriate powers to deal with these matters. I thank him also for acknowledging the importance of speed in this matter. That is why, as we said right back at Second Reading, it is important that we get the Bill on the statute book

[LORD HENLEY]
before we rise for the summer—the Chief Whip is sitting next to me, and I know we still have a few days to go. I hope that the noble Lord will not be ill during any further Bills and will not have to leave certain bits to his colleagues.

I welcome the intervention from the noble Lord, Lord Stoneham, in place of his friend the noble Baroness, Lady Featherstone. I am grateful for his confirmation that Liberal party policy is in favour of a relative price cap. I was rather confused at earlier stages as to what its policy was, but it is now on the record. I do not think it is necessarily the right way forward, but it is Liberal party policy and I am grateful for that explanation.

That leaves me with only one final duty: I ask the House to support the Motion.

Motion agreed.

House adjourned at 8.27 pm.

Grand Committee

Wednesday 18 July 2018

3.46 pm

The Deputy Chairman of Committees (Lord Haskel) (Lab): I apologise for my late arrival—I was stuck in the Chamber and unable to get out. If there is a Division in the House, the Committee will adjourn for 10 minutes.

European Union (Definition of Treaties) (Strategic Partnership Agreement) (Canada) Order 2018

European Union (Definition of Treaties) (Framework Agreement) (Australia) Order 2018

European Union (Definition of Treaties) (Partnership Agreement on Relations and Cooperation) (New Zealand) Order 2018

Considered in Grand Committee

3.46 pm

Moved by ***Baroness Goldie***

That the Grand Committee do consider the European Union (Definition of Treaties) (Strategic Partnership Agreement) (Canada) Order 2018, the European Union (Definition of Treaties) (Framework Agreement) (Australia) Order 2018 and the European Union (Definition of Treaties) (Partnership Agreement on Relations and Cooperation) (New Zealand) Order 2018.

Baroness Goldie (Con): My Lords, the international agreements under consideration today have all been negotiated between the European Union and its member states on the one hand, and third countries on the other. These third countries are, of course, some of our closest partners. Each agreement provides an enhanced framework for regular political dialogue at ministerial, official and expert level.

The EU-Canada Strategic Partnership Agreement will enhance political co-operation on foreign and security policy. The agreement has been negotiated alongside the EU-Canada Comprehensive Economic and Trade Agreement, the order for which was debated in the House on 25 and 26 June 2018. The EU-Australia Framework Agreement and the EU-New Zealand Partnership Agreement on Relations and Cooperation will consolidate and strengthen co-operation in a range of sectors of mutual interest, and mark the first step towards EU-Australia and EU-New Zealand free trade agreements, for which negotiations have recently been launched.

The agreements are an important tool for promoting British and European values and standards. They have been under negotiation for a number of years, so successive UK Governments have all been involved in shaping the EU's approach to negotiations. The EU has numerous similar agreements with other third countries around the world, all of which have passed through this ratification process in the House. So, although this is an unusual time in our relations with the EU, this is a case of business as usual—in the interests of both the UK and the EU.

Approval of these draft orders is a necessary step towards the United Kingdom's ratification of these agreements, through designating them as EU treaties under Section 1(3) of the European Communities Act 1972.

The third countries concerned have all chosen to pursue closer ties with the European Union and its member states. The Government welcome this and we believe that by building on our shared western values—and, I must say, our shared Commonwealth values—with Canada, Australia and New Zealand, these agreements are firmly in our national interest.

As we head towards our departure from the EU, I am conscious that noble Lords may have questions about its impact on the status of these agreements and our ratification of them. I will briefly clarify the process for the benefit of your Lordships. As noble Lords will be aware, until we leave the EU on 29 March next year, the UK remains a full member state and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

I am advised that it is unlikely that the agreements before us today will enter into force before the UK has left the EU. After our departure in March 2019, we will no longer be able to ratify EU third-country agreements. However, the draft withdrawal agreement includes provision that during the implementation period the UK will be treated as if it were an EU member state for the purposes of international agreements, with the effect that the UK will be bound by agreements which enter into force during the implementation period. If any of these agreements were to enter into force during the implementation period following UK ratification, the UK would not need to adopt further domestic legislation to ensure that it can apply and be bound by the agreement, in compliance with the terms of the withdrawal agreement.

Nevertheless, the impact of our departure from the EU is a peripheral issue for us today. I urge noble Lords to focus on why implementation of these agreements is firmly in our national interest. First, these agreements formalise hugely positive relationships on which the EU is embarking with third countries around the world. They seek to strengthen democratic values, the rule of law and environmental protections, and make trade and investment more predictable for businesses, including our own. It is in the UK's interests as a leading advocate of democratic values and a rules-based international system to support the passage of these agreements.

Secondly, it is important—including for our own departure negotiations—to deliver on our Prime Minister's commitment to continue to be a supportive EU member state until we leave. Ensuring that the UK does not block, delay or disrupt EU business as usual is crucial to that commitment.

[Baroness Goldie]

Thirdly, as an EU member state the UK has been a key driver in all these agreements. At a time when we are strengthening ties with countries around the world, it would be wholly counterproductive to be seen in any way to be hindering the aspirations of those countries to have closer relations with the European Union. The timing of this discussion is particularly welcome in the case of Australia, whose Foreign and Defence Ministers will be our guests this week for the annual Australia-UK ministerial summit.

I welcome this opportunity to hear the views of noble Lords on these draft orders. I beg to move.

Baroness Ludford (LD): My Lords, I thank the Minister for explaining what these agreements are and the context for them. I was wondering quite how the Canada one fitted with CETA, the economic and trade agreement, but she has explained that it is complementary. She has also explained, which is useful, that this step of classifying these treaties as defined under Section 1(3) of the European Communities Act is a necessary step towards UK ratification. Perhaps she can give us an indication of what the time lag is going to be between us approving these SIs and UK ratification. I confess that I am not clear what more has to be done for the agreements to be ratified.

On behalf of my group, I have no hesitation in welcoming these agreements, which are a great success for the European Union—including, as the noble Baroness said, the fact that the UK has been a great driver of them. No doubt I am being predictable, but that shows what value the EU adds to the UK in the world and the big role that the UK can play within the EU in its international relations. It is a win-win, or rather a triple win, for the UK, the EU and our international partners that we should be in the European Union helping to forge these valuable arrangements. It is sensible that we should have talks with Canada about human rights and democracy, peace and security, and sustainable development, along with justice, freedoms and security. I am sure that the other agreements are similar. The agreement with Australia includes discussing problems around the proliferation of weapons of mass destruction, the illicit trade in small arms and light weapons and taking action against serious crime and terrorism. These are extremely valuable flanking measures or, in the case of Australia and New Zealand, preparatory measures for the free trade agreements on which the EU has launched negotiations.

The EU has just signed a very important agreement with Japan, and no doubt the UK contributed strongly to that achievement. As I say, I am not reluctant to point out that not only are these agreements welcome, but the value to the UK of being a part of the EU process with these partner countries in the developed world is a very important dimension of our EU membership.

Can the Minister say what effect any of these agreements will have on the matters covered in the White Paper concerning the continuation of international arrangements? Am I right in assuming that these agreements, because they are not economic and trade agreements, are not relevant to the aspiration set out in the White Paper to continue to take advantage of rules of origin provisions in free trade agreements? It is all about diagonal cumulation, for which I need to put a wet towel on my head. I assume that these agreements do have relevance to this area of the UK's aspirations as regards post-Brexit arrangements because they are about political dialogue, human rights and so on.

Perhaps I may ask what is possibly an uneducated question. I have lost sight of the terminology used in the EU, but the Canadian one is a strategic partnership agreement, the Australian one is a framework agreement and the one for New Zealand is a partnership agreement without the strategic element. Does anything account for the difference in terminology? I think that the content is somewhat different in each agreement, although those for Australia and New Zealand appear to have similar coverage. According to the summary, the Canadian one is slightly different. Why is the Canadian agreement strategic while the one for New Zealand is not? Perhaps the noble Baroness will explain that to us.

To sum up, however, these are very valuable and important agreements to go alongside an economic and trade relationship. It is a pity that the Government want to leave the EU and the benefits of these agreements, which would be difficult to replicate—at least without going through a new process. Finally, will the Minister say whether these agreements will fall under the rubric of those that the UK Government will seek to roll over during the transition period—and even beyond—and to continue to take advantage of even after next March?

4 pm

Viscount Waverley (CB): My Lords, my remarks have been very hastily put together because I had not intended to speak to this group of ratification processes, although I will speak to the others. I do so because of the relevance and importance of this plank of the EU-UK negotiations, in so far as it impacts security. One need look no further than the multilateral agreement for joint co-operation in signals intelligence between the UK, Canada, Australia and New Zealand, whose importance cannot be overstated. Recently the lid has somewhat come off the importance and understanding of this association. The UK, and by extension the EU, can be beneficiaries of the Five Eyes in matters of security.

Baroness Ludford: I have one other point. Paragraph 7(4) of the Explanatory Memorandum refers to how the Government notified the Commons of their decision to opt in to Article 18(2) of the Canada agreement, which relates to judicial co-operation in civil and commercial matters. In the Government's view, this falls within Title V of Part III of the TFEU, and they claim that the UK has an option to choose whether or not to participate.

If memory serves, there is an area of dispute between the UK Government and the Commission about whether or not the JHA opt-in applies in international instruments. Has the European Commission accepted that the UK can choose whether or not to participate? I am not up to date with where that disagreement got to. I seem to remember that the view in Brussels was that, as this was an international agreement, it was not covered by the opt-in arrangements for justice and home affairs, which are about internal EU arrangements. Has that argument been resolved, and has the European

Commission, and perhaps the Council, accepted that the UK can choose whether or not to participate—or is their line that you lump it or leave it: you do not have an option on that aspect of the Canada Strategic Partnership Agreement?

Lord Collins of Highbury (Lab): My Lords, I thank the Minister for introducing these orders, which we support and welcome. One advantage of having this House debate these issues after the House of Commons is that I have had the opportunity to read the response of the Minister, Sir Alan Duncan, in *Hansard*. I will, therefore, raise questions that he refused to answer—because the Commons have much stricter rules than the Lords. They have a chair conducting these matters, who can rule things out.

These agreements cover a broad range of issues, including security and foreign affairs. Sir Alan Duncan said in the other place that that is nothing to do with these statutory instruments, but what assessment are the Government making of the effect these agreements might have on any future or existing bilateral relationships that we have? If, after Brexit, we have relationships with European countries, these important, long-term allies of this country—Canada, Australia and New Zealand—will have these agreements. I am keen to understand, especially since the Prime Minister's Munich statement, how the Government see these future relationships, bearing in mind that there are international obligations under these treaties that might impact on any bilateral relationships we will have. I am taking the liberty of asking that question so we can better understand the Government's approach.

My other question relates to one that has already been asked. I am not certain why these agreements have a different status. Why is it a "strategic partnership" with Canada, a "partnership agreement" for relations and co-operation with New Zealand and a "framework agreement" with Australia? Perhaps the noble Baroness can explain that in better detail and the stages to it.

Sir Alan Duncan said in the other place that these agreements will likely not apply until we have left the European Union, but stressed that it was important that we pass these regardless as part of our commitment to be a supportive EU member state. Obviously, we have obligations right up to the date that we might leave. As part of that commitment, I hope the Minister can tell us what our current role is, as part of the EU, in the EU's preparations for the implementation of these agreements. As she said, we have been a key player in ensuring that they are negotiated and in place. The fact that we have declared that we are leaving does not mean that our obligations to push these matters forward stop. I hope the Minister can respond to that comment.

Another thing that the noble Baroness, Lady Ludford, referred to is the opportunity of the transition period. Sir Alan mentioned that we would have left before these come in, but they might come in during the transitional period. Will there be no opportunity simply to roll over these agreements? They might be a precursor to trade, but one thing people clearly will be looking at is the fact that Australia-EU bilateral trade is worth approximately £40 billion, compared with the £13 billion of UK-Australia bilateral trade. It is important to understand where Australia's priorities will be post Brexit. How do we address that in these agreements?

I had a number of other specific questions, but they have been partly answered already in the other place. I will leave it at that for now.

Baroness Goldie: I was anticipating a volley of keen interest. I am very grateful to noble Lords who have contributed to the discussion and, indeed, for the welcome that the noble Baroness, Lady Ludford, and the noble Lord, Lord Collins, have extended to these important orders. A number of questions have arisen that I shall try to deal with.

I will start with the technical question asked by the noble Baroness, Lady Ludford—and it was a very technical question about the detailed issue of the opt-in. We will endeavour to write to the noble Baroness on that, because there is not an immediate and extensive answer available to give her. I hope that she will forgive me if I deal with that in correspondence.

The noble Baroness also raised the issue of process. These SIs were considered and approved in the House of Commons just this morning, as it happens. Following approval in this House, the SIs will be considered by the Privy Council before ratification is concluded, which is most likely to be in the autumn of this year. The noble Baroness also raised a question, as did the noble Lord, Lord Collins, about the effect of these agreements; for example, on rules of origin, currently under discussion in the trade discussions. There is no connection between these agreements and rules of origin in the trade discussions. These issues will arise in discussion of the related trade agreements whenever they are negotiated and formulated.

Both the noble Baroness and the noble Lord raised the matter of the terminology being used. I understand that there is no significance in the different names for the agreements; the names were negotiated and agreed in discussion with the different partners, and they were apparently content with that nomenclature. I hope that that provides an answer.

The noble Baroness and the noble Lord raised the important issue of how all this connects with arrangements after we have left the EU. As we leave the EU, we are determined to provide as much certainty to businesses and individuals as we can. These agreements will lay the foundations of our future relationships with international partners across the world. In parallel, we are engaging with partner countries to put in place arrangements that will come into force following the implementation period, with the aim of ensuring continuity of effect of the existing agreements.

The noble Lord raised issues about dialogue with Australia. We have substantial bilateral dialogues with each of the countries covered by the orders—Australia, New Zealand and Canada. I referred to the Australian Ministers' visit to the UK this week, which is an example of that dialogue. The Prime Minister established a number of sectoral dialogues with Canada when she visited that country last year. As has been mentioned, we co-operate very closely with them; for example, in the Five Eyes format. That co-operation will continue

[Baroness Goldie]
after we leave the EU, and these agreements provide for the EU to formalise dialogues with the partner countries.

The agreements are not yet ratified by all member states, so as yet they are not being implemented. Ordinarily, as a member state, we would be involved in preparing the EU side's positions—and we will be a member state up until we leave. I hope that that has covered the points raised by the noble Baroness and the noble Lord. I thank them both for their helpful contributions.

As I outlined in my opening speech, these agreements will support our values and objectives long after we have left the European Union—it is important to emphasise this—and by ratifying them we are demonstrating our good will as a supportive partner of the European Union and those countries that seek to expand their relationships with the EU. The agreements are fully consistent with our prospects outside the European Union and we are enhancing our co-operation with partners across the Commonwealth as we leave the EU, in line with our ambitious vision for a global Britain.

I was very interested in the contribution of the noble Viscount, Lord Waverley, but I did not pick up on any specific questions.

Viscount Waverley: It was more for the record.

Baroness Goldie: I am very glad to be reassured that I am not suffering from amnesia. I did not detect any specific question to respond to but I enjoyed his contribution.

Viscount Waverley: Before the Minister sits down, I want to make a point of order. As I understood it, the Privy Council will look at this after Parliament has determined whether or not to ratify it. The Minister may not immediately know the answer to this, but does that mean that Privy Council members can overrule the will of Parliament?

Baroness Goldie: I suppose that may be possible, technically, but it is virtually unheard of, constitutionally. In terms of manifestly technical procedures, such as those we have dealt with today, that would be almost unimaginable, frankly. I beg to move.

Motions agreed.

European Union (Definition of Treaties) (Political Dialogue and Cooperation Agreement) (Cuba) Order 2018

European Union (Definition of Treaties) (Association Agreement) (Central America) Order 2018

Considered in Grand Committee

4.16 pm

Moved by ***Baroness Goldie***

That the Grand Committee do consider the European Union (Definition of Treaties) (Political Dialogue and Cooperation Agreement) (Cuba) Order 2018, and the European Union (Definition of Treaties) (Association Agreement) (Central America) Order 2018

Baroness Goldie (Con): My Lords, very much in line with the previous orders, these agreements have been negotiated between the European Union and its member states, on the one hand, and third countries on the other. Each agreement provides an enhanced framework for regular political dialogue at ministerial, official and expert level.

