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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
Lab Co-op	Labour and Co-operative Party
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

Monday 10 February 2020

2.30 pm

Prayers—read by the Lord Bishop of Newcastle.

Oaths and Affirmations

2.35 pm

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

Air Accident Investigation

Question

2.37 pm

Asked by ***Lord Goddard of Stockport***

To ask Her Majesty's Government what assessment they have made of the decision by the Air Accident Investigation Branch to retrieve the body of Emiliano Sala and to not retrieve the body of David Ibbotson following the plane crash over the English Channel on 21 January 2019; and what plans they have, if any, to ask the Air Accident Investigation Branch to reconsider its decision.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, the Air Accidents Investigation Branch, or AAIB, works independently of the Department for Transport, and in accordance with annexe 13 of the Convention on International Civil Aviation. The sole objective of the AAIB investigation is the prevention of future accidents and incidents. In this case, once a body was found, the AAIB prioritised its recovery; it was only later identified as that of Emiliano Sala. The Government accept that no evidence of David Ibbotson's body was found, and so no retrieval could occur.

Lord Goddard of Stockport (LD): I thank the Minister for that Answer and for taking the time to speak to me before today to clarify the situation. However, leading on from that, what are the Government doing to crack down on grey charter flights, which is a growing problem in the air industry? They are unlicensed air taxis, which are used by footballers, celebrities and other people to bypass the system and get from A to B with a degree of privacy. It is a problem—they are unlicensed and unregulated, and we need to clamp down. One lesson comes from this unfortunate tragedy: we need to be more stringent regarding how people travel around in these unlicensed aircraft.

Baroness Vere of Norbiton: The noble Lord is completely right, and we share his concerns around grey charters. It is illegal to operate a commercial flight without an operating licence and an air operating certificate, which of course is overseen by the CAA. As a result of these concerns, the Department for Transport has commenced an independent review of the safety of general aviation, and one of the strands of work that is happening as part of that review is to look at illegal charters and consider what more steps we could be taking to prevent them.

Lord West of Spithead (Lab): My Lords, I know that the Minister is well aware of the skill of our underwater workers in the Navy, as was shown when we recovered some Russian submariners less than 10 years ago. Can she confirm that we are still world leaders in that area, or do we now lag behind? If she cannot answer that on security grounds, could she perhaps write on a Privy Council basis?

Baroness Vere of Norbiton: I thank the noble Lord for his question. I can say that when the evidence-gathering phase following this tragic incident occurred, the AAIB worked with the MoD Salvage and Marine Operations team, which advised it on the manner of conducting the search, safety—whether to use divers—and to make sure that the ROV was operating properly. I will of course write to the noble Lord on the second part of his question.

Baroness Randerson (LD): My Lords, if I import a car into the UK and operate it, I have a limited time before I must register it here and thus obey our safety standards and insurance requirements. However, there is no requirement to reregister in the UK an overseas-registered plane, even if I am permanently living here and permanently operating it from the UK. Our safety standards are higher than those of many other countries, so many people who own planes in Britain take advantage of this loophole. Will the review that the Minister referred to also look at the registration of planes kept in the UK? It not only potentially causes safety problems but reduces the amount of money that goes to the Exchequer.

Baroness Vere of Norbiton: As I am sure the noble Baroness, Lady Randerson, is aware, the first report issued by the AAIB considered the fact that this was a UK aircraft operating between the UK and France. It would have been subject to the requirements of the US Federal Aviation Administration, under oversight by the CAA. She raises some important points, and I will certainly take them back to the team to see whether they will include it in the review.

Baroness Finlay of Llandaff (CB): My Lords, given that Emiliano Sala had levels of carbon monoxide in his body sufficiently high to cause unconsciousness, one could infer that the pilot also lost consciousness, although his body has not been retrieved. That would suggest that the airworthiness of the aircraft was appalling. What plans are there to make sure that aircraft taking off or landing in the UK, at any airport, have the equivalent of an MoT certificate, at least?