The EU-Cuba Political Dialogue and Co-operation Agreement commits the EU and Cuba to co-operate on a range of issues. It promotes trade through enhanced exchanges of information and technical assistance to reduce non-tariff barriers to trade. The EU-Central America Association Agreement will enhance co-operation in areas of common interest, including counterterrorism, human rights and migration. It may be helpful for your Lordships to know that the EU-Central America Association Agreement reflects the central American nations of Costa Rica, Guatemala, Honduras, Nicaragua, Panama and El Salvador. I am very pleased that Her Excellency the Ambassador for El Salvador is on the public benches. We are very glad that she could join us.

That agreement also makes extensive provision for future trade relations, with an estimated net benefit to the UK of between £714 million and £1.1 billion over a 10-year period. An increase in exports by UK manufacturers is expected to account for 80% of this projected benefit, with the remaining 20% coming from increased agricultural exports and reduced tariffs on UK exports to central America.

As I stated previously, the agreements are an important tool for promoting British and European values and standards. Some have been under negotiation for a number of years, so successive UK Governments have all been involved in shaping the EU's approach to negotiations. I remind your Lordships that the EU has numerous similar agreements with other third countries around the world, all of which have passed this House's ratification process. Although this is an unusual time in our relations with the EU, as I said earlier, this is a case of business as usual in the UK's and the EU's interests.

The purpose of these orders is the same as I earlier described for the Australia, Canada and New Zealand orders. Approval of these orders is a necessary step towards the UK's ratification of these agreements through designating them as EU treaties under Section 1(3) of the European Communities Act 1972.

Again, and helpfully, the third countries concerned have all chosen to pursue closer ties with the European Union and its member states. The Government welcome this; we believe that, by bringing countries closer to the orbit of European values and standards, these agreements are firmly in our national interest. The provisions of each of the agreements covered by these orders are not identical. They are the result of years of negotiation; they reflect the differing priorities that we share with each partner country and the varying depth and maturity of the relationship that the EU and its member states already enjoy with them. For example, EU third-country agreements with emerging democracies

include a significant focus on supporting reforms and democratic institutions, whereas agreements with long-term partners focus to a greater extent on international co-operation to address broader global challenges.

On the implications of our departure from the European Union, I have already set that in considerable detail this afternoon. With your Lordships' forbearance, I do not propose to insult noble Lords' intelligence by repeating verbatim what I have already said, but if anyone has any particular questions, they should not hesitate to raise them. As with the previous orders, I am advised that, for these orders, it is also unlikely that the agreements before us today will enter into force before the UK has left the EU. Again, I have already explained in relation to the earlier orders the consequences of our departure from the EU in March 2019. For these orders before us the implications are the same.

The reasons for agreeing these orders are exactly the same as I outlined earlier: they formalise hugely positive relationships that the EU is embarking upon with third countries across the world. Your Lordships are familiar with what the individual orders seek to do. It is important that we deliver on the Prime Minister's commitment to continue to be a supportive EU member state until we leave the EU. It is very important that the UK is not seen to be obstructive, difficult or disruptive in relation to these matters. Also, as an EU member state the UK has been a key driver in all these agreements. I would repeat that, at a time when we are strengthening ties with countries around the world, it would be wholly counterproductive to be seen in any way to be hindering the aspirations of those countries to have closer relations with the European Union.

I have just been issued with a note of correction: these orders will not enter into force before we have left the EU. Sorry, I must have been so busy trying not to repeat great chunks of text that I misspoke. Misspeaking is clearly fairly fashionable these days, so I do apologise. These orders will not enter into force before we have left the EU.

To conclude, I will take this opportunity to discuss these two orders and answer questions from your Lordships.

Viscount Waverley (CB): My Lords, I sat in the other place last Wednesday and followed the same procedure that it adopted when considering the ratification of all the agreements before your Lordships' House. As much as anything, I have some remarks for the record as well, since the opportunity presents itself. The Minister has kindly taken us through the Government's thinking and I thank her for that, but perhaps I might explore this further.

What is the central American instrument expected to achieve in both purpose and benefit, given the slide towards an unsettled region? I recognise that central America is 50 million people strong and might be considered a key future partner for the UK. It should also be remembered that countries at peace with themselves form a part of the region at large. One could imagine Belize and Costa Rica being in that bracket, though I recognise that they may not form part of the exact agreement itself. Nevertheless, I place on record my disquiet as to the goings on in the region. El Salvador is having its challenges. Events in Nicaragua are troubling. There are ominous signals from Panama and Honduras. Venezuela is not before us, but, with all its well-documented instability, it is making active overtures to Cuba, which is.

Cuba is a Caribbean island extending into a peaceful region with which the UK has a more direct association. Anglophone neighbours have long expressed anxiety as to the effect that that country will have on the economies of the islands when it enters fully the mainstream economic affairs of the region. There is nothing wrong with that in principle, but it should start to be a concern when we factor in Venezuela's ever-closer ties with Iran and so, potentially, with Cuba. This week's *Economist* has surmised:

"Although it has … far less attention, Nicaragua is following",

the lead,

"of Venezuela, in which an elected dictator clings to power through repression and at the cost of economic destruction".

I trust that this ominous assessment proves to be wide of the mark and not the manner of things to come in the region. Those of us of a certain age will remember the Iran Contra hearings of 1987, addressing covert arms transactions with Iran. We should now add to that the current United States policy of expelling immigrants back to El Salvador, which has the possibility of giving the US nightmare scenarios on its border regions and of further flaming regional discontent.

While distress signals are on the horizon, nevertheless, not ratifying will have a negative effect on the countries in that region and on the UK. I therefore offer support, somewhat guardedly, to these instruments, but I respectfully request of the Government, as we move on from this being an EU instrument to a post-Brexit bilateral circumstance, that we make this ratification process work to the benefit of the region and of the UK—and, of course, the EU. At the very least, it fulfils my core belief in the principle of engagement.

It may be remembered that President Obama underlined in a now famous speech delivered in Cairo that if a policy has not worked for 50 years it is perhaps time to think again. Cuba, a part of the region to which I have referred, is testament to that. Let us hope that those aspirations come into being in central America and become a lesson for all of us in other geopolitical arenas. My negative remarks should not distract from the importance of this agreement.

Baroness Ludford (LD): My Lords, I again thank the Minister for her introduction and explanation. I think that this is the first ever EU-Cuba agreement. Before this, Cuba was the only country in the region not to have a legal basis for co-operating with the EU. It is very welcome that this is now happening. Obviously, some change has happened in Cuba. I hope that this agreement will help to promote more change and the reform process in Cuba. It is indeed welcome.

I am curious about the timeline. I believe that this was approved by the European Parliament a year ago. I wonder why it has taken a further year for it to reach the Westminster Parliament. I am sure that the political and human rights dialogue will be challenging because, although it is starting to change, there are still a lot of repressive measures in Cuba. I hope that there will be

[Baroness Ludford]
a monitoring mechanism to track progress and that there will be some reality and substance to the human rights clauses. Although this is not particularly my area of expertise, I know that MEPs used to deplore the rather window-dressing nature of human rights clauses in the EU's international agreements. Everyone declared that they were all in favour of human rights, but there were not any real levers of influence and change in the country. So I hope that the Cuba one will make a reality of the political and human rights dialogue.

Of course, I welcome the fact that this agreement extends to trade and the reduction of non-tariff barriers to trade. So it represents a good step forward in having, for the first time, a legal framework for EU-Cuba co-operation. Compared to where we were 20 or even 10 years ago, it is good progress.

4.30 pm

The central America association agreement is pretty substantial. It covers political dialogue, co-operation and trade. I was a little puzzled by the calculation of the benefits in point 10 of the Explanatory Memorandum on impact. It does not say over what period the total benefit to business is expected to be £1.1 billion. I did not understand the point about discounting the benefits from the first 10 years of provisional application, such that taking into account the different stages of liberalisation results in a total benefit to business of £1.1 billion. Perhaps the Minister could clarify over what period that is expected to be. It is a not insignificant amount, and apparently the UK is expected to have about 14% of the benefits of this agreement.

Will the Minister explain why this has taken so long? The agreement was signed six years ago and I believe that it has been provisionally applied. The European Commission has been implementing the trade pillar since 2013. But I wonder why it has taken so long. So far 23 EU member states have ratified. Why has the UK been arguably a little slow off the mark in ratifying this?

Lastly, I, too, will ask about human rights issues. There have been great worries about human rights in some of the countries concerned, including El Salvador and Nicaragua, not least over women's rights. Women in Nicaragua and El Salvador have been criminalised for having an abortion. It is very discouraging on those grounds. Is that an area where the human rights and democracy dialogue would have some effect and give some hope to the people—at least the women—of those countries?

I said "lastly" but it was second-lastly, because I, too, want to talk about migration issues. Would we expect to give some support and encouragement to those countries, as against the disgraceful treatment by President Trump's Administration: the detention and criminalising of anyone who is an irregular migrant to the United States? To be an irregular migrant is not in itself to be an illegal person, let alone a criminal. We look with dismay at what has happened there, including the separation of parents from children, which, as many Americans have said, is completely un-American. Would we expect those aspects to be covered? Could our knowledge from our central American partners of what is happening in migration enlighten and educate the contribution that the EU, including the UK, might make in international fora such as the UN to try to improve the situation between the US and central America?

Viscount Waverley: I have in mind the date of 2015 for the central American agreement, so I concur with the noble Baroness that it would be more helpful if the agreements came before us on a speedier basis. I want to say something to government at large on upcoming bilateral agreements. I know that the Security Minister will address certain issues in the coming months and years. He mentioned a period of 90 days for bilateral agreements to go through before coming to Parliament for ratification. We would all welcome that.

Lord Collins of Highbury (Lab): My Lords, I thank the noble Viscount, Lord Waverley, for his intervention. I had 2012 in mind for when the agreement was first signed. I start by saying that we very much welcome any arrangements that allow for the further integration of Latin American countries into the global economy and that encourage improvements in human rights, democracy, good governance and regional and political relations. All those aspects are very welcome.

As the noble Viscount said, since 2012 some countries have not moved in a particularly positive direction, which is extremely worrying. The noble Viscount mentioned Nicaragua, where we have seen further unrest and the deaths of around 300 people. It is important that the international community takes the initiative. The Opposition welcome the fact that the United Nations is now on the ground and able to make a full and proper assessment of the problems there. We do not support calls from some parts of the US Administration that seek a non-democratic change of government. I know that the Minister has responded to all the questions on this subject, but I hope that she can assure the House that we will remain committed to United Nations action in this regard rather than any unilateral action that may be considered by the US Administration.

I share the comments made by the noble Baroness, Lady Ludford, in relation to issues such as the increase in gender violence in some countries, which I hope the Minister will respond to. I also reiterate the concerns of the noble Baroness about the human rights of central American migrants. In particular, the agreement contains a commitment to ensuring effective employment protection and promotion of human rights for all migrants. How does that compare with the US Administration's record on the human rights of central American migrants?

I also want to pick up the point about Cuba. Progress is being made on integrating Cuba into the global economy and its positive impact. Of course, we remain concerned about its human rights record—particularly, from my personal viewpoint, its attitude to LGBT rights. I do, however, accept that engagement has resulted, and will result, in progress. Again, this agreement was signed some time ago, and we now have a new US Administration who have decided to reinstate restrictions on Americans travelling to and having business dealings with Cuba—another possible policy rift between the EU and the US Administration.

I ask the Minister: what is our response to these potential rifts over the policy that we have worked with and supported within the EU? How will they impact our foreign and security policy post Brexit, particularly with regard to the US Administration? This relates to my original question about the Government's assessment of future foreign and security policy. It is not so much about how it affects our attitude to bilateral relationships—we can certainly have those, and I welcome the commitments that the noble Baroness has made on ensuring that we maintain our strong relationships with old allies—but about the consequence of our not influencing EU policy, and the impact of a possible divergence of policy in the future. That is the sort of assessment we would like to hear about.

I respect the Minister's ability to respond to questions, but doubt her ability or willingness to answer that specific question. It is, however, a matter which all opposition parties, certainly in this House, will be pressing the Government to address over the coming months. It is vital for our security. We are close neighbours of the European countries and—as the Government have repeatedly said—whether in or out of the EU we need to make sure that we have the strongest possible relationship with them.

I had a couple of other points, but I think that the noble Viscount, Lord Waverley, and the noble Baroness, Lady Ludford, have addressed them, so I look forward to the Minister's response.

Baroness Goldie: My Lords, I once again thank the noble Baroness, Lady Ludford, the noble Viscount, Lord Waverley, and the noble Lord, Lord Collins, for their contributions. A number of important points arose and I will deal with them as best I can.

The noble Viscount, Lord Waverley, raised the legitimate question of what the EU-Central America association agreement does. It is a perfectly proper question. The agreement is intended to strengthen relations between the EU and its member states and central America, by promoting political dialogue and co-operation in areas of common interest, including climate change and the environment, counter-narcotics, counterterrorism, human rights and migration. It also makes extensive provision for future trade relations. The noble Viscount did the discussion a service, because his question made it clear that beneath these agreements —and which may at first look less than visible—there are some very strong subliminal factors that can only make a contribution.

That leads me to the next important point raised by the noble Viscount: regional issues. Where is all this in relation to central America? I would suggest that these orders are a positive contribution. He will understand that respect for democratic principles and fundamental human rights is an essential element of the agreement. A significant number of central American countries are now prepared to sign up to that, which is extremely positive and encouraging, and I am sure that others will look and want to follow by example.

Of course, these agreements contain clauses giving prominence to upholding human rights. This issue was raised by the noble Baroness, Lady Ludford, and the noble Lord, Lord Collins. They also introduce measures to tackle poverty and inequality, strengthen civil society and consolidate democracy. We believe that the political dialogue established by the agreement will be an effective forum for the promotion of human rights in the region.

4.45 pm

The noble Viscount specifically raised Nicaragua. I remember recently in the Chamber dealing with an Oral Question on that country. We are deeply concerned by human rights abuses and excessive use of force by security forces and pro-Government armed gangs in Nicaragua. We condemn violence against peaceful protesters; it is inexcusable. We condemn media restrictions, and the use of live ammunition is unacceptable. We are shocked by the number of deaths, and think that it is in the region of 300, which is truly shocking, including those of a journalist and minors. There have been many injuries and reports of torture and intimidation. We strongly condemn that in the most unambiguous terms, and we have made that clear.

On Cuba, the noble Viscount, the noble Baroness, Lady Ludford, and the noble Lord, Lord Collins, all raised the issue of freedom of expression and assembly, and the use of arbitrary detention. These are issues of serious concern. The agreement establishes an annual human rights dialogue to monitor the human rights situation. I think that it was the noble Baroness who raised the issue of monitoring. I think that it would be a forum and a means of assessing what is going on and making sure that things are kept on the radar, which is extremely important. It will also provide a further opportunity to support the improvement of human rights in Cuba.

The issue also arose of the issue of the US embargo on Cuba, and the United Kingdom's position in relation to that. We have been clear that we disagree with the US embargo on Cuba. We, along with the rest of the EU, vote against the embargo each year at the United Nations General Assembly. We believe that dialogue with Cuba is more effective and in the best interests of the UK and the Cuban people. There is UK legislation in the form of the Protection of Trading Interests Act 1980, and EU legislation in the form of blocking regulations to prevent the extraterritorial application of US sanctions on Cuba.

The noble Baroness, Lady Ludford, raised the issue of the projected net benefit to the UK. The figures that I mentioned were between £714 million and £1.1 billion over a 10-year period. That began in 2013, so the benefits will be fully realised by 2023. I hope that that clarifies that point for her. She specifically raised the issue of the delay in ratifying the order. Fourteen other member states have ratified the Cuba agreement, and we are in the middle of the pack. By grouping these agreements, we have tried to make the most effective use of parliamentary time that we can, which has meant that there was some delay on the Cuba agreement. I hope that that explains how that has arisen.

The noble Baroness and the noble Lord, Lord Collins, raised some important issues about human rights in central America. I said earlier that respect for democratic principles and fundamental human rights is an essential element of the agreement. That is

[Baroness Goldie]
crystal clear, if you look at the text. It makes an important contribution to improving the human rights situation in the countries covered by the agreement.

I was also aware of the important question posed by the noble Lord, Lord Collins. It is a very fair question: what is the shape of British foreign policy post Brexit? How will we be guided in our formulation of that policy? The noble Lord is perhaps optimistic in anticipating that I might be able to give him a detailed answer, but I can say that the general shape of United Kingdom foreign policy will be determined by our acknowledged respect for an international rules-based system. That desire is evidenced by the existing help which, particularly through DfID, we provide to many countries throughout the world in our desire to help communities that are disadvantaged and coping with challenges. We are very clear that we wish to continue to be a global presence and we are very clear about the kind of societies that we want to nurture and encourage. In many ways, the agreements we are discussing this afternoon mirror the kind of things we want to see happen. I am absolutely confident that we will seek to replicate that as we leave the EU and try to ensure that the valuable work and benefits that follow from that work will continue.