Baroness Vere of Norbiton: The noble Baroness is quite right that levels of carbon monoxide in the body of Emiliano Sala were higher than they should have been. I am sure she will have read the second report

[Baroness Vere of Norbiton]
from the AAIB, which was issued last August and provided information to general aviation and others on the risks of carbon monoxide making its way into the cockpit. I cannot say anything further at this time, because the AAIB's final report will be issued shortly. I am fairly sure that it will include recommendations on carbon monoxide.

Lord Berkeley (Lab): My Lords, from the answers that the Minister has given to questions this afternoon, there seems to me to be a serious lack of enforcement of any of these regulations, whereas the Air Accidents Investigation Branch has done a great job. When we debate the Air Traffic Management and Unmanned Aircraft Bill, will we find that the enforcement on drones is better than the enforcement on light aircraft?

Baroness Vere of Norbiton: I am delighted that the noble Lord has made the connection between my two workstreams of the day. However, I deny that there is a lack of enforcement. We have a very good safety record in this country, and part of that is due to the fantastic work that the AAIB does in investigating accidents and promoting action to prevent recurrence.

Lord Wallace of Saltaire (LD): My Lords, I understand from reading the press that a large number of private aircraft operated in British skies are registered in the Isle of Man. Is that a tax avoidance scheme which the British Government do nothing about? If so, would I be allowed to register my car in the Isle of Man for the same reason?

Baroness Vere of Norbiton: I am afraid that I am unable to answer the noble Lord's question about the motivations of people wanting to register their aircraft in the Isle of Man. Anything related to a potential general aviation safety issue will certainly be covered in the review.

Yorkshire: Devolution

Question

2.44 pm

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

To ask Her Majesty's Government what further steps are to be taken in 2020 to devolve powers to Yorkshire.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government (Viscount Younger of Leckie) (Con): My Lords, handing back power to people and places across the whole of England, particularly in the north, is an absolute priority for this Government as we work to level up prosperity and opportunity everywhere. The Sheffield City Region consultation launched on 3 February is required to open the way to its devolution deal being implemented in 2020. We continue to discuss the prospect of a devolution deal with Leeds, West Yorkshire and other parts of Yorkshire.

Lord Kirkhope of Harrogate (Con): While we should be concerned today about the people of Yorkshire and the flooding that has taken place there—we extend our sympathy and interest to them—nevertheless, it is now several years since the Government embarked on a devolution process, encouraging the people of Yorkshire to take part in it and to obtain devolution. Why, therefore, are the Government pursuing only one formula rather than the formula the people of Yorkshire as a whole want to see, which is to bring the brand together and have the strength that that would give us, rather than the balkanisation of pieces of Yorkshire that is now taking place? I am sure that, rather than moving this House to York, the people of Yorkshire would prefer to see a "One Yorkshire" solution to devolution as soon as possible.

Viscount Younger of Leckie: I extend my sympathies to those caught up in the floods. I know from my meeting this morning that my department is working very hard to help those communities.

I take my noble friend's point, but the argument as to whether there should be a "One Yorkshire" is now becoming a bit old. From reaching out to Yorkshire and talking to the people there, it is clear that, with a population of 5.5 million, it is sensible—and driven by those in Yorkshire—to move towards devolved councils: four, hopefully. It is good news that South Yorkshire is up and running; we await the end of the consultation. Talks are going well in some of the other areas, including West Yorkshire.

Baroness Wilcox of Newport (Lab): My Lords, I spoke to Councillor Susan Hinchcliffe, the leader of Bradford Council, at the Local Government Association conference last weekend. She told me that much of the detail of the proposals has already been dealt with through Treasury officials and the Ministry. It is about providing an extra £30 billion a year to the economy, demonstrating commitment and cross-party support. Why, therefore, do the Government continue to delay in helping to tackle both urban and rural deprivation in Yorkshire through the implementation of a devolution deal?