The noble Lord, Lord Collins, and, I think, the noble Baroness, Lady Ludford, also raised the issue of gender-based violence. We raise our concerns regularly with the Governments of central America about promoting gender equality and the rights of women. It forms a core part of the work of our embassies in that region. We are very conscious of the challenges of these issues in that area. Again I will say, as an addendum to my earlier observation about the shape of foreign policy for the future, that the United Kingdom has a very good record in helping countries where sexual violence has been an issue. We do what we can to provide meaningful help in the form of education, better protection for women and support for those who have been the victims of appalling criminal activity.

I was asked about representations to the United States and migration policy for central American countries. We in the UK believe that we have a humane immigration system. We are very clear that anyone who requires our protection will be granted it. We encourage other Governments to ensure that their system, too, is humane. I have to say that the pictures we have seen of children separated from their parents at the border were deeply disturbing and heart-wrenching. That activity is wrong and we therefore welcome the reversal of the policy.

I have tried to deal with the points that were raised and I thank those who contributed. As I outlined in my opening speech, these agreements will support our values and objectives long after we have left the European Union. By ratifying them we are demonstrating our good will as a loyal and supportive partner of the European Union and to each of these countries seeking to expand their relationship with the EU. These agreements to not detract in any way from our own prospects outside the European Union. We are enhancing our co-operation with partners across Latin America as we leave the EU, in line with our ambitious global Britain vision. I beg to move.

Motion agreed.

European Union (Definition of Treaties) (Partnership and Cooperation Agreement) (Turkmenistan) Order 2017

European Union (Definition of Treaties) (Enhanced Partnership and Cooperation Agreement) (Kazakhstan) Order 2017

European Union (Definition of Treaties) (Comprehensive and Enhanced Partnership Agreement) (Armenia) Order 2018.

Considered in Grand Committee

4.52 pm

Moved by ***Baroness Goldie***

That the Grand Committee do consider the European Union (Definition of Treaties) (Partnership and Cooperation Agreement) (Turkmenistan) Order 2017, the European Union (Definition of Treaties) (Enhanced Partnership and Cooperation Agreement) (Kazakhstan) Order 2017 and the European Union (Definition of Treaties) (Comprehensive and Enhanced Partnership Agreement) (Armenia) Order 2018.

Baroness Goldie (Con): My Lords, very much as with the preceding orders that we discussed this afternoon, these agreements have all been negotiated between European Union member states on the one hand and these third countries on the other. Each agreement provides an enhanced framework for regular political dialogue at ministerial, official and expert level. The EU-Turkmenistan partnership and co-operation agreement will support reforms and help build Turkmenistan's economy in line with market principles. The agreement provides for EU technical assistance to reinforce democratic institutions, as well as encouraging economic reforms and strengthening protection for European investors in Turkmenistan.

The EU-Kazakhstan Enhanced Partnership and Cooperation Agreement updates and augments the existing partnership and co-operation agreement agreed in 1996. It will contribute to modernising the commercial environment in Kazakhstan, and will increase the ease of doing business for UK and European firms. Finally, the EU-Armenia Comprehensive and Enhanced Partnership Agreement provides a foundation for enhanced political and economic co-operation, and will support reform of the commercial environment in Armenia.

I do not propose to repeat at length text to which I have already subjected your Lordships. The purpose of these orders and the necessity for them is exactly the same as I described for the previous set of orders. Again, approval of these draft orders is a necessary step towards the UK's ratification of these agreements through designating them as EU treaties under Section 1(3) of the European Communities Act 1972. The provisions of the agreements covered by the draft orders are not identical. They are the result of years of negotiation and reflect differing priorities that we share with the

partner countries and the varying depth and maturity of the relationship that the EU and its member states already enjoy with them.

I have already set out at length the implications of our departure from the European Union in relation to the orders we are discussing. I do not propose to repeat myself. I am advised that it is unlikely that the agreements before us today will enter into force before the UK has left the EU. I have already covered the consequences of our departure from the EU in March 2019 in relation to these orders.

The motivation, purpose and reason for these orders is very much as I have previously stated: namely, to formalise positive relationships with these third countries and deliver on the Prime Minister's commitment to continue to be a supportive EU member until we leave. It would be wholly counterproductive to block the aspirations of these countries to have a closer relationship with the European Union. I welcome this opportunity to discuss these three draft orders and to answer questions from your Lordships. I beg to move.

Viscount Waverley (CB): My Lords, the Minister spoke about the need for positive relations. I totally concur. I will make some remarks, particularly in relation to Kazakhstan. The Minister commented on the road map for foreign policy. I have no doubt that, as we move to a post-Brexit global world, the United Kingdom will be working hard on its relationships, instilling a sense of urgency and looking to up our strategic play in an opportunistic manner.

Remarks during consideration of these instruments in the other place last week, beyond Sir Alan's ministerial introduction and response, were reserved mostly for Armenia. I wish to turn attention to what should be seen as a key component of the UK's future—our relationship with Kazakhstan—and take this opportunity to expand on the strategic and beneficial nature of that relationship.

As we have heard, the EU instrument before us could serve as a framework to move seamlessly into part of a future bilateral instrument. We have built the relationship with Kazakhstan into one of comparative advantage. Over the past 26 years, our two nations have co-operated closely on a wide range of issues, making Kazakhstan a key regional partner.

Among many priorities is a determination to focus on what more can be done to counter the global threat of terrorism and extremism. This includes increased efforts from both regional neighbours and the wider international community to help stabilise Afghanistan. Both these goals are, I understand, supported strongly by the UK.

5 pm

British investment in Kazakhstan has totalled over £20 billion since independence in 1991 and so has played an important role in building Kazakhstan's economy into the strongest in central Asia. Following the success of the Expo international fair, Kazakhstan is implementing an ambitious, large-scale privatisation programme. The launch last Monday of the Astana International Financial Centre—the AIFC—will transform Astana, the capital, into one of Eurasia's pre-eminent financial hubs and will serve as a major platform to implement the large-scale privatisation programme in Kazakhstan. With a degree of considerable shrewdness—if I may use those words—the AIFC is governed by English common law, with English as its official language. The AIFC's independent court will be presided over by our very own noble and learned Lord, Lord Woolf, who has been appointed the court's chief justice. I am delighted also to acknowledge and pay tribute to the contribution of TheCityUK in assisting in the establishment of the centre.

The Government of Kazakhstan are developing the economy rapidly into a diverse and mature economy to bring reliance and protection against volatility in the oil and gas sector. The $9 billion Nurly Zhol investment programme is designed to build industrial capacity, develop infrastructure and diversify the energy sector. Kazakhstan is also working with China and other multivector partners on the belt and road initiative—sometimes referred to as the new Silk Road—to integrate the region into a cohesive economic area through the building of infrastructure. I was most pleased to hear the remarks of the noble Baroness, Lady Fairhead, on her activities in China to help us understand what is in Britain's best interests to pursue within that whole programme. I understand that consideration is being given—on this remark, I thank UK Export Finance, which I called on yesterday—to allocating £25 billion to support projects that provide real opportunity for UK interests.

I had the honour of negotiating the terms of what is known as the Aktau Declaration on Joint Actions, together with the then chairman of KazMunayGas, who is now a Senator, Mr Kiinov, and with the Minster of Energy, Magzum Mirzagaliev. This endeavour works to address priority needs to underpin the underlying ability of Kazakh goods and service industries to bolster capabilities through a strategy of local content. The rationale is to harmonise procurement procedures, specifications and the use of a single prequalification database by the three foreign-led oil and gas operators in their billions of dollars of capex and maintenance spend. It is worth noting that British interests are very much part of that programme; Shell is a major partner with Kazakhstan and should be supported. UK industry embracing this initiative would protect our position for the long term as a lead supplier.

I will say a word on democratic reforms. Kazakhstan's reforms have drawn some criticism over the past years. The country's overall progress has advanced. However, more needs to be done. Building a democratic society with robust institutions should be seen in the context that the country is starting from scratch, having secured its independence with the demise of the Soviet Union—I hesitate to use the word demise, but certainly with the Soviet Union continuing no longer in that form. However, that was only a comparatively short while ago.

What I can say is that Kazakhstan listens to and engages constructively with criticism and co-operates with international organisations. It works with, among others, the OSCE, the UNDP and the Council of Europe in this regard. For my part, with the assistance of the Hansard Society I produced a film entitled "Parliament in 30 Minutes", which explains the mechanics

[Viscount Waverley]
of how Westminster operates. That was in addition to the signing of a co-operation protocol with the Majilis in my capacity of establishing the initial APPG.

In conclusion, Kazakhstan is a key partner in the region, working together on shared foreign policy goals. I am confident that, as the United Kingdom forges a new global path, the next decade will see UK-Kazakhstan co-operation both bilaterally and internationally go from strength to strength. The smooth transit of this enhanced co-operation will further strengthen bilateral relations between our two countries. I therefore add my support to the ratification of this instrument.

Baroness Cox (CB): My Lords, I add my thanks to the Minister for introducing these agreements. I will speak briefly to put on the record my welcome for the agreement signed between the European Union and the Republic of Armenia in November 2017. I have visited Armenia many times and I have developed a profound respect for the ways the people, who have suffered so much, including genocide and a horrendous earthquake, are developing a democratic nation full of hope for the future. This agreement will strengthen the economic, political and cultural relations between the parties involved. It marks the beginning of a deeper political engagement, and it provides new opportunities for stronger collaboration in various key sectors, including education, energy, transport, the environment, trade and infrastructure.

Relations between the United Kingdom, Armenia and the European Union are based on genuine friendship founded on mutual trust and a strong commitment to shared values. We need to support engagement with Armenia since its prospects for the future are compatible with our commitment to a democratic state based on the rule of law, democracy and human rights. I therefore believe that it is in our interest to assist Armenia to implement this agreement effectively.

Baroness Ludford (LD): My Lords, colleagues have spoken much more knowledgeably than I possibly could on Kazakhstan and Armenia, so I will not attempt to repeat what they have said. Perhaps I may add a word about Armenia. It is clear that Armenia is an important country as regards EU relationships in the region. Could the noble Baroness tell us whether this agreement would have any influence on other efforts being made to try to resolve what is often called the "frozen conflict" between Armenia and Azerbaijan over Nagorno-Karabakh? It may be that every bit helps. If she has any knowledge of that it would be useful.

I will say something about Turkmenistan. One can understand why this agreement has not been enforced 20 years after it was signed and that the delay in ratification arises out of concerns about Turkmenistan's human rights record. Perhaps I may quote from an article which is about 18 months old by the Carnegie Endowment for International Peace:

"Twenty-five years after the breakup of the Soviet Union, Turkmenistan holds the title of the most authoritarian of all former Soviet states … a political system based on repression and hydrocarbon wealth … an internal security apparatus, an omnipresent propaganda machine … Freedom of speech, the press, association, and religion remain curtailed in Turkmenistan to such an extent that Freedom House puts the country in the same category of dictatorships as North Korea, Sudan, and Syria, at the very bottom of its 2016 Freedom in the World index. The ability of Turkmen to travel overseas is restricted, and the country remains largely closed off to most foreigners, making it the most isolated of all former Soviet states".

There is quite a challenge in having any meaningful influence on changes in Turkmenistan. I realise that there is always a dilemma with countries which come from a very poor human rights and democracy background. At what point do you say that things are moving enough to make it worth while to have an agreement with the EU, which of course will be taken as some kind of status, and when do you say it is of no use and it will just legitimise further a regime which should not be legitimised?

I ask the Minister: what is the greater scope that is claimed to encourage progress on human rights and good governance in Turkmenistan? It is very dependent on China. Russia is competing for economic power there. If I was being cynical, I would wonder whether this is the EU wanting to get in on the action with regard to energy and investment opportunities. This is not a very encouraging scenario for an EU agreement.

I am curious why the Turkmenistan and Kazakhstan SIs are dated 2017—leaving aside the 20-year delay on the agreements, which, as I say, is perhaps understandable. These things have been hanging around. Are there others in the pipeline that are going to be put through before next March? Have these been lying in a dusty drawer in Whitehall and suddenly, because of the prospect of Brexit, there is a rush to get them all through so that they will apply before 29 March next year? Am I being unjustifiably cynical and suspicious? Are there any others? Perhaps the Minister could explain.

Lord Collins of Highbury (Lab): My Lords, every opportunity that I can have to debate with the noble Baroness, Lady Goldie, I would like to take, so the more statutory instruments we have, the more pleasure it will give me. I will be the only one who will find it pleasurable, I expect. But there is little between us on these instruments. I think we all welcome the potential for engagement that will result in improvements in governance and human rights. The noble Baroness, Lady Ludford, highlighted the human rights record of Turkmenistan but all three countries have human rights issues. It is important that we work with our partners to ensure that we can address the need to strengthen democracy and the rule of law in all these countries. That is what these agreements are doing.

Of course, there is another issue, highlighted by the noble Viscount, Lord Waverley: corruption is another important feature of these countries. I hope that complying with these agreements and having closer ties will enable us to properly address or support those Governments in tackling corruption. I hope the Minister will tell us exactly how we are doing that. It is important that we develop those structures.

5.15 pm

I return to the original point alluded to by the noble Baroness in her introduction. Being in the European Union has enabled the United Kingdom to amplify its voice and increase its influence for its foreign and

security policy by working closely with other nations. The assessment that the United Kingdom Government have to make is about what happens post Brexit, when we will not have that amplification. We remain, of course, committed to addressing these issues and to human rights. However, if we enter into an agreement with these countries post-Brexit or ensure that these agreements continue, how strong will our voice be in influencing behaviour if we are unable to amplify it as previously? The noble Baroness will repeat the mantra about the United Kingdom now having a global vision. The fact is, however, that that vision will have less impact because we will not be acting in concert with 27 other nations.

Baroness Goldie: My Lords, I again thank noble Lords for their contributions. As ever, they have raised important issues and I will do my best to address them.

I start with the noble Viscount, Lord Waverley, who rightly pointed out that there is a positive relationship Kazakhstan, with opportunities for the United Kingdom. I totally agree, and this agreement cements the relationship: it will bring Kazakhstan more closely into alignment with a rules-based international system. That includes supporting Kazakhstan in meeting its WTO commitments, which is extremely important.

The noble Viscount also referred to the Astana International Finance Centre. I am delighted that the noble and learned Lord, Lord Woolf, was appointed chair of the court of commercial arbitration there, which, as the noble Viscount pointed out, is underpinned by English common law. As a Scot, I have to say that if you cannot have Scots law you had better make do with the next best thing, but I am sure that we are all very pleased and proud about that. It underpins the desire to see a rules-based, solidly based judicial system.

The noble Viscount is correct in saying that we engage extensively with Kazakhstan: we are one of its top six investors and we support its aspiration to become one of the top 30 developed economies in the world. We have always been clear that to do this Kazakhstan needs to develop an open political system that guarantees fundamental rights and provides a firm basis for future prosperity and stability. To this end, the UK supports economic and judicial reform in Kazakhstan. I have just alluded to an important component of that. We are confident that all this will help to boost the country's future prosperity and democracy. To illustrate the strength of the relationship between the UK and Kazakhstan, last year we celebrated the 25th anniversary of UK-Kazakhstan relations, and we look forward to the next 25 years of strong relations, not just in trade and investment but on the international stage.

The noble Baroness, Lady Cox, raised important issues about Armenia, and I will address her question about that agreement. The agreement is geopolitically important because it supports Armenia's interest in maintaining a close relationship with the EU and its member states, as well as with Russia and other regional partners. It also helps Armenia to diversify its political and trading relationships while enabling it to fulfil its obligations as a member of the Eurasian Economic Union.

In this context, the noble Lord, Lord Collins, raised the important issue of rights. He specifically mentioned corruption—I now have his undivided attention, which is something I seldom achieve, but I am pleased to have done so on this occasion. He raised an important point. The agreement supports Armenia's internal reforms. These include anti-corruption measures and improvements to governance in areas such as taxation, public administration and the civil service. Importantly, the agreement supports institution building and the strengthening of civil society, democracy and human rights, and it is designed to bring Armenian law gradually closer to the EU acquis in certain areas. To avoid doubt, it does not go so far as to establish an association between the EU and Armenia, but it is certainly a strong step in the right direction.