Viscount Younger of Leckie: There is no delay as such. I hope to reassure the noble Baroness by saying that talks and negotiations have been ongoing for some time. Negotiations on West Yorkshire and the Leeds deal continue and are going well. If we look at Bradford, Calderdale, Leeds, Wakefield and Kirklees, good progress is being made, but it is more than that. Discussions are well advanced, for example in North Yorkshire, and early discussions are going on in the East Riding of Yorkshire with the possibility of linking up with North and North East Lincolnshire. The noble Baroness will know that a lot of work is going on, but it is complex.

Lord Newby (LD): My Lords, the Minister says that the balkanisation of Yorkshire is sensible. Is he aware that the only people who think that are the Government, not the people of Yorkshire? Why do the Government think that dividing Yorkshire into four—something

that nobody, not even the Romans or the Vikings, has attempted—will succeed, against the wishes of people in Yorkshire?

Viscount Younger of Leckie: The noble Lord will know about the Ridings in Yorkshire, so Yorkshire's being divided up is a historical fact. We have consistently stated that the idea of a One Yorkshire deal is outwith our criteria for devolution, which aim to ensure that deals can most effectively boost productivity, promote local growth and provide the sharp accountability necessary to deliver the investment that places need. The noble Lord should be aware that, if there were "One Yorkshire", there would, for example, be one mayor for the whole of Yorkshire, which contains 5.5 million people. That is something he might want to think about.

Lord Porter of Spalding (Con): My Lords, I beseech my noble friend the Minister to make sure that the last of the Yorkshire deals he spoke of, the one that incorporated North and North East Lincolnshire, does not go through? I declare an interest as the leader of South Holland District Council in Lincolnshire, and I still have hopes that one day we will get a deal for Lincolnshire as whole.

Noble Lords: Hear, hear!

Viscount Younger of Leckie: There seems to be an element of support for that behind me. Because negotiations are at an early stage, I will make sure that my noble friend's comments are passed back to those negotiating in that area.

Lord Watts (Lab): My Lords, the present powers in all the regions are different; in fact, they are a dog's dinner. When will all the regions be given the same powers, given that they all want more powers?

Viscount Younger of Leckie: This is exactly what we are doing. We are looking to level up across the whole of England. Some 37% of people now live within a mayorship. In the White Paper that is due to come out before long, we are looking at levelling up all other areas of England and devolving powers. It is about what they want, not what we want. It is giving them the opportunity to decide for themselves what they want.

Baroness Bennett of Manor Castle (GP): My Lords, the Minister just suggested that the only model of devolution available is a single elected mayor. Of course, an alternative model would be a Yorkshire parliament—a far more democratic, representative body that could be elected by proportional representation and truly represent the people of Yorkshire. Will the Minister consider that?

Viscount Younger of Leckie: As the noble Baroness will know, there is the so-called Yorkshire committee, consisting of Yorkshire leaders and mayors from across councils in Sheffield, Leeds, North Yorkshire, East Yorkshire, et cetera. It is up to them to decide.

Lord Wallace of Saltaire (LD): My Lords, is the Minister aware that the city region model simply does not fit North Yorkshire? When I asked the last Minister responsible for this how he defined a city region for North Yorkshire, he said it is a rural region that will have a virtual city. The extent to which one model is being pushed on various parts of England seems not only undemocratic but illogical.

Viscount Younger of Leckie: I point out to the noble Lord that, as I said, this is driven by those in the area.

Noble Lords: It is not.

Viscount Younger of Leckie: It is. The criteria for devolution, which we have consistently applied, are that it has to be to a functional economic area that is strong and has accountable governance. Those are the criteria we should stick to.

Lord Cormack (Con): My Lords, why does my noble friend continue to insist that there has to be "one area, one mayor"? Many people do not like that model. While I endorse what my noble friend from Lincolnshire said about Lincolnshire, I stress that many people believe that having one mayor is completely unnecessary. You can still have one Yorkshire.

Viscount Younger of Leckie: As I say, it is up to discussions that are taking place. My noble friend will know that Cornwall is different, so it is not just one model for the whole of England. We are having discussions on a variety of ideas, but the mayoral model seems to be a good one that is accepted locally.

Taiwan

Question

2.52 pm

Asked by ***Baroness Falkner of Margravine***

To ask Her Majesty's Government what is their policy towards Taiwan, and in particular on (1) security, and (2) international engagement issues.

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, the United Kingdom's long-standing policy on Taiwan is unchanged. The UK and Taiwan have a strong but unofficial relationship based on dynamic commercial, educational and cultural ties. We support Taiwan's participation in international organisations where statehood is not a prerequisite, and Taiwan can make a valuable contribution. On security, we are concerned by any activity that risks destabilising the status quo. Issues should be settled between people on both sides of the Taiwan Strait.

Baroness Falkner of Margravine (Non-Afl): I thank the Minister for that reply. Is he aware of fresh Chinese attempts at economic coercion against Taiwan since the re-election of President Tsai Ing-wen last month, including attempts at the United Nations to stop

[Baroness Falkner of Margravine]
parliamentarians engaging with her Government? Does he agree that when China presents its "one country, two systems" policy to Taiwan alongside military threats, along with the tangible example of Hong Kong, that is more likely to convince the Taiwanese to be rather sceptical of Chinese assurances as to their future?

Lord Ahmad of Wimbledon: On the structure and the relationship with Taiwan, as I said in my original Answer, it remains the Government's view that it is very much for those on both sides of the Taiwan Strait—representatives in Taiwan and China—to determine the best way forward in the interests of the people of Taiwan. As for the noble Baroness's broader question on the United Nations, as I have said, for organisations such as ICAO and the World Health Organization, our view is that being a state is not a prerequisite to membership. We remain very clear, with our like-minded partners, that Taiwan's contribution to those organisations is important and that it has a vital role to play.

Lord Faulkner of Worcester (Lab): My Lords, I declare my interest as the Government's trade envoy to Taiwan; the Minister will know that this constrains me a little in what I can say in the Chamber. Will the Minister take back to his right honourable friend the Foreign Secretary the very great satisfaction among the friends of Taiwan at the statement made by Mr Raab after the legislative and presidential election? He offered warm congratulations to the people of Taiwan on the smooth conduct of those elections, and to Dr Tsai Ing-wen and her party on her re-election.

Lord Ahmad of Wimbledon: My Lords, I will of course be pleased to take back those comments to my right honourable friend. It is important that we recognise the democratic process in Taiwan. I take this opportunity to pay tribute to the noble Lord's work on the relationship between the United Kingdom and Taiwan, specifically on trade. It is, I am sure, in part his efforts, alongside those of British companies, that have resulted in a rising level of trade. Indeed, UK exports to Taiwan grew by 40.8% last year.

Baroness Fall (Con): Does the Minister believe that the President of the United States would feel bound by the 1979 Taiwan Relations Act? It states that America will

"consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States",

and will

"make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

Lord Ahmad of Wimbledon: My Lords, my noble friend will appreciate that it is not for me to comment on United States policy. I can, however, reaffirm that the United Kingdom remains committed to our relationship with Taiwan. As I said in response to an earlier question, we are committed to the importance of trade and culture, and we have seen the prosperity of that: the economy of Taiwan is bigger than that of many Asian economies. It is important that we strengthen our work in this respect. On the wider point of resolving any issues between Taipei and Beijing, it is important that both sides negotiate the issues that need to be addressed. That is the best way forward.

Lord Collins of Highbury (Lab): My Lords, I agree with the Minister: the ultimate relationship has to be determined by those two entities. However, he mentioned multilateral organisations, in particular the World Health Organization. We are currently facing a global crisis, and it is important that countries and entities such as Taiwan play their full part in it. What representations has he made to the WHO to ensure that Taiwan can play a full part in the work to ensure that the public interest and the people of the world are put first, before politics?