The noble Baronesses, Lady Cox and Lady Ludford, also raised the Nagorno-Karabakh dispute. The UK supports the peaceful resolution of that conflict by the co-chairs of the OSCE Minsk Group. We have strong bilateral relationships with both Armenia and Azerbaijan, and we believe that continued engagement is key. With Armenia, this means engagement on good governance, democracy, and political and economic reform. The agreement calls for a peaceful and lasting resolution to the conflict through the negotiations of the co-chairs of the OSCE Minsk Group, and the UK fully supports this approach.

The noble Baroness, Lady Ludford, raised issues relating to Turkmenistan, with particular reference to its human rights record. Turkmenistan remains a human rights priority country for the Foreign and Commonwealth Office. Although the human rights situation continues to be a cause for concern and progress has been slow, our judgment is that the structured engagement that the partnership and co-operation agreement provides will give us and EU partners greater scope to encourage progress on human rights and good governance, rather than placing restrictions on engagement. It is a challenging place to operate, with a difficult business environment, and it currently faces economic challenges. The agreement makes some improvements to the business environment and puts in place an institutional framework to support further reform. It provides for engagement across a wide range of issues, including energy, business and the environment.

The noble Baroness, Lady Ludford, and the noble Lord, Lord Collins, asked what the agreement does specifically for human rights and democracy in Turkmenistan. It provides for technical assistance programmes to reinforce democratic institutions, to strengthen the rule of law and to protect human rights and freedoms; for instance, to support the drafting and implementation of laws and regulations. That might sound very dry and arid to the onlooker, but it is key to the ability to write good constitutional law. It will enhance expertise on the role of the judiciary and of the state in questions of justice, and on the operation of the electoral system.

The noble Baroness, Lady Ludford, who is never one to miss the difficult question, asked what else is in the pipeline. Depending on the noble Baroness's perspective, I might have good news. Due to time restrictions, it will not be possible for the UK to ratify

[Baroness Goldie]
any further FCO-led EU third-country agreements before the UK leaves the EU in March 2019. It was an important question to ask and I hope that that answers it.

Baroness Ludford: Which agreements that have been reached with external partners of the EU will we not have ratified before Brexit?

Baroness Goldie: I am checking with my officials. It is my understanding that none is in the pipeline.

Baroness Ludford: Except Japan, which has just been signed.

Baroness Goldie: We will put in writing to the noble Baroness what the situation is.

The noble Baroness, Lady Ludford, also raised the issue of timing in relation to the Turkmenistan partnership and co-operation agreement. Apparently, all the EU member states initially delayed its ratification to signal their concern about human rights abuses in that country, but over time they all decided to ratify it because the agreement would enable greater scope to influence Turkmenistan's development in a positive direction. In 2013 the UK also agreed to ratify it because, on balance, the Government agreed that entry into force of this agreement would allow a closer relationship with Turkmenistan and potentially greater scope to encourage progress on human rights and good governance.

I was asked about how these agreements would progress UK objectives. As the agreements provide for a broad framework to reinforce political dialogue, they provide EU member states with a range of tools for influencing reform, including institutional links that allow for regular discussions, including on human rights reform as well as technical co-operation programmes.

I have tried to respond to all the questions, and as I say, I undertake to write to the noble Baroness, Lady Ludford, about the specific point she has raised. I am grateful for the contributions to the debate and, as I outlined in my opening speech, these agreements will support our values and objectives long after we have left the European Union. By ratifying them, we are demonstrating our good will as a loyal and supportive partner of the EU and of each of these countries as they seek to expand their relationships within the EU. I should say that they do not detract in any way from our own prospects outside the European Union. We are enhancing our co-operation with partners across central Asia and the south Caucasus as we leave the EU, in line with our very ambitious global Britain vision. I beg to move.

Viscount Waverley: Attention was drawn to the situation in Nagorno-Karabakh, and I note in particular the presence of the noble Baroness, Lady Cox, in the debate. Does the Minister agree—not necessarily on matters specifically to do with Nagorno-Karabakh, Armenia and Azerbaijan—that it would be extremely helpful if the UK, as a component part of the United Nations Security Council, encouraged a process to complete the unfinished Wilsonian principles on self-determination? There are many instances around the world where clarification of these issues would be helpfully addressed. I do not necessarily expect the Minister to rise to respond at this point, but it really is an issue of extreme importance and should be considered further.

Baroness Goldie: The noble Viscount is a realist, but I am going to disappoint him. Apparently there are no plans to support those principles.

Motions agreed.

Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) (Amendment) Order 2018

Considered in Grand Committee

5.29 pm

Moved by ***Lord Bates***

That the Grand Committee do consider the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) (Amendment) Order 2018

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, in just under five months, the ring-fencing regime will be fully in force. It requires structural separation of core retail banking from investment banking for UK banks with retail deposits of more than £25 billion.

Ring-fencing is one of the key parts of the post-financial crisis reforms and will be important in preserving financial stability in the United Kingdom. It was the central recommendation of the Independent Commission on Banking, chaired by Sir John Vickers, which the Government accepted and legislated for via the Financial Services (Banking Reform) Act 2013. It will support financial stability by insulating retail ring-fenced banks' core activities, whose continuous provision is essential to the economy—that is, retail and small business deposits and payments services. It will protect them from shocks originating elsewhere in the global financial system.

The continuous provision of core services—namely, retail and small business deposits and payments services—is essential to the economy. Ring-fencing means that banks that provide those essential services become simpler and more resolvable, so core services can keep running even if a ring-fenced bank or its group fails. Details of the regime are set out in secondary legislation passed in 2014. As part of restructuring to comply with the ring-fencing regime, banking groups may be required to move some accounts from one legal entity to another. For example, they may need to move a retail depositor's account into a new ring-fenced bank. However, some of the holders of those bank accounts are subject to financial sanctions, which prohibit the movement of any funds that the said account holders own, hold or control.

There is a clear conflict between the two regimes. This means that, at present, some banking groups are unable to move accounts held under sanction, which in turn means that they are not compliant with the

ring-fencing legislation. The order resolves the otherwise conflicting requirements between the ring-fencing regime and financial sanctions regime by amending the Financial Services and Markets Act 2000 (Ring-fenced Bodies and Core Activities) Order 2014. The order amends the definition of "core deposit" so that accounts whose account holders are or have been subject to financial sanctions—as defined in Section 143(4) of the Policing and Crime Act 2017—at any time in the last six months are no longer included in the definition. This means that banking groups will not be required to move retail accounts whose holders are subject to financial sanctions into ring-fenced banks. They will be outside the scope of the ring-fencing regime. Banking groups will have six months from the removal of sanctions to move retail accounts of those account holders previously subject to sanctions inside the ring-fence. This ensures that the regime remains consistent once the sanctions have been lifted.

The order will ensure that banking groups that cannot otherwise comply fully with the ring-fencing regime due to sanctions legislation are not deemed non-compliant under the ring-fencing legislation. The amendment does not alter the location and height of the ring-fence or the timetable for ring-fencing: banks in scope must be ring-fenced by 1 January 2019 and, together with the Prudential Regulation Authority and the Financial Conduct Authority, we are monitoring their progress closely. I commend the order to the Committee.

Baroness Kramer (LD): My Lords, as a member of the Parliamentary Commission on Banking Standards, I am a very strong advocate of ring-fencing. I am pleased that the process is now well under way. Obviously, I remain vigilant for any opportunity for any person to try to find a way either under or over the ring-fence. Therefore, I would look very carefully at any change or exemption. In this case, the order seems entirely logical and a suitable way in which to deal with the conflict between two good pieces of legislation, finding the simplest path to reconciling them.

I have two simple questions for the Minister. Can he give us some sense of the scale that we are talking about? To be honest, I have little idea of how many accounts are sanctioned at any typical time. I do not know if we are talking about six accounts or 6,000. The reason why I ask is that it makes a difference in monitoring—that is, whether it is a relatively small number or a challenging number. I just have no idea. I do not know if the Minister will be able to throw light on that.

There has also always been a concern, in particular from the sanctions perspective, that people who do bad things—and, typically, if you are going to be sanctioned, you will have been doing something that we think is a bad thing—will look at the opportunity to use aliases, false names and so on to front their various accounts. There is always the possibility that, if those accounts are not recognised as being linked to the individual who is to be sanctioned, they can end up being moved over into the ring-fenced bank. With accounts in two locations, it may become much harder to recognise that they are the accounts of the same individual and ought to be treated in the same way. I am fairly sure that those who are sanctioned will look for any mechanism possible to escape it, but I have no idea if there is a mechanism within all this that provides us with some comfort that we are alert to the use of this particular change as a mechanism that might make life a little easier for those who wish to avoid the sanction that they are due.

Lord Tunnicliffe (Lab): My Lords, I thank the Minister for introducing this order and the noble Baroness, Lady Kramer, for asking at least one of the questions that I had in mind, particularly on scale. I do not have quite the exalted background of the noble Baroness as being a member of the banking commission but, because I failed to duck, I have been involved with this legislation since 2010. I saw it through and feel a certain loyalty to it. When this conflict arises, like the noble Baroness, I want to see that conflict resolved. However, I did think, "Why are they going to spoil this beautiful banking legislation, which I have sought to understand over the past several years? Why can we not change the sanctions legislation?" I decided to try to understand the sanctions legislation to see if there was a way in which it could provide the flexibility rather than the banking legislation. I dived into Section 143(4) of the Policing and Crime Act 2017, but I have to say that, at that point, I hit a brick wall. For the life of me, I could not understand from that how the sanctions regime functions. I hope that the Minister can shed light on how the regime works—or perhaps he will write to me at some point.

To what extent has the alternative way of solving the problem been considered—creating flexibility in the sanctions regime to allow movements across the ring-fence that are required for other legal purposes and hence keep the accounts hosted on the right side of the ring-fence?

Lord Bates: My Lords, I thank noble Lords for their broad welcome for the order, and I recognise the expertise which they bring to this matter. I shall seek to address the points they have raised.

On the numbers and scale, which the noble Baroness, Lady Kramer, asked about, there is on the website a list of persons who are subject to financial sanctions. It has a long URL address, but it is helpfully set out on page 2 in the Explanatory Memorandum that accompanies the order. It does not list the numbers, but it does show where that information can be found. We are currently trying to get some numbers, because it is a perfectly reasonable question to ask.

The noble Baroness, Lady Kramer, also asked about the mechanism potentially to escape the sanctions. Clearly, we need to be very vigilant. The accounts are not moving; they are staying outside the ring-fence. As such, we believe that the opportunity for the kind of nefarious activity that has been suggested is minimised, but not totally removed.

The noble Lord, Lord Tunnicliffe, asked for beautiful banking legislation to be referenced in the *Official Report*, perhaps for the first time. He asked whether we could amend the sanctions legislation rather than banking legislation. We assessed whether there was a licensing option under existing sanctions legislation to

[Lord Bates]
resolve the issue, but concluded that there was not. Further financial sanctions legislation includes directly applicable EU regulations, which the UK does not have the power to amend unilaterally. In addition, it was important that this change was made to come into effect before 1 January 2019 so that banks will not be in technical breach of the ring-fencing regime once the legislation comes into effect.

On the need for specific legislation itself, as referred to by the noble Lord, Lord Tunnicliffe, we are committed to implementing a robust and successful regime. That means that we will act if we spot problems with the regime that cause conflicts in existing legislation. The Treasury and the Prudential Regulation Authority will continue to monitor closely the relevant banks' implementation plans to ensure that they are robust. I think that those were the principal two points that were raised. I apologise for not having the information referred to by the noble Baroness, Lady Kramer, at my fingertips, but I hope that it can be found from another source.

Lord Tunnicliffe: Is there a possibility of the Minister sending us a letter on either of our points to develop his answer a little more?

Lord Bates: I can certainly do so. Noble Lords are very kind and courteous. It would be a courtesy to do it the old-fashioned way and send an email with summary statistics, rather than pointing to a URL address. That goes for any other points that have not been covered, of course.

Motion agreed.

Occupational Pension Schemes (Master Trusts) Regulations 2018

Considered in Grand Committee

5.43 pm

Moved by ***Baroness Buscombe***

That the Grand Committee do consider the Occupational Pension Schemes (Master Trusts) Regulations 2018.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con): My Lords, subject to Parliament's approval, the regulations will introduce a new approach to how some occupational pension schemes are regulated. From 1 October, both existing and new master trust pension schemes will be required to be authorised by the Pensions Regulator and will be subject to ongoing supervision by the regulator to ensure that they are maintaining the standards required at authorisation. Any scheme that opts out of applying for authorisation, or which fails to meet the required standards upon application, will be required to wind up and transfer its members to an authorised scheme. These regulations will fully commence the authorisation and supervision regime for master trust schemes under the provisions of the Pension Schemes Act 2017. I am satisfied that the Occupational Pension Schemes (Master Trusts) Regulations 2018 are compatible with the European Convention on Human Rights.

The past eight years have seen a significant growth in the master trust pensions market. Membership has grown from 200,000 in 2010 to approaching 10 million today. This market now accounts for assets of over £16 billion and will continue to grow over the coming years. The rapid increase in both membership and assets is irrefutably linked to the phenomenal success of auto-enrolment. As a result of this success, we are introducing the new authorisation and supervisory regime, which will ensure that these new savers have assurance that they are saving into quality schemes where their money is well managed and protected.

We have always been clear that our expectation is that a significant number of schemes are unlikely to meet these standards and will need to leave the market. The regulator has worked closely with master trusts over the last two years to help them to prepare for these changes, including offering readiness reviews, which have been taken up by 33 schemes. As a result, it has a good understanding of those schemes that are most likely to close. Where this is the case, it is likely to be because they will not meet the quality standards being introduced, for example, because of poor administration or doubts about long-term financial viability.

I know that a number of noble Lords recently met with the regulator and raised concerns about what will happen to the members of those schemes that opt to close. The Pension Schemes Act 2017 introduced some retrospective measures to help to support the market and to protect members through the transition to full authorisation. These applied from the Bill's introduction in October 2016 and came into effect on Royal Assent in April last year. They require that any scheme which is facing a triggering event, which is one that is likely to lead to it winding up, must immediately report the fact to the regulator, and charges made by schemes to members are fixed at October 2016 rates until the full regime comes into force.

During discussions on the Bill, noble Lords were clear that our expectation is that the market will respond to these changes. The emerging evidence shows that this is the case. The retrospective measures mean that the regulator is currently working closely and effectively with 20 schemes that have already either closed or signalled their intention to leave the market. This includes assisting them with finding appropriate destinations for their members. The introduction of new provisions earlier this year to ease and speed bulk transfers into and out of defined contribution schemes offers further support to members. In addition, where a scheme has started to wind up, the disclosure regulations ensure that members are made aware, allowing them to decide individually whether to accept the trustees' default destination or make their own arrangements.

We expect that there will continue to be further consolidation of the market as we approach the October deadline. With this in mind, we are already aware of a number schemes that plan to promote their claim as a potential destination of choice for closing schemes by

applying for authorisation at the earliest opportunity. In addition to the pull from schemes looking to expand their presence in the market by taking on members from closing schemes, there is a strong push from employers participating in those schemes as, regardless of the decisions made by the scheme, they remain obligated to meet their automatic enrolment responsibilities by ensuring that their employees are actively contributing to a pension scheme. We have always known that there would be a period of flux and change for the market, requiring close and active management by the Pensions Regulator, and the regulator is delivering.

I turn briefly to the policy. My officials have been working closely with both the Pensions Regulator and the industry to develop the detailed policy design for these regulations. This culminated in a public consultation on the draft regulations which was launched by my right honourable friend in another place, the Minister for Pensions and Financial Inclusion, in November last year. The consultation was well received and generated a number of supportive suggestions for technical improvements, which were most welcome. The only real issue of concern at that time was that we were not in a position to confirm the level of the authorisation fee. This was resolved by the time we published our response to the consultation in March this year, where we confirmed that existing schemes would be charged £41,000 and new schemes will pay £23,000. We recognise that this information may have an influence on a scheme's decision whether to seek authorisation.

Your Lordships will be aware that the regulations have been the subject of scrutiny by the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee, neither of which found reason to draw the special attention of your Lordships' House to these regulations.

I turn to the substance of the regulations. When the Pension Schemes Bill was before the House—ably stewarded by my noble friends Lord Freud, Lord Young and Lord Henley—the scope of the new regime was the subject of considerable debate. Our aim was always to design a regulatory regime that meets the needs of a very diverse market, ranging from long-established schemes, including many not-for-profit organisations, to new schemes set up in the wake of automatic enrolment.

However, during the passage of the Bill we were not able to confirm the details of how the powers to apply the regime to schemes that arguably fall outside the definition set out in the Act and to disapply it to schemes that otherwise would fall within the definition would be used. I can now confirm that the regulations will bring certain types of non-master trusts within scope—for example, what are often known as "cluster schemes" where schemes may have single employers but are run by the same people and are subject to the same rules. They also disapply the authorisation regime to some types of scheme which have specific characteristics that mean they meet the definition but do not face the same risks as master trusts—for example, certain small schemes where all the members are trustees and the majority of the trustees are members of the scheme. The intention remains to provide member protection proportionately.

To bring clarity to the application process, the regulations specify that the scheme must have a business plan approved by the trustees and the scheme funder. This will include detailed information about the ambition and financial strategy of the scheme, as well as providing details relating to the scheme funder, the systems and processes that are used and information on trustees and others in a position of influence over the running of the scheme. In addition, schemes and scheme funders will need to provide their audited accounts and the accounts of any third party funder.

The Act identified the five authorisation criteria that schemes must meet. First, fit and proper: the regulator will need to be satisfied that everyone running a scheme has the appropriate integrity and is competent. Secondly, financially sustainable: the regulator will need to be satisfied that the scheme can fund the operating costs, as well as the additional costs should it get into difficulty and possibly wind up. Thirdly, scheme funder: the regulator also needs to be satisfied that an appropriate entity is standing behind the scheme and is able to meet certain costs. Fourthly, systems and processes: when assessing whether the IT and wider systems and processes are sufficient to ensure that the scheme is run efficiently, the regulator must take account of the scheme's need to provide an effective service to its members and to deliver the ambitions set out in its business plan. Fifthly, continuity strategy: prepared by the scheme strategist and signed off by the scheme funder, this will need to set out how the scheme plans to respond to and protect the interests of its members in the event of a triggering event. These are circumstances that could lead to the closure of the scheme.

It has always been our intention that once schemes have met the authorisation standard, the regulator's role will turn to ensuring that standards are maintained. In extremis, the powers in the 2017 Act will enable the regulator to initiate a triggering event and require a scheme to wind up. This is an appropriately robust backstop for the most extreme cases. However, our intention is to avoid such extreme interventions through a supervisory process that supports high standards and encourages schemes to seek support when any difficulties are first identified. The regulator will require schemes to update their business plans regularly, including when significant changes occur, when there is a change to key personnel, or failure to meet a previously declared key milestone, target or planning assumption. The regulator will also be able periodically to request a supervisory return from any scheme. This will inform the regulator's ongoing risk assessment of schemes and will be based on the five authorisation criteria. While the regulator can only request this return at most once a year, it will have some discretion over how regularly returns are requested, based on an ongoing assessment of the level of risk each scheme is carrying.

The master trust market is growing and vibrant and it is not our intention to interfere in it. We expect schemes to continue to join and exit the market over time. I have set out the process for those entering the market; I now turn to how the regulator will support the members of schemes that exit the market.I have previously described "triggering events", which are those likely to risk the scheme being closed and wound up. When this occurs, the scheme is required to convert

[Baroness Buscombe]
its continuity strategy into an implementation strategy, including setting a clear timetable for either resolving the issue or closing the scheme. The regulator will work with the scheme to ensure that appropriate action is taken at each stage, including notifying employers and members about what has happened and what their options are if the scheme is going to wind up. The financial sustainability requirements will mean that there are sufficient funds to see the scheme through the transition period. Restrictions on charges in the Act mean that additional costs cannot be passed on to members.

In conclusion, we are ensuring that master trust scheme members—particularly members of schemes that are opting to wind up—are protected and supported before the new regime is fully rolled out in October. This new approach is widely accepted and supported by the industry, which in turn is being ably supported in its preparation for the changes by the Pensions Regulator. These regulations introduce a robust new regime for master trust pension schemes that will provide added protection for millions of people saving towards their retirement, most of whom are doing so as a result of automatic enrolment. These changes are necessary, and I commend the regulations to the Committee.

Baroness Drake (Lab): My Lords, I welcome these regulations, and I thank the Pensions Regulator for its courtesy in providing a briefing on master trusts to interested Peers. With approximately 10 million members and £16 billion of assets under management in these trusts—which will increase even further, particularly given the rise in automatic enrolment statutory contribution levels—the need for a robust authorisation, supervision and resolution regime to protect individual savers is compelling. The risks of not having such a regime were fully aired during consideration of the Pensions Act 2017.

These regulations cover the five criteria which authorised master trusts must meet, and I will refer to two in particular. The first criterion is that the scheme is financially sustainable. This requirement expects master trusts to hold sufficient financial resources in sufficiently liquid assets to cover certain costs and is at the heart of protecting individual savers from financial detriment in the event of a triggering event such as scheme failure or wind-up. However, nearly £6 billion of assets is currently held in master trusts which do not even have a voluntary master trust assurance. I also note that the impact assessment assumes one triggering event each year after "steady state" is reached in 2019. This seems high given the regulator's assumption that only 56 master trusts will be authorised.

The master trust authorisation regime has, understandably, the flexibility to accommodate a wide range of financing requirements and different scheme funders. That also means, however, that the public need a high level of confidence that the financial sustainability requirement will be robust throughout that wide range. In setting the financial sustainability requirement covered in Schedule 2, what assurance—or further assurance—can the Minister give about the level of prudence expected in any estimates and strategy for meeting those relevant costs?

The definition of "prudency" has become somewhat loose in the DB funding regime and the regulator is taking steps to tighten up what is expected, so reassurance on prudency in the master trust financial sustainability regime is welcome. Will the Pension Regulator's financial sustainability regime be benchmarked, for example against the Prudential Regulation Authority's regime for capital adequacy? If an authorised master trust subsequently closes to new business but continues to run as a closed scheme, how will that impact on the financial sustainability assessment and will the trust automatically be required to transfer the members to another scheme?

6 pm

My second area of interest concerns the criterion that the systems and processes used in running the master trust are sufficient to ensure that it is run effectively. The quality of administrative systems and processes in pension schemes continues to pose problems across the range of pension provision. In DC schemes, the risk of administrative failures is borne by the member. Evidence shows that the cost of restitution of DC administration problems can be high. Master trusts can use in-house administration or external administrators, but in either case there needs to be a high level of confidence in the system of regulatory supervision.

In two recent cases involving master trusts and the regulator, one failed to ensure that all employee and employer contributions were collected and invested promptly over a period of nearly two and a half years. In the other, the administrators of a master trust failed to report the fact that they had not collected or invested nearly £1 million of pension contributions on behalf of 2,115 members for just short of two years. That is administrative failure over a sustained period. Will the regulator set prescriptive requirements on master trusts covering the auditing of their administrative systems and processes, whether these are delivered in house or by a third-party administrator? In the event that employer and employee contributions are not collected and the employer becomes insolvent between the failure of collection and the discovery of that failure, who will carry the liability for compensating the saver for the lost contributions?

Lord Kirkwood of Kirkhope (LD): My Lords, it is always a pleasure to follow the noble Baroness, Lady Drake. She is an expert in these matters and we are fortunate to have her to assist our deliberations. I also support the regulations. Some of us who were involved in the 2017 legislation felt that we were taking risks in that the Government did not properly address the question of gaps. Speaking for myself, these regulations ostensibly fill those gaps. Obviously there is still a degree of uncertainty because the field is new and developing and we are dealing with a specialist set of organisations.

As has been said, the stakes in this important area of public policy are extremely high when it comes to the pension security of the 10 million members of these trusts and the amounts of money that are being invested. I agree with the point made by the noble Baroness, Lady Drake, on the systems and processes

that are set out clearly in the regulations. I support the consolidation that has gone into the regulations. I sit at the feet of the noble Lord, Lord Trefgarne, who is dutifully here; he is the chairman of the Secondary Legislation Scrutiny Committee and keeps us at a very high standard. As the Minister said, it is true that we found no difficulty with the regulations. They are very extensive and clear, and an example of the kind of thing that the noble Lord, Lord Trefgarne, and I would like other departments to emulate. Having said that, I think the DWP has been an offender in the past, but it has improved its ways and the evidence is in front of us in these regulations this afternoon.

I worry about the cleanliness of the data, as a former chair of the DC scheme for the General Medical Council's staff superannuation. We always struggled, even with a really well-run scheme, to keep the data clean, keep the contribution levels accurate, and make sure that the investments were made and the administration carried out. We are operating in this new system at one level removed, if you like, because the employers are separate from the master trust administrators. The regulator will need to focus on making sure that the systems and processes that are eventually put in place, using technology, are sufficient for their purpose. As has been said, people can get seriously prejudiced against through no fault of their own, and without knowing that they are being prejudiced against until it is too late. That is a very important point.

Can the Minister say a word about the codes of conduct that will flow from the regulations? There has been a consultation—which I think I am confident about; I have heard no complaints about that and have no reason to believe that there are any surprises waiting for us in the code of conduct. Can the Minister reassure us that this work is in hand and that it will be available in time and will add the necessary detail to the schemes when they come into play in October this year?

While I am on my feet, it is not directly relevant to these regulations per se, but I think we are all very interested in pursuing the pensions dashboard. There have been rumours—I put it no higher than that, although my spies are everywhere—that the department is struggling to find the time or capacity to deliver on the promises that were made by former Chancellor Osborne all those years back. It is an important part of being able to allow people to assess what kind of living standards they will have in retirement or whether there is any backsliding or suggestion that the priority is being withdrawn from the development work on the pensions dashboard. Although it is not directly relevant to these regulations, I would like an assurance from the Minister that this work is proceeding at full speed and that we can confidently look forward to the dashboard playing a part, eventually, over the 10-year period of the impact assessment to help people understand their pension provision.

I hope that the codes of practice will make clear the practical steps that have to be taken by master trusts to make sure that their members are timeously and regularly advised with proper communications about what is happening to their investments and schemes. That is important in order to keep the connection flowing between the people administering the schemes and the members themselves. These are very important regulations; I think that they are sufficient for their purpose, but there is still some work to do because we are in new territory. We cannot be casual about 10 million people and £16 billion of assets. We must all maintain vigilance over the development of this scheme and we look forward to it being introduced, hopefully in a constructive way, in October this year.

Lord McKenzie of Luton (Lab): My Lords, I thank the Minister for her very full introduction of these master trust regulations and for the extensive accompanying documentation made available, notwithstanding that it had to compete with tennis at Wimbledon, the World Cup and a decent game of cricket. I join my noble friend Lady Drake and the noble Lord, Lord Kirkwood, in thanking the Pensions Regulator for a briefing that provided us with an update on what is happening in the market and on what the regulator is doing to build capacity for the authorisation process.

I should say at the outset that we are, of course, supportive of the Pension Schemes Act 2017 and of the thrust of these regulations, which flow from it. We particularly support option 2 in the impact assessment, which explains, as has the Minister, the introduction of a new compulsory authorisation regime building on the framework of the voluntary master trust assurance framework.

As has been acknowledged in this short debate and previously, the growth of master trusts is associated with the success—I think "phenomenal" was the word used—of auto-enrolment, with now some 1.1 million employers automatically enrolling 9.4 million eligible workers. As of March 2017, 59% of those auto-enrolled have been enrolled into a master trust. Hitherto the regulatory regime applicable to master trusts—that applicable to DC occupational schemes—was largely designed to address risks of single employer schemes. As the impact assessment sets out, such a regime of itself is inadequate to cater for new types of business structures associated with master trusts, with changes to the relationships between key players, the introduction of the profit motive and coping with multiple employers, not to mention the scale of some of the providers. There is a need for a regulatory regime that encompasses an authorisation process, fit and proper persons requirements, financial sustainability and scheme funder requirements, a continuity strategy and an obligation to notify the regulator of significant events.

As the Minister said, we know that such a regime will hasten the process of consolidation of schemes. Indeed, this has already begun. The Pensions Regulator told us that, from a starting number of 81 schemes, some 45 are expected to go through to submit formal authorisations, although page 26 of the impact assessment refers to 87 being within the definition. Perhaps the Minister can reconcile those two numbers for us.

Some of these regulations came into force on Royal Assent, and the remainder will come into force on 1 October 2018, with the exception of Regulations 23(2)(b)(i) and (ii), which come into force on 1 April 2019. These appear to relate to the application of fraud compensation facilities. Could the Minister explain why there is this different starting date, and can she tell us under which provisions the current consolidations

[Lord McKenzie of Luton]
are proceeding? Do some precede the application of the 2017 Act and, if so, what difference does this make? Could she also say how many different master trusts have been recipients of transfers in when others have exited the market, and how these were identified? She will be aware of the discussion which took place during the passage of the Bill, led by my noble friend Lady Drake and supported by the noble Baroness, Lady Altmann, concerning a funder of last resort to manage cases where there is no trust prepared or able to take a transfer. What in these regulations will give reassurance on this point beyond what is in the Act? What is the contingency plan, where records are a shambles—the noble Lord, Lord Kirkwood, referred to those circumstances—and there are insufficient resources? When debated in the Commons, the then Minister explained that the Government were working to establish a panel of white knights. Could we have an update on progress on that?

During the passage of the Bill we debated whether it would be appropriate for the member engagement strategy to be included in the application for authorisation. Although resisted at Committee, the Government undertook to ensure that the regulator should take account of communications matters when deciding whether the scheme is run effectively. Perhaps the Minister will outline what is now proposed. She might also say something about what responsibilities might be placed on master trusts concerning communication and engagement with a pensions dashboard. I join the noble Lord, Lord Kirkwood, in probing exactly what is happening on that. Perhaps we can hear what progress is being made.

6.15 pm

On encouraging member engagement, we have argued that trustees should notify members, as well as employers, of triggering events, but this was resisted. Can the Minister say specifically how members were made aware and kept informed of the process of those triggering events which have taken place?

Section 10 of the Act sets out the scheme funder requirements, including the stricture of, with exceptions, only carrying out activities relating directly to the master trust. The matters to be satisfied for any exemption to apply are extensive, and one wonders—the Minister may be able to help us—how many will actually seek to avail themselves of this.

On other matters, we note that the regs adopt the process of combining all regs to form a single set of affirmative regs, notwithstanding that the negative procedure might apply to some. Obviously, we have no problem with this and presume there are no ramifications for the subsequent application of these regs.

Reference is made in the Explanatory Memorandum at paragraph 4.3 to amending the relevant provisions of the Companies Act 2006 rather than using the powers of the 2017 Act in connection with financial sustainability. It would be helpful if the Minister could unpick this a little and provide a more detailed explanation of what is actually happening here.

The master trust regime does not operate if only connected employers are involved, as we have heard. The term "connected employers" is defined in the regs, although the Explanatory Memorandum at paragraph 7.2 includes a reference to "one profession". Could the Minister tell us what the Government had in mind, as it is assumed that most professions would comprise separate and independent business units?

So far as impacts are concerned, we accept that there is a degree of uncertainty as the full impact of some of these regulations is not prescriptive. Much rests on the judgment of the regulator's early work on the regime.

It is noted throughout that in costing the involvement of trustees, scheme strategists and scheme funders, the wage level for a professional is taken as £25.08 per hour, plus 27% on costs. Do the Government have any more specific evidence of pay levels for what could be quite disparate roles?

As we have heard, the proposed two levels of fees for authorisation—£41,000 for existing schemes and £23,000 for new schemes—is proposed on the basis that the latter is likely to have less evidence for the regulator to assess. I am not altogether sure that this sends the right messages. Could it not be as valid to argue that assessment of someone with a track record would be less problematic than of someone starting from scratch?

We cannot escape things Brexit, even in these regulations, and the Government's response to the consultation refers to the obligation to transpose the IORP 2 directive by January 2019. It also states that, where appropriate, the regs will already reflect some of the requirements. Perhaps the Minister can identify which.

The 2017 Act and these regulations provide an important regulatory framework for master trusts and they deserve—and receive—our full support.

Baroness Buscombe: My Lords, I thank all noble Lords for their considered contributions to this short debate. A number of issues were raised, which I will attempt to address—I say "attempt", thinking of the noble Baroness, Lady Drake, who I have huge respect for, given her considerable expertise in this area.

The need for financial sustainability of the scheme must be at the heart of what we are doing to protect savers. We must be sure that the scheme is financially secure. We have always been clear that we expect that some master trusts will decide to exit the market. Also, over time the market will consolidate as many of the schemes are designed to work best when operating at scale. The regulator has been working closely with schemes, whether to support them to prepare for authorisation or to leave the market. We have always known that some schemes would not meet the standards because they would not be financially viable over the longer term. There are also schemes where the administration is not of an acceptable standard or where the people running them would not meet our requirements. It is important that members' saving schemes are financially robust and of high quality, and we believe that the measures we have introduced are proportionate responses to the risks in the market. We also expect that new schemes will enter the market over time.