Lord Ahmad of Wimbledon: I agree with the noble Lord. Indeed, in preparing for the Question, I asked how many identifiable cases of coronavirus there are in Taiwan; currently there are eight. It is important that it is part and parcel of the solution. I assure the noble Lord that we continue to support representations that the Department of Health has made directly in lobbying for Taiwan's participation in the World Health Organization. We are also working with like-minded countries, including the United States and Australia, to ensure that, at the World Health Assembly which takes place in May this year, Taiwan is represented.

Lord Dholakia (LD): My Lords, Taiwan is a democracy, and yet it is being denied recognition by many Governments across the world. We now have a situation, as has been pointed out, where the World Health Organization, which prides itself on promoting inclusive health for all humanity, has excluded Taiwan from its membership and does not allow it to participate in the World Health Assembly. What are we doing with the World Health Organization to ensure that Taiwan has at least a slot in the World Health Assembly at this stage?

Lord Ahmad of Wimbledon: I have always wanted to say this from the Dispatch Box: I refer the noble Lord to the answer I gave some moments ago.

Lord Broers (CB): My Lords, is the Minister aware of Taiwan's importance when it comes to semiconductor technology? Taiwan leads the world in making semiconductor chips. In fact, it is said that the latest artificial intelligence and machine learning chips can be made only in Taiwan; they cannot be made even in the United States.

Lord Ahmad of Wimbledon: The noble Lord makes a very important point. It is why the United Kingdom is very committed to growing our trading relationship with Taiwan. Currently, more than 300 UK companies are located across a variety of sectors, including the one the noble Lord mentioned.

Smart Meters
Question

3 pm

Asked by ***Baroness Jenkin of Kennington***

To ask Her Majesty's Government how many smart meters have been installed to date; and whether the installation programme is on target.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy and Northern Ireland Office (Lord Duncan of Springbank) (Con): My Lords, more than 19.3 million smart and advanced meters have been installed in Great Britain as of September 2019. The programme is making progress, with more than 1 million smart meters installed every quarter in 2018 and 2019.

Baroness Jenkin of Kennington (Con): My Lords, anecdotally at least, the system does not seem to be working as well as originally envisaged, particularly with connections to suppliers and moving smart meters when changing suppliers. Given that we are all paying for this with a supplement to our energy bills, could my noble friend assure us that we are getting value for money?

Lord Duncan of Springbank: The noble Baroness is correct to state that there have been some challenges in the rollout of the smart meter programme. I will say no more on that particular point, but there is a recognition that smart meters are vital if we are to meet net zero by 2050. They will remove some 45 million tonnes of carbon dioxide by 2034 if they work well, thus also bringing about substantial savings for customers and the nation.

Lord Lennie (Lab): The Minister's predecessor, the noble Lord, Lord Henley, wrote to me about this in July 2019. He said that the 13 largest energy suppliers had submitted plans to cover the rollout for 2019-20 and that,

"underpinned by a strong evidence base, plans are now in place and define binding milestones that those suppliers will be held to account against in 2019 and 2020."

Just 18 months since the legislation was passed and seven months since I received that letter, the binding milestones that were in place seem to have gone off again and the target they would have to reach by the end of 2020 has been delayed by four years to the end of 2024. Does the Minister agree that public confidence in the smart meters programme has been badly damaged by the delays and failure of government policy? Can he say what the Government's current estimate is of how much each household will benefit if and when they get a smart meter 2 that works and is operable? Finally, on a scale of one to 10—popular in the Labour Party these days—how confident is he that households and businesses will have a properly functioning smart meter installed by the end of 2024?

Lord Duncan of Springbank: In order, the answers are no, £175 per year and 10—but I think the noble Lord will want a bit more detail than that, so I will give him that. The important thing is that once smart meters are installed they make a significant difference. People begin to understand what they are consuming in electricity and gas and they see it in pounds and pence, not in kilowatt hours, which are more challenging. The rollout has been difficult, because Great Britain's housing stock is wide and diverse, as is its topography. That has been a challenge as well. We have been trying to ensure that we learn lessons as we go. We will end up by the end of 2020 with some 27 million smart meters working in households. That will be critical.