I have been asked whether we can be confident that the risk of a master trust failing in a catastrophic manner, if I can put it that way, is low. The system has

been designed to protect against failure to the best of our ability. Measures such as the financial sustainability requirements and the need for an implementation strategy aim to make master trust closure as orderly and well-managed as possible. As the noble Lord, Lord Kirkwood, said, this is new territory, so it is critical that, through this process and going forward, we work closely with all stakeholders and ensure that the Pensions Regulator can work closely with master trust schemes and continually proactively to assess the level of risk in the master trust market so that it is alert to any significant changes in a particular scheme. One of the important points I made at the outset is that maintaining strong oversight to the best of our ability while continuing in a sense to maintain a light touch is an important balancing act for the regulator in this market.

The noble Lord, Lord Kirkwood, asked about inaccuracy of data and what processes are in place to ensure that the correct contributions are being paid if providers do not know the pensionable salary of an employee. As we know, automatic enrolment has been a great success and we have put in place a robust compliance framework, overseen by the Pensions Regulator, on how to abide by the law. An employer is required to select a qualifying pension scheme, enrol qualifying staff into that scheme and deduct any contributions payable under automatic enrolment. Employers are also required to pay those contributions across to their chosen pension provider by a set deadline. Although the deadlines for contribution payments vary depending on the type of scheme being used, there is an overall legal deadline of the 22nd day of the following month, which aligns with the HMRC deadline for paying tax and national insurance.

Qualifying pension schemes for automatic enrolment are subject to the same regulatory framework as all trust-based pension schemes, also overseen by the Pensions Regulator. There are published codes of practice on its website setting out how the trustees of defined contribution pension schemes and the managers of personal pension schemes should monitor the payment of contributions and report payment failures to the regulator.

The noble Lord, Lord Kirkwood, also asked how we can ensure that consumer interests are properly safeguarded and their information protected. We are talking about data in this context. Governance and security were considered as part of the pensions dashboard prototype project and subsequent interim phase. The recent Which? report, published in February 2018, also looked at and stressed the importance of regulation in this area to protect consumers. The Government will examine those findings alongside industry and the regulator as part of their feasibility work.

For many people, the state pension will form an important part of their overall retirement income, so people can access the online Check your State Pension service through GOV.UK to get a forecast of their state pension and information about how they might improve it, and to view their national insurance contribution record. We are considering the industry group project's recommendation that state pension data should be available alongside private pension information from day one.

Schemes are required to provide details of the systems and processes used or intended to be used in running their scheme as part of the application. This applies whether the systems and processes used are devised, applied or maintained by the scheme or service provider. Schedule 4, on systems and processes requirements, sets out the information required, which includes the features that will be part of the system.

The noble Lord, Lord Kirkwood, referenced the pensions dashboard; I think he referenced a particular press item. We do not comment on press leaks, but I can say that the Government are working with the regulators, wider industry and other sectors on the options for the development of a pensions dashboard. We are in the concluding phase of the feasibility study and will share our findings in due course. I add to that something my honourable friend in another place said today before a Select Committee. To remind noble Lords, he said that,

"the chancellor, in 2016, set out … an enthusiasm for a dashboard",

but,

"how it is then provided and what … form it takes, is … a matter for ongoing debate".

There is an acceptance that there is a proper and legitimate debate as to whether this is a single uniform dashboard. Indeed, I remember the level of detail that, for example, the noble Baroness, Lady Drake, referenced in Committee on the single financial guidance Bill, saying that we have to learn to crawl before we can walk and to walk before we can run. We have to get this right. That is as much as I am able to say.

There was also a question about the code of practice from the noble Lord, Lord Kirkwood. There is an eight-week consultation on this. The general consensus from industry is that this is an important part of the authorisation and supervisory role, but we very much have a strong eye on the application of the code of practice.

A number of questions were asked by the noble Lord, Lord McKenzie. For example, on the fraud compensation fund, he asked what happens about the levy if a scheme is waiting for authorisation under the Pension Schemes Act 2017, and why 1 April. Any master trust schemes authorised during the financial year 2019-20 can benefit from the lower levy cap of 30p per member for the whole of the year, irrespective of when during the year they are authorised. This is a transitional measure that applies only to the year 2019-20. New master trust schemes established after that financial year will be subject to the existing rules on the fraud compensation fund levy. They will pay for the portion of the year that they were registered.

It is important to reference the need for consistency when approving master trust applications. Of course, the Pension Schemes Act 2017 sets out the criteria that must be met for the scheme to be authorised. The regulator will take a risk-based approach based on the evidence provided. The evidence presented will be assessed objectively, with specialists assessing specific aspects of evidence. For example, IT specialists will be deployed to assess objectively the system schemes will use. For existing master trust schemes, the decision to authorise sits with the determinations panel—an independent committee of the regulator. For new master trust schemes, the decision to authorise will be made by the executive arm of the regulator.

6.30 pm

The noble Lord, Lord McKenzie, also referred to TPR intelligence. Currently, we have 81 master trusts but that figure will drop to 61. To date, 20 schemes have been wound up and the Pensions Regulator is working with them; they are considered small, legacy, sub-scale and non-core business. Some 47 of the 61 schemes were assessed by the readiness review process and 33 schemes provided applications for the Pensions Regulator's consideration. We are expected to be in receipt of 40 to 45 formal applications. These are in line with the Pensions Regulator's expectations.

Why do we require that level of detail? The level of detail on charges for schemes with complex charging structures that charge different employer individual rates is excessive and of limited value. For schemes with complex or bespoke charging regimes, the charges disclosure requirements may need some work. However, the information is available to the scheme and is needed to enable the regulator to check that charges on members have not been increased shortly before a triggering event. Members should not have to pay extra because their scheme has had a triggering event.

A number of additional points were made by the noble Lord, Lord McKenzie, to which I am unable to give full attention this afternoon.

Lord McKenzie of Luton: Perhaps the Minister will agree to write to me.

Baroness Buscombe: I am grateful to the noble Lord. I will write to him and share what I write with all noble Lords who have taken part in the debate.

I want to touch on the kind words of the noble Lord, Lord Kirkwood, in reference to my noble friend Lord Trefgarne. All too often, committees that are not on the Floor of the House or in the Moses Room are quietly proceeding on the more technical and difficult issues and we do not pay them due regard in a public manner. I want to do that now. I thank the noble Lord, Lord Kirkwood, for complimenting the department on getting it right in terms of our consideration of and the detail in the regulations. That is important because we are protecting peoples' lifetime savings. We want to do this to the best of our ability while allowing many more people to take part in the scheme.

I am sure I do not need to persuade your Lordships that with millions of hard-working people now saving towards their pensions, it is only fair and proper that their savings are protected and that the schemes they are saving with are of a high quality and offer good value. The regulations will help to achieve this by bringing into effect a new regulatory regime which will ensure that schemes are well run. For the past couple of years, the Pensions Regulator has been working closely with master trusts to help them prepare for these changes. Following the introduction of the regulations, my officials and staff at the Pensions Regulator will continue to work closely with the industry—that is an important point to make—to support it in its preparations for making an application for authorisation and going forward.

I wish to thank all noble Lords again for their excellent contributions. Some of their questions were very difficult, I have to say.

Motion agreed.

Investigatory Powers (Codes of Practice and Miscellaneous Amendments) Order 2018

Considered in Grand Committee

6.34 pm

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

That the Grand Committee do consider the Investigatory Powers (Codes of Practice and Miscellaneous Amendments) Order 2018

Relevant document: 35th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the regulatory framework governing the use and authorisation of investigatory techniques provided for by the Regulation of Investigatory Powers Act 2000, or RIPA, ensures that the public authorities empowered to use these important techniques do so in compliance with the right to privacy under Article 8 of the European Convention on Human Rights. Noble Lords will be aware of how important these provisions are, along with those in related legislation, including the Investigatory Powers Act, to the vital work undertaken by the intelligence and law enforcement agencies, as well as by other public bodies with enforcement or regulatory functions. These Acts allow for the authorisation of investigative techniques that are used by investigators to obtain intelligence and evidence to disrupt the activities of serious and organised crime groups, prevent terror attacks, establish guilt, and ensure that our agencies can locate and safeguard vulnerable and missing people.

The RIPA framework ensures that there are strong, transparent safeguards in place that are appropriate to the intrusive nature of these investigatory powers, so that they are used lawfully and proportionately. This is developed further by the significant strengthening of safeguards and changes to the oversight of all investigatory powers brought about through the Investigatory Powers Act. These strengthened safeguards, therefore, together with the clear requirements set out in the codes of practice and the rigorous independent oversight provided by the Investigatory Powers Commissioner, establish clear limits around the use of these powers, and ultimately provide reassurance to the public that the powers are being used in ways that serve the best interests of us all.

The Investigatory Powers (Codes of Practice and Miscellaneous Amendments) Order 2018 introduces three revised codes of practice, as well as making some amendments and updates to the public authorities authorised to use surveillance powers under RIPA. The order also makes a minor technical amendment to provisions on the use of combined warrants under the Investigatory Powers Act 2016. I am aware that the noble Lord, Lord Haskel, is keen that we also discuss today the Regulation of Investigatory Powers (Juveniles) (Amendment) Order 2018, which amends the existing authorisation regime for the use of people under the age of 18 as covert human intelligence sources. I thank him for giving the Committee the opportunity to hear about the extensive safeguards in place.

The revised codes of practice provide guidance on covert surveillance, property interference, covert human intelligence sources, or CHISs, and the investigation of protected electronic information—activities which are regulated by RIPA as well as by the Police Act 1997 and the Intelligence Services Act 1994.

First issued in 2002, the CHIS and covert surveillance codes of practice were last updated in 2014. They, along with the investigation of protected electronic information code, which was introduced in 2007 and has not been updated since, have all been updated, mainly to reflect the changes brought about by the Investigatory Powers Act. These include the creation of the new Investigatory Powers Commissioner, the changes made by the introduction of equipment interference as a technique separate from the existing property interference powers, and the need to mirror the strengthened safeguards for the handling of confidential and privileged material.

Other updates and clarifications have been made to the guidance to reflect and improve current operational practice. We consulted publicly on them at the end of last year. For instance, the guidance on procedures to be followed where investigators use the internet for covert investigatory purposes or where covert surveillance is undertaken by means of drones, and the provisions intended to reinforce the safety of covert human intelligence sources, have all been expanded.

In addition, we are updating the lists of the public authorities and officers able to authorise the use of directed surveillance and covert human intelligence sources. These updates ensure that public authorities can continue to authorise the use of investigatory powers following changes to their organisational structures and remove any authorities that no longer require the powers, and are in themselves a safeguard against the inappropriate or indiscriminate use of the investigatory powers. They ensure that their use is limited to specified public authorities and can be authorised only by specified officers within those authorities who have sufficient authority and expertise.

Lastly, we are correcting a technical error in the Investigatory Powers Act provisions for authorising a combined warrant, reflecting Parliament's clear original intention that warrants should last for six months, rather than the clearly far-too-short period of two working days. This timely improvement will assist our intelligence services in their work of identifying and disrupting threats to our national security.

All the changes to the codes of practice and the authorisation framework for the powers ensure that the highest standards continue to be required of those using the powers and that they are underpinned by ever-stronger safeguards against their misuse. I commend the order to the Committee and hope that during the debate I can provide reassurance to the noble Lord, Lord Haskel, and others on the use of juveniles as CHISs. I beg to move.

Lord Haskel (Lab): I thank the Minister for introducing the order and for raising the question of the juveniles order. I think it would be of convenience to the Committee if we debated them together.

I sit on your Lordships' Secondary Legislation Scrutiny Committee. Our task is to consider and scrutinise all the Government's regulations and orders—what is known as secondary legislation. We report weekly on what we think would be of interest to the House and what gives us cause for concern. Normally we do this on paper, but we thought that the regulation regarding juveniles warranted further debate.

Our committee is a mixed bunch. Our chairman—the noble Lord, Lord Trefgarne—and other members of the committee are here. We are from all sides of the House. There are some old hands, like me, and some welcome new faces. Some have had experience in government. But the one thing that most of us have in common regarding this order—and I include Jane White, our experienced and effective adviser, who worked on the order—is that we are parents and, as parents, we know that young people in their mid to late teenage years are going through a time of great change, when they are vulnerable and often need support. Our concern is that the order does not provide that necessary support and understanding.

We wrote to the Home Office, saying that the Explanatory Memorandum—EM—explained why this extension of one month to four months was administratively convenient. Yes, the Explanatory Memorandum acknowledged the need to take account of the welfare of the young people. But it was not clear how this would be achieved. We wrote to the Minister for Security and Economic Crime about this concern. In reply, he justified the use of these young people, explaining that young people are increasingly both perpetrators and victims of crime and so are increasingly able to assist in the prevention and prosecution of crime. He certainly acknowledged the need to look after the young people's welfare and said that the code was being updated—that is the code of which the Minister has just spoken.

The Explanatory Memorandum has indeed been updated. It mentions some of the safeguards and says why they are needed. But what is still missing is exactly how the welfare and safety of these juveniles will be achieved.

Working undercover can be made to look very attractive to a juvenile, but what about the risks? There is the risk of being beaten up, of sexual exploitation, of reprisals, as well as the impact on their education and on their mental health. The Home Office reports that it has to deal with an increasing number of mental health problems. The Minister is also silent on the number of young people involved in this undercover work, so we ask: is it right to put one juvenile in jeopardy for the greater good?

6.45 pm

The use of children as covert human intelligence sources is not new. Similar concerns were raised in Northern Ireland, and I am most grateful to Rosalind Comyn of Rights Watch UK for its brief based on some of its experiences. It points out that, as well as enjoying the full protection of the human rights framework up to the age of 18, these young people are due special protection under the Children Act 1989. The Act requires that the best interests of the child should be paramount. Indeed, local authorities have safeguarding obligations in this area. How are they carried out, if at all, within the existing safeguarding arrangements?

[Lord Haskel]
There seems to be no requirement for an independent social worker, a psychiatrist or a safeguarding practitioner to be involved in the process. The order requires an appropriate person to be with the juvenile at various meetings, particularly with their handler, but "appropriate person" remains undefined. Surely their role, qualifications and status need to be defined in terms of the part that they will play in looking after the interests of the juvenile.

Then there is the whole matter of the juvenile's consent. A passing reference is made in the code of practice to the need for the risks to be understood, but consent is not specifically mentioned. Safeguards need to be in place to ensure that the juvenile's consent is fully informed, that it is free from undue influence and pressure, and that the decision is voluntary. There are also implications for parental responsibility, especially where the juvenile's parent or guardian is not informed, perhaps for ideological reasons.

I am advised that all individuals under the age of 18 are legally children and should be given the protections and entitlements set out in the UN Convention on the Rights of the Child as well as the European Convention on Human Rights. This is not dealt with in the Explanatory Memorandum. It could be that the order is in breach of the conventions, and this is what gives rise to our concern. The welfare of these juveniles should take precedence and their rights are clearly expressed in the conventions. I therefore propose that in order to satisfy these concerns, Ministers should ask the Joint Committee on Human Rights to scrutinise and advise on this order before it goes any further. I beg to move.

Baroness Jones of Moulsecoomb (GP): My Lords, I have been watching the Met Police moderately intensely for nearly two decades. I genuinely thought that I could not be surprised, but I have been surprised by this. I congratulate the Secondary Legislation Scrutiny Committee on bringing this to our notice, and the noble Lord, Lord Haskel, on explaining the situation so eloquently and passionately.

I was surprised and shocked to find out that the police and other public authorities are legally allowed to use children as spies, doing police work. I found out only because the Government want to change the rules so that rather than authorising a child to spy for only one month at a time, they can be authorised for four months. I want to state this very clearly because, like myself, most people will not know it: children are being used by the state to infiltrate criminal groups and do dangerous police work. I do not see how this can be considered acceptable.

The Home Office Minister has linked child spies with terrorism, gang violence, child sexual exploitation and county lines drug rings, and appears to have suggested that the impact on the child spies can be outweighed by the benefit to potential victims. I am frequently infuriated, even confused, by the things that the police and security services do, but to me this is absolutely staggering, especially when you realise how little safeguarding is in place for the affected children. The authority using the child spy has to conduct a risk assessment and then consider whether it is justified to expose the child to the identified risks. Someone has to be in charge of the day-to-day welfare and monitoring of the child spy, but we already know how badly the police have failed in such duties in the past.

For example, the ongoing "spycops" public inquiry has highlighted how the police can lose track of people and turn a blind eye to things that are potentially highly illegal and dangerous. Trained undercover police officers have gone rogue and acted beyond their authority, forming sexual relationships with women in campaign groups and even fathering children, before disappearing, never to be seen again. If this can happen when the police are watching trained police officers, what worse things could happen when children are at risk? How can we trust the police to perform their duty to the child spies whom they are recruiting and putting in danger?

How many child spies have been deployed under the power in Section 29 of the Regulation of Investigatory Powers Act 2000? What assessments have been conducted of how effective child spies are, what dangers they have been exposed to and what tangible results were obtained by their deployment? What rights and remedies do child spies have if something goes wrong or if they feel that they have been let down by their police handlers? I know the answer: almost nothing. They have no protections. We have heard from the Minister about safeguards but I would argue that not enough safeguards are in place. I think that most people would be shocked to learn that children are being used as spies and being exposed to such unimaginable risks. I doubt that it leads to any serious results in terms of fighting crime, while exposing children to real danger. This is yet another example of the inhumanity in our current system. We in your Lordships' House have a chance not only to expose this but to attempt to correct it.

Lord Trefgarne (Con): My Lords, I want to intervene briefly. I thank the noble Lord, Lord Haskel, for bringing this important issue of the use of juveniles for covert intelligence gathering to your Lordships' attention. I have the honour of being the chairman of the Secondary Legislation Scrutiny Committee, as the noble Lord, Lord Haskel, was kind enough to point out. He is an experienced and distinguished member of the committee and I am grateful for his contribution to our work.

Earlier this month, the committee considered this order, along with the associated code of practice, and we decided to report the instruments not only on the grounds of policy interest but because we were disappointed by the quality of the explanatory material laid in support. The effect of the order is to increase the period for which a juvenile can be authorised for covert intelligence purposes from one month to four months. What was of particular concern was that the original Explanatory Memorandum accompanying the order appeared to justify the increase on the grounds of administrative convenience, rather than focusing on the welfare of the young person concerned.

As chairman, I therefore wrote to the Minister, Mr Wallace, to express what I described in my letter as the committee's "considerable anxiety" about using

young people in this way. The Minister told us that juveniles, in acting as covert intelligence sources, would be able to assist in both preventing and prosecuting offences such as,

"terrorism, gang violence, county lines drugs offences and child sexual exploitation".

That may be so, but these are all very serious offences. The use of juveniles—young people under the age of 18—in such a dangerous environment is, therefore, a profoundly serious matter.

In these circumstances, the Committee will, I think, wish to hear in detail what assurances my noble friend the Minister can offer about how the welfare of the juveniles involved in covert intelligence is protected, both while it is happening and in the longer term.

Lord Judge (CB): My Lords, until last August, I was for two years the Chief Surveillance Commissioner—an office that no longer exists under the current legislation. I will echo one or two, but not all, of the points that have been made so far. If I may say so, I thought that the Explanatory Memorandum for this proposal in relation to juveniles was thoroughly inadequate and, if it had been adequate, would have said a good deal to allay the concerns that have been expressed today. I did not think that the letter from the Minister allayed those concerns—it did not address them, it seemed to me.

There is in fact an extremely careful system for supervising, organising and taking responsibility for all CHIS. There are very few juvenile CHIS, for all the reasons that have been given; I do not think the figures have been kept, but I can say this. What may not be apparent to many people in the Committee today is that each police force is examined and inspected by independent inspectors, answerable to a judicial figure, and the inspections cover every form of intrusive investigation that has gone on and all issues relating to the use of covert human intelligence. I can say from my own experience—it is not a state secret—that in relation to any CHIS activity involving juveniles, the inspectors pay particular attention to see that the issues of welfare and so on have been properly addressed. All this could have been explained and made available to the Secondary Legislation Scrutiny Committee, which would then have formed whatever view it thought appropriate.

There is, however—I could go on for some time about this—one point that needs consideration if the Government, decide to follow the suggestion made by the noble Lord, Lord Haskel. Within the surveillance process, in relation to authorisation for intrusive surveillance, such an order, however made—even by the chief constable himself or herself—does not take effect until it has been approved by a judicial commissioner and when the notice of that decision has been given to the person who granted the authorisation. It might just be worth giving some thought to using that particular additional safeguard when we are considering the rare occasions when a juvenile CHIS is being used.

Lord Paddick (LD): My Lords, I thank the Minister for explaining these orders, and other noble Lords for their contributions. There are some issues around the Investigatory Powers (Codes of Practice and Miscellaneous Amendments) Order 2018 that I would like clarification on before we get on to the major issue of the use of juvenile covert human intelligence sources. I therefore ask the Committee for a few moments to deal with those other issues.

I understand that this instrument brings into force the three revised codes of practice regarding the functions carried out under RIPA 2000, and that these need to be updated, not least because of the Investigatory Powers Act 2016 and the additional safeguards it introduced. One of the phrases in the Explanatory Memorandum—changes to "cover current practice"—is a little worrying, as it stands. I hope the Minister can reassure the Committee that the codes of practice have not been altered simply because law enforcement and intelligence agencies have changed how they do things. Surely the codes of practice are there to ensure compliance with government-defined best practice, not the other way around.

7 pm

In relation to,

"changes to strengthen protection for juvenile covert human intelligence sources",

or informants, as they used to be known—or spies, as the noble Baroness, Lady Jones of Moulsecoomb, calls them—I am concerned that an appropriate adult is not required when the CHIS is under 18, only when they are under 16. This is stated in the Covert Human Intelligence Sources Draft Revised Code of Practice paragraph 4.3. The law recently changed to ensure that all criminal suspects under 18 are treated as children, and cannot be interviewed without an appropriate adult. Yet, as we have heard, a potentially more detrimental activity to the young person—operating as a CHIS—does not require the presence of an appropriate adult, unless the young person is under 16. I will return to the issue of juvenile CHIS in a moment.

Will the Minister confirm that in revising the list of authorised authorities, and the prescribed offices within those authorities, authority levels have not been lowered as a result of these changes? Will the Minister also clarify the situation in relation to combined warrants? Previously, under RIPA, if an intrusive surveillance warrant was applied for by any of the intelligence services and a Minister was not available to sign the warrant, a senior official could sign instead. In such circumstances, however, the warrant would be valid for only two working days, instead of six months. Now, because of the additional safeguards provided by the Investigatory Powers Act—the "double lock" of approval by both the Secretary of State and a judicial commissioner—if such a warrant is included in a combined warrant, there is no need to limit a warrant signed on behalf of the Secretary of State by a senior official to two days, provided that the official has been "personally and expressly" authorised to do so by the Secretary of State. This is my understanding of the changes. How does the judicial commissioner know that the Secretary of State has personally and expressly authorised the senior official to sign the warrant on the Minister's behalf? Was the previous safeguard—a two-day limit—designed to ensure that the Secretary of State had authorised the warrant by requiring the Minister to sign it within those two working days?

[Lord Paddick]

I am very grateful to the Secondary Legislation Scrutiny Committee for its 35th report. As has been already been said, it does extremely important work, and this is a classic example of that. We should all be grateful to the noble Lord, Lord Haskel—a member of the committee—for saying that this needed to be debated, rather than just received as a report from the committee.

This debate is about the regulation of the Investigatory Powers (Juveniles) (Amendment) Order 2018. I declare an interest, in that during my 30-plus years as a police officer I spent some time as a detective chief inspector in the Metropolitan Police Service, and during that period was responsible for CHIS—or informers, as we called them then.

The noble Lord, Lord Haskel, made some extremely important points: these young people are teenagers going through a very difficult time; and it is not clear what the arrangements are, or need to be, to ensure the safety and welfare of these young people. It raises a fundamental question: if the Children Act 1989 says that the best interests of the child must be paramount in every situation, it is difficult to see how being used as a covert human intelligence source can be in the best interests of the child. It may conflict with the interests of the wider public, but it is a very important question and therefore the suggestion of the noble Lord, Lord Haskel, of referring this to the Joint Committee on Human Rights seems to be a good one.

As for what the noble Baroness, Lady Jones of Moulsecoomb, said, it is perhaps not quite as she suggested: these are not innocent teenagers who are being picked on by the police and told to go into gangs to act as covert human intelligence sources. What usually happens is that these are gang members who have been arrested and who volunteer, who offer to help the police by reporting back what is being said and done within that gang environment. It is still a very dangerous situation, clearly, but not quite as some people might interpret what the noble Baroness said.

Baroness Jones of Moulsecoomb: I absolutely did not mean to imply that. I understand how they are recruited: I did not mean that.

Lord Paddick: I am very grateful to the noble Baroness, but I think it is important that that misinterpretation is not put on it.

As the noble and learned Lord, Lord Judge, said, yes, the Explanatory Memorandum is clearly inadequate, as is the letter from the Minister. It is almost contemptible in failing to address these issues. Clearly, it would be different if the Grand Committee had known in advance about these independent inspections of the use of CHISs, and the particular importance that inspectors pay to juvenile CHISs; but the fact remains that these inspections are post-event. These are not procedures that could prevent a juvenile being put into a dangerous situation beforehand.

The managing of informants, or CHISs, as they are now called, is one of the most sensitive areas of policing, fraught with danger—and that is just for adults. Using juveniles as CHISs is an order of magnitude more dangerous, as other noble Lords have said. Young people, through their immaturity and inexperience, are far more at risk when being employed effectively as spies, as the noble Baroness said, in criminal enterprises. They are far more likely to make mistakes and to blow their cover than mature and experienced adults. Law enforcement and other public agencies have always recognised this, and that is why, in the police service, the extraordinary step—and it is extraordinary—of employing a juvenile CHIS has to be authorised by an assistant chief constable, a commander or a more senior officer.

Until now, the authority has lasted one month. Clearly, the longer the CHIS is undercover, the greater the chance of being exposed and the greater the potential psychological strain and therefore risk of harm the young person might be subjected to. For that to be extended to four months without an officer of such seniority being asked to renew that authority is putting the young person in grave danger, in my personal and professional judgment. These decisions were always taken with the greatest care and consideration, and it was ensured that the case for engaging and renewing was taken by a very senior officer, several levels above the investigating officer, and therefore with objectivity and independence, crucial to ensure the safety of that young person.

The world is a much more dangerous place than it was when I was a police officer, let alone a detective chief inspector. As the noble Lord, Lord Trefgarne, has said, the Explanatory Memorandum talks about child exploitation, terrorism and gang and drug crime involving more and more young people. There is a real danger that juvenile CHISs could become victims of child sexual exploitation, or the discipline meted out to members of gangs by other members of the same gang, including sexual assault, rape and being stabbed in the leg. These levels of violence among juveniles were rare in my time as a police officer but are now far more common.

At a time when the threat to CHISs is increasing and the threat to an immature and inexperienced CHIS is even greater, the Government are seeking to reduce the safeguards for these vulnerable young people. That is unacceptable. I do not want it on my conscience that a juvenile CHIS has been killed or seriously injured as a result of relaxing the necessary safeguards that are in place at this time. I seriously ask the Government to rethink this provision, not least because the consultation on these changes does not appear to have included organisations or specialists in the welfare of children such as those who work with gangs, ex-gang members, or child psychologists.

Given more notice and time and at a different point in the parliamentary timetable, I would have prayed against this provision and divided the House. It is not too late for the Government to withdraw this order, at least until the Minister has satisfied herself that appropriate advice has been taken on the potential risks associated with these changes.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the Minister for presenting the order to the Grand Committee. I also thank my noble friend Lord Haskel for moving his Motion and, in doing so, highlighting the issues of concern that have been

raised by the members of the Secondary Legislation Scrutiny Committee in its 35th report published on 12 July. They have highlighted an issue of very serious concern for all members of the Grand Committee this afternoon.

The Grand Committee and the House are grateful for the work done by the committee, chaired by the noble Lord, Lord Trefgarne, in scrutinising every instrument that is laid before the Parliament. That is a very important job, getting into the nuts and bolts of what these orders are doing. It is able to get at what a particular instrument does and, through its engagement with Ministers and through its reports, bring matters to the attention of the House.

Covert surveillance is an important tool for our law enforcement agencies, the police and security services. It is a tool that can be used to provide evidence, to detect and prevent crime and, of course, to bring the perpetrators of crime to justice. It is a very important tool to keep us all safe. It is necessary, as there may be no other way to gather the intelligence needed. Having said that, we have to have proper codes of practice in place. When intelligence-gathering involves young people under the age of 18—people who are legally children, as we have heard—that is of serious concern to Parliament and to the Grand Committee today. How are their rights protected? Are adequate protections in place to take care of their physical and mental well-being? Is care taken, and what risk assessments are undertaken to ensure that that is the case?

As we have heard, the order before the Grand Committee today proposes to extend the period for which a person under the age of 18 can be used as a covert human intelligence source—what a name—from one month to four months. Terms such as "administrative convenience" from the Home Office do nothing to reassure members of the Committee that the Government have got the balance right here.

What should be of paramount importance is the welfare of the child who is being used as a covert intelligence source. Does the Minister accept that to seek to extend the term from one month to four months, you need to have clear reasons and to better explain what is being done, demonstrating that the welfare of the child is properly taken into account, other than it will be administratively convenient for the department? Further, can she tell the Committee how the Government have satisfied themselves that these proposals satisfy Section 1 of the Children Act 1989 and the UN Convention on the Rights of the Child, which the UK ratified in 1991? Could she also say something about how the safeguarding and protection of these children is delivered while involving them as covert human intelligence sources? I accept the point that the noble Lord, Lord Paddick, made on individual children and the wider community, but how we balance that out is very important.

7.15 pm

On the issue of risk assessments, how are the rights of the child protected? Is there a requirement for a social worker, psychiatrist or safeguarding expert to be involved—and what is the process that they are involved in? If there is not, what specific training or expertise would a police officer, security officer or intelligence officer have in respect of understanding the needs and rights of the child as opposed to gathering evidence by using the child as a covert intelligence source? There are two very different things involved there. What I am looking for here is some explanation and considerable reassurance that not only are the rights of the child important but that, in the decision-making process, the protections and rights of the child have been built in. So far, I am not seeing that as much as I would have expected.

The order refers to an "appropriate person" who is qualified to represent the interests of the child and who should be present at meetings between the young person and their handler. Can the Minister say why it is not "must" rather than "should"? That is an important distinction. What would be the circumstances when it would be acceptable for there not being someone present who could represent the interests of the young person? Can the Minister also deal with the issue of consent? How do we make sure that consent is appropriately understood and given, both when the child's parents are informed and in those cases where the parents are not informed or aware of what is happening? Those are two very different situations.

Can the Minister further explain why there is less protection for a young person aged 16 to 18 than there is for a young person aged under 16? As noble Lords have heard, in this country, if you are under 18 you are legally a child. These are young persons who, as my noble friend Lord Haskel said, are going through all sorts of changes and may be particularly vulnerable. One of my best friends has two young children. We saw them recently, and she said, "My daughter is 15 going on 25". However, they are still very young people, and we must never forget that.

In conclusion, this is a very sensitive matter and an important area of policy affecting vulnerable people, but also involving the detection and prevention of crime. They are very difficult issues and I do not underestimate them at all. We need to be reassured by the noble Baroness that appropriate protections are in place. I hope that she will be able to give that reassurance to the Grand Committee.

The comments of the noble and learned Lord, Lord Judge, were very illuminating. It may be that if the comments to which the noble and learned Lord referred were in the initial scope of the Committee and the Minister, we might be having a different debate today. Sometimes the department needs to tell committees what they can, and going a bit further might have reassured us and given us all that we needed to know. In the end, these children seem to be unpaid undercover intelligence officers. That might all sound very exciting when you are 15, running around doing that—but it is very dangerous. Some of the people involved are extremely dangerous. We have heard about gangs, drugs and sexual exploitation. These are not people you want to be around. While the young people may have been involved in some activity initially and have then been recruited, they are still children and need our protection. That is very important. We need to make sure that they are looked after.

Can the Minister further confirm that this is for serious offences alone and not for general offences? I assume that this is not used for things like shoplifting—that

[Lord Kennedy of Southwark]
it is for very serious offences. On one level, if that is the case it is good; but, equally, you are then particularly exposing the children, because if they are discovered to be spies and that they are informing, the risk to life and limb is very serious. With that, I look forward to the Minister's response.

Baroness Williams of Trafford: I thank all noble Lords who have taken part in this debate, in particular the noble Lord, Lord Haskel, who introduced some of the committee's concerns. I apologise for the quite unsatisfactory Explanatory Memorandum, about which the noble and learned Lord, Lord Judge, and to a certain extent the noble Lord, Lord Paddick, gave very good explanations and far more of the context, which is a learning point for me and for the Home Office. I repeat the point that all noble Lords made about the welfare of the child been paramount. The noble Lord, Lord Haskel, said that he is a parent; I am too. It is the most important thing that we are discussing.