Lord Oates (LD): My Lords, the Minister will be aware that many energy customers discover, on switching energy providers, that their smart meter no longer works with their new provider. Will the Minister tell the House what measures the Government have taken to require energy providers to replace existing non-compatible smart meters, which they seem very reluctant to do? What proportion of installed smart meters are currently estimated to be non-functioning as a result of lack of compatibility?

Lord Duncan of Springbank: We need to recognise that when a smart meter stops being smart, it does not stop being a meter. It still records the consumption of gas and electricity, but it stops being able to tell you what exactly is going on.

Noble Lords: Oh!

Lord Duncan of Springbank: Sometimes the answer is slightly amusing, I am afraid. In answer to the question about how many such meters exist, out of the current 19.3 million the figure is way too high at 3.1 million. So, moving from SMETS 1 meters, which were the first installed meters, to SMETS 2 is a priority in those areas, and, going forward, the rollout of the second generation, not the first generation, is critical. The key thing, again, is that we are making that progress and we have the commitments to deliver against the targets.

Baroness Browning (Con): I hope that my noble friend is not losing too much sleep over this, because the prefix "smart", as far as government policy is concerned, is being questioned across the nation. For example, on reading meters, if we have not educated the last three generations to be able to do a simple multiplication calculation to work out what something times something will mean every quarter, we have seriously failed. Does my noble friend agree that, if people do not understand that to save electricity and gas in their household they simply have to wash on low temperatures and turn the light off when they leave the room, the better policy would have been to have installed slot meters? There is nothing like that to concentrate the mind if you think the electricity is going to go off.

Lord Duncan of Springbank: Yes, I agree with all of those things. The smart meter gives you a very visual sign of what you are consuming, and it should be able to highlight when you are consuming at the most

[Lord Duncan of Springbank]
expensive part of the day. So, if you are clever and are able to put the two things together, you can reach the point where you make savings as well as reducing carbon emissions.

Lord Foulkes of Cumnock (Lab Co-op): Is the Minister aware that, although I am not as smart as I used to be, I am still very suspicious of companies whose main aim is to make profits for their shareholders, when they phone or send messages telling you that you are going to save a lot of money by doing what they are doing? Is it not the case that, in almost everything they do when they say that, they are trying to tie you down so that you do not move to another supplier?

Lord Duncan of Springbank: A sensible supplier will keep a hold of customers by offering the best quality of service. If they do not, I have no doubt that a smart man such as the noble Lord would move quickly to one that is better for him. The reality remains that there are good commercial enterprises and bad commercial enterprises. Bad ones should suffer and good ones should prosper.

Lord Aberdare (CB): My Lords, I have tried to have smart meters installed both in London and in Wales. In both cases, when the installers arrived, they found that the combination of the meter's design and the layout of the space made it impossible to install. Would it be possible to consider whether meters could be not just smart but flexible?

Lord Duncan of Springbank: I am sorry to heart that unfortunate news about the meters. There should be a pre-screening stage when you fill in a series of questions regarding your house, the thickness of your walls, the location of your meters and so on. That should give the company an indication of whether it can ultimately install them. However, I will look at that again. If it is not working, it should. That is key to making the process of installation work well.

Air Traffic Management and Unmanned Aircraft Bill [HL]

Committee (1st Day)

3.08 pm

Clause 1 agreed.

Clause 2: Direction to progress airspace change proposal

Amendment 1

Moved by ***Baroness Randerson***

1: Clause 2, page 2, line 8, leave out paragraph (c)

Member's explanatory statement

This is a probing amendment to clarify who may be covered by "another person with functions relating to air navigation" with regard to who is able to prepare and submit airspace change proposals.

Baroness Randerson (LD): My Lords, the support on these Benches for the principles of this Bill should come as no surprise to anyone in this House or the aviation industry. Several previous attempts have been made by the Government to introduce a Bill along these lines, but they have been interrupted by general elections.