I will start by addressing the Regulation of Investigatory Powers (Juveniles) Order 2018, which the Secondary Legislation Scrutiny Committee expressed concern about and which has, in the main, been the subject of interventions today. Over the past 18 months, at the Security Minister's instigation, the Government have been conducting a review with operational partners of the covert human intelligence source, or CHIS, authorisation framework to consider whether it is working as effectively as it could. This included consideration of the Regulation of Investigatory Powers (Juveniles) Order 2000 which put in place a set of enhanced safeguards that apply specifically to the authorisation of a CHIS under the age of 18, demonstrating that the ability to authorise people under the age of 18 as a CHIS is not something new. That has become clear in the course of discussions.

While investigators might wish to avoid the use of young people as a CHIS, we must recognise that, unfortunately, some juveniles are involved in serious crimes both as perpetrators and as victims. Consequently, young people might have unique access to information that is important in preventing and prosecuting gang violence, terrorism and child sexual exploitation offences. Noble Lords will undoubtedly be aware of reporting in the media recently—this was mentioned in the debate—on the escalating county lines phenomenon which, along with the associated violence, drug dealing and exploitation, has a devastating impact on young people, vulnerable adults and, of course on the communities they affect.

The existing juvenile CHIS regime allows for the use of a juvenile CHIS to be authorised for just one month at a time as compared to a 12-month authorisation for those over the age of 18. This can make their deployment more difficult to manage, which in turn can be unhelpful both to them and to law enforcement. It can also act as a deterrent to law enforcement seeking CHIS authorisation in some circumstances where immediate results might not be obtained during a one-month period, even if a longer, carefully managed deployment could provide a significant operational dividend.

To reduce the pressure to obtain immediate results from such an authorisation while still ensuring the protection of the juvenile, we are increasing the maximum length of a juvenile CHIS authorisation from one month to four months, requiring an authorisation to be reviewed at least monthly which will enable these deployments to be conducted in a more measured way. I will go into more detail on that in a second. Additionally, we have strengthened the protections around the appropriate adult required to be present at all meetings between the source and the public authority tasking them, and we are keeping the existing prohibition on all sources aged under 16 being tasked in relation to a parent or person with parental responsibility, which reflects the increasing independence of young people between the ages of 16 and 18 and that parental authority reduces accordingly—the point about 15 going on 25. I hope that reassures noble Lords that these changes are not about administrative convenience.

We think that these amendments will improve the operational effectiveness of the juvenile CHIS regime, while strengthening the protections for young people in this area and the safety and welfare of young people undertaking this important and dangerous role. This remains absolutely paramount.

Lord Paddick: Can the Minister explain how deployments are more difficult to manage if they are authorised for only one month? Presumably the deployment can continue and there is a review by an assistant chief constable or a commander to renew the authorisation, without interfering with the juvenile or the deployment. In those circumstances there would be no pressure to produce results within a short space of time if all we are saying is that the authority can be renewed by this more senior officer at the end of one month on an ongoing monthly basis, but it is very important that somebody of that seniority—that removed from the investigation—objectively decides that that authorisation should continue.

Baroness Williams of Trafford: For the convenience of the Committee, I will go through the process. Authorisations for the juvenile CHIS should be granted at an enhanced level, which is set out in annexe A of the code of practice. For example, for a police force this would be by an assistant chief constable, in comparison with the adult CHIS, where an authorisation would be considered by a superintendent. The code of practice requires that, where possible, the authorising officer who grants the authorisation should be responsible for considering subsequent reviews and renewals. That is how each month the whole thing is revisited to continue for a further month, up to four months. But all these processes need to be documented and considered by the handler, the controller and the authorising officer within the public authority and will be fully open to inspection by the Investigatory Powers Commissioner as well. This creates, in our view, a comprehensive framework of safeguards which ensure that the conduct is necessary and proportionate to protect the interests of that young person. With regard to increasing the maximum, they may not be able to finish off what they started within just one month and hence a monthly review, up to four months, is in place. The noble Lord is looking slightly confused so I will let him intervene.

Lord Paddick: Can the Minister confirm that the monthly review would be undertaken by an assistant chief constable or commander?

Baroness Williams of Trafford: Yes.

Lord Paddick: I still do not understand the difference between the current system, where that authorisation would have to be renewed by a commander or assistant chief constable each month, and a four-month authorisation that is reviewed every month.

Baroness Williams of Trafford: Under the current system it is only one month, whereas under the new system it would be up to four months but with a review every single month—and, yes, by the same senior officer.

Lord Kennedy of Southwark: Maybe I am being daft but I do not see the difference.

Baroness Williams of Trafford: I think I understand it. I apologise to noble Lords. The current system is limited to one month. The new system would be up to four months, but with a review every month.

Lord Paddick: I am very grateful to the Minister. At the moment, an assistant chief constable or a commander can authorise a juvenile CHIS to be deployed for a month. At the end of that month there can be an application from the handler to the senior officer to renew the authorisation so that it has the effect of continuing for another month, and so forth, for as long as it is necessary. The new system that the noble Baroness is suggesting is a four-month authorisation with a review by the commander or assistant chief constable at the end of each month. What is the difference between the two systems?

7.30 pm

Baroness Williams of Trafford: I think I have the answer now. Removing the requirement for the activity to be authorised at monthly intervals removes the need for investigators to push for early results to justify re-authorisation—that is what I understand—thereby allowing the juvenile CHIS to be managed in a way that better suits the long-term investigation and reduces the risks to the young person.

Lord Kennedy of Southwark: This goes to the point about administrative convenience that was made at the start. It may make it more convenient for the officer concerned, but how does it benefit the child?

Lord Judge: If you have to have a review every month, why do you not conduct a renewal? What is the difference between the review and the renewal in those circumstances? That is the heart of it.

Lord Paddick: Perhaps I can assist. The handler decides that the CHIS needs to be in a gang for three months. The handler will know that, under the current system, at the end of each month, for three months, they will have to go back to the commander or assistant chief constable to renew the authorisation. What is the problem with that system that is overcome by the changes being suggested?

Baroness Williams of Trafford: I am very grateful to the noble and learned Lord, Lord Judge, because he seems to put things so clearly. I get the noble Lord's point. Perhaps I may think about it and write to noble Lords, because I now understand exactly the point that the noble Lord is making—thanks to the noble and learned Lord, Lord Judge.

I will now move on to the appropriate adult point. We have strengthened the protections around the appropriate adult required to be present at all meetings between the source and the public authority tasking them. I think that I have already said this. We are keeping the existing prohibition on all sources aged under 16 being tasked in relation to a parent or person with parental responsibility. This reflects the increasing independence of a child approaching the age of 18.

I will now touch on the issue of consistency of approach.

Lord Paddick: I am very sorry; I know that it is late. I quoted from the draft revised code of practice. Paragraph 4.3 states:

"Public authorities must ensure that an appropriate adult is present at any meetings with a CHIS under 16 years of age".

An appropriate adult has to be present at the interrogation of a criminal suspect under 18 years of age. My question was: why is there a difference between the two?

Baroness Williams of Trafford: The noble Lord did ask that and I did not answer it satisfactorily. I will write also on that point.

Perhaps I could move on to the oversight regime. The independent oversight of these investigative powers was first legislated for by the Police Act 1997, and the powers are now overseen by the Investigatory Powers Commissioner, who also oversees the powers provided for in the Investigatory Powers Act 2016. The commissioner, like those oversight commissioners his role has replaced, provides the guarantee of impartial and independent scrutiny of the use of these tactics. The oversight commissioners have published reports annually, and, in his final oversight report in 2017, the Surveillance Commissioner commented that,

"standards of compliance have steadily improved in my view, and addressing it generally, they are high".

The Government accept that the Explanatory Memorandum originally laid alongside the juvenile CHIS order did not go far enough and, as the noble Lord, Lord Haskel, said, the revised version was laid last week. It provides greater detail on the changes made by the order and on the use of juveniles as CHISs more generally. However, I have to make it clear that the Explanatory Memorandum should not be read alone. As I have set out, those charged with authorising and handling young people who act as CHISs have access to extensive guidance available to them to ensure that juveniles are safeguarded.

[Baroness Williams of Trafford]
The Explanatory Memorandum is clearly not the right place for the detail that the code contains. Such detailed guidance on the use of these sensitive tactics is necessarily not in the public sphere, as to do so may undermine operational practices and have the potential of putting the CHIS in harm's way.

The fact that these two orders were laid at the same time is not a fluke—rather, it is the continued development of a suite of statutory safeguards and associated guidance, revised and updated to ensure that these powers are used proportionately and in accordance with the law.

I will now turn to some of the issues which were raised by noble Lords. The noble Baroness, Lady Jones of Moulsecoomb, talked about using children as spies—and this relates to the numbers. I can say to noble Lords that the numbers are extremely low. We do not disaggregate by age, but as I say, the numbers are low.

Baroness Jones of Moulsecoomb: How do we know that they are low if the numbers are not kept?

Baroness Williams of Trafford: As I understand it, while we do not distinguish between different age groups, we know from discussions with public authorities that the number of juvenile CHISs is low as young people would not normally be deployed in this role, unless there is absolutely no other way to achieve the same result. That is how we know that the numbers are low.

Consideration will always be given to whether the same result could be achieved by other means, and only if it cannot is it necessary to authorise a CHIS. The police and other public authorities must conduct a risk assessment before a juvenile is deployed as a CHIS. That assessment must take into account the risks to their physical and psychological health, as the noble Lord, Lord Paddick, said. The codes of practice make it clear that the welfare responsibilities continue after the deployment ends.

The noble Lord, Lord Paddick, asked about amending the combined warrant provisions. We are making this amendment because one effect of the IP Act is that certain combined warrants that include an authorisation for intrusive surveillance that has been signed by a senior official rather than the Secretary of State would last for only two days. The shorter duration is appropriate under pre-existing legislation, RIPA, where the signature and issue of such an authorisation personally by the Secretary of State is a key safeguard. When that does not happen, the warrant has a shorter duration unless renewed by the Secretary of State personally. However, in the context of such an authorisation being included as part of a combined warrant under the IP Act, which is subject to the additional safeguard of judicial commissioner approval, it is not necessary or appropriate to limit the duration of the warrant to two days.

On consultation with organisations involved in safeguarding, there is no requirement to consult publicly on changes to the 2000 order. We did consult broadly with the operational community and the Investigatory Powers Commissioner's office, which was involved in these discussions. All those who use juvenile CHISs have a duty of care to the CHIS and duties to safeguard children and young people. This was taken into account as part of the consultation with intelligence and law enforcement agencies. We consulted on the changes to the code of practice in late 2017 and, while that version of the code did not reflect the changes we have since made in respect of juvenile CHISs, no respondents to the consultation commented or raised any concerns about the use of juvenile CHISs more generally.

I think that I might finally be able to answer the question of the noble Lord, Lord Paddick, about who can be a responsible adult for a juvenile under the age of 18. The existing 2000 order puts in place a requirement that all discussion with a juvenile CHIS under the age of 16 must take place in the presence of an appropriate adult, who must be a parent or guardian of, or person with responsibility for, the young person, or any other adult. The order strengthens the safeguard by amending the definition of "appropriate adult" to prevent a person with no links to the young or any appropriate qualification from acting as an appropriate adult. In future, an appropriate adult would have to be a parent, guardian or person, such a youth social worker, who is otherwise qualified to represent the young person's interests. The appropriate adult is an important safeguard to ensure that the young person is comfortable with what they are agreeing to. I have talked about the distinction between 16 year-olds and 18 year-olds and those aged under 16. Although there is no statutory requirement for those aged over 16 to be accompanied to meetings, the decision on whether to inform a parent or guardian of a sourced aged over 16 is taken on a case-by-case basis.

All noble Lords have referred to human rights. All public authorities must act in compliance with the ECHR as a result of the Human Rights Act 1998. The human rights obligation has been in force since 2000. As a result, the human rights of the CHIS must be complied with.

The noble and learned Lord, Lord Judge, asked about the double lock of a judicial commissioner's approval. The Investigatory Powers Act 2016 followed three reviews into powers relating to obtaining communications. The Act, and therefore the safeguard of judicial commissioner approval, relates to those powers and does not extend to the powers being debated today.

Lord Judge: I thought that these draft regulations were meant to make things better. If it was thought to be a good idea, surely it would not be beyond the bounds of regulation-writing to write the regulation accordingly. I am on my feet, which I know I should not be. It will not be beyond the bounds of difficulty or take very long for a record to be made of every CHIS aged under 18—although not to find out how many CHISs have been aged under 18 in the past, because no records have been kept. Then we will know the facts. Next year, we should know and be able to come back and say, "Good heavens, there are far too many", or, "Okay, there were only two, and they have been looked into". I should have limited myself to my first point.

Baroness Williams of Trafford: I take the noble and learned Lord's point.

The noble Baroness, Lady Jones, asked about undercover police work. The CHIS code confirms that police officers deployed as undercover officers in England and Wales must comply with and uphold the principles and standards of professional behaviour as set out in the College of Policing code of ethics introduced in 2014. The code specifies that officers must,

"not engage in sexual conduct or other inappropriate behaviour when on duty",

and,

"not establish or pursue an improper sexual or emotional relationship with a person with whom you come into contact in the course of your work who may be vulnerable to an abuse of trust or power".

Of course, this instruction applies as much to undercover officers as to any law enforcement officer.

The noble Lords, Lord Paddick and Lord Kennedy, asked about the best interests of the child. The code of practice requires that any public authority deploying a CHIS takes into account the safety and welfare of that CHIS and that a risk assessment is completed by the authorising officer before any tasking takes place. The order retains the requirement of the 2000 order that these risk assessments for juvenile CHISs are enhanced risk assessments. Furthermore, the code requires that the ongoing welfare and the security of the CHIS after cancellation of the authorisation be considered and reviewed throughout the duration of the deployment and beyond. These authorisations must be reviewed at least monthly and records maintained for at least five years.

The noble Lord, Lord Paddick, asked whether we are changing this because of law enforcement agencies. This is not about seeking to legitimise practice that was non-compliant with previous codes of practice; it is about reflecting the fact that new investigative techniques are being used by the police. He asked about the code changes. The overall impact of the changes to the codes will be to strengthen the safeguards provided in the codes and improve the guidance for practitioners. The changes reflect current practice and aim to improve operational practice, including expanded guidance to assist investigators in their use of these powers in an online context. It is important that investigators are able to make full use of the internet to assist their work, and equally important to take into account the privacy of people using the internet.

The noble Lord, Lord Kennedy, asked a very pertinent question about why parents might not be involved. It is true to say that in some circumstances it may not be appropriate that parents of a young person deployed as a CHIS are informed: for instance, where they support the ideology or, indeed, the criminal intent of those against whom the juvenile might be employed. He asked whether it is just for serious offences. There is no specific limitation on seriousness, but the strict tests of necessity and proportionality apply—the point about shoplifting should be seen in that context. He asked about the differentiation between "should" and "must". The 2000 order requires that an appropriate adult "must" be present, and we have not changed that requirement.

I apologise once again for the less than satisfactory quality of the Explanatory Memorandum and for my inability to answer certain questions, but at this point I beg to move.

Baroness Jones of Moulsecoomb: Forgive me, I know it is late—and forgive also my ignorance. But, given that there are some unknown components in this, does that mean that the Government will pause?

Baroness Williams of Trafford: No. What I have offered to do is write to the noble Baroness and to noble Lords whose questions I have not fully answered. Generally, in Committee, that is accepted—but the noble Baroness may not accept it.

Baroness Jones of Moulsecoomb: I was hoping that the answer would be that these problems would be corrected in a new draft.

Baroness Williams of Trafford: No—what I was offering was write to noble Lords on the points I could not fully answer.

Motion agreed.

The Regulation of Investigatory Powers (Juveniles) (Amendment) Order 2018.

Motion to Take Note

7.49 pm

Moved by ***Lord Haskel***

That the Grand Committee takes note of the Regulation of Investigatory Powers (Juveniles) (Amendment) Order 2018.

Relevant document: 35th Report from the Secondary Legislation Scrutiny Committee

Lord Haskel: My Lords, I thank all noble Lords who have spoken. By debating this, I think we have all benefited. We have benefited from the experience of the noble and learned Lord, Lord Judge, from the experience of the noble Lord, Lord Paddick, and from the forensic questioning of my noble friend. I am not sure that our concerns have been satisfied. The Minister has repeated quite a lot of what has appeared in the redraft of the Explanatory Memorandum. But I do not think that it has added very much to what we understood the situation to be.

I am glad that the Minister mentioned the human rights of young people. Because we are not very satisfied, perhaps I might ask the Minister to go away and think about whether the way to satisfy all our concerns would be to refer this to the Committee on Human Rights. I think that that would satisfy everybody and would also bring the matter out into the open. So for the time being, I beg to move.

Motion agreed.

Committee adjourned at 7.50 pm.