You would have thought that by the time we reached this stage, following several government consultations, the Bill would be fool-proof and that the Government would have thought through everything very clearly. That is not the case. Despite the length of time it has taken to get here, and despite all the organisations involved in aviation having been consulted and agreeing that there is a need for airspace modernisation and also agreeing about the need for the Government to have powers of direction over the process, the Government have managed to upset almost everybody involved.

Amendment 1 is a probing amendment to try to tease out exactly who the Government have in mind in their reference in Clause 2(2)(c) to

"another person with functions relating to air navigation."

Clause 2(2) already refers to airport operators and to "air navigation service providers", which is a pretty broad term. This is a very sweeping power for the Government to give themselves. Subsequent to the passing of the Bill, they will be able to designate some other organisation—not yet thought of, one assumes—to prepare and submit airspace change proposals. The Bill gives the Government pretty draconian powers. The Delegated Powers and Regulatory Reform Committee memo notes that there are eight uses of Henry VIII powers.

The Government have consulted widely, but there is concern, especially from the Airport Operators Association, that rather late in the day they have, for instance, introduced a new element into airspace modernisation proposals. It agrees, and I agree very strongly, that there is a need for co-operation between airports on this. Modernising airspace is a very difficult process. It is needed for environmental reasons, but at the end of it you have some local residents who are extremely happy because planes no longer fly over them, but other local residents are extremely unhappy because the planes fly over them an awful lot more. It is also a very costly process for the airports concerned, and all airports are not the size of, or have the financial prowess of, Gatwick, Heathrow and so on. Some very small airports will be involved in this process. They are now very concerned that a new element relating to the reallocation of underused airspace has now been introduced. Will the Minister say what that phrase means and why has that element been introduced?

The use of airspace is not constant, and it takes years to undertake airspace modernisation. At the moment, a piece of airspace might be underused because schedules at a particular airport are light, but after some marketing, a change in the market and consumer demand and a couple of years, that airspace will no longer be underused. I am keen to know from the Government who they have in mind in the phrase

"another person with functions relating to air navigation."

Which body might be set up or designated in the future as part of this process? Also, how will the Government take into account the problems that I

have raised in relation to cost and the dynamic nature, if I can put it that way, of airspace use? Smaller airports are particularly concerned that they might be ordered to release some airspace now, then find in a year or two's time that they need it for their growth and development. Airspace is as vital to future growth as having a runway.

3.15 pm

I remind noble Lords that this is not an issue only of enabling airspace to be, in some neutral manner, used to the maximum but of the convenience, comfort and environment of the people who live near airports. It is also very much an issue of safety. Oral Question 1 earlier today raised a number of loopholes and grey areas in relation to private and leisure pilots. The Minister, in her Answer, made it quite clear that the Government are looking at this whole area. Therefore, it is justifiable to ask what the Government have in mind in bringing this new, additional factor into airspace modernisation; it was not a factor when the consultation was done at the end of 2018. I beg to move.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, Amendment 1, moved by the noble Baroness, Lady Randerson, seeks to clarify the phrase in Clause 2(2)(c)

"another person with functions relating to air navigation."

I shall start by addressing that phrase and then move on to the other parts of airspace modernisation and how the powers to which it refers might be used.

To give a little background, Clause 2 gives the Secretary of State the power to direct any person involved in airspace change, following consultation. Consultation will come up a number of times today; this is a very consultative process, as indeed it must be to work. After consultation with that person, the Secretary of State can direct them to do three things: first, to prepare or submit an airspace change proposal, an ACP, to the Civil Aviation Authority, the CAA; secondly, to take steps to obtain approval to an ACP that has already been submitted; and, thirdly, to review the operation of an ACP after it has been approved. Those are the three things that the Secretary of State can direct.

In Part 1 of the Bill, any

"person involved in airspace change"

is defined as, again, three things. First, they could be an airport operator, and one might expect that in most cases the airport operator would indeed be involved in putting forward the ACP or making sure that it progresses; secondly, they could perfectly well be an air navigation service provider; and then there is that third term to which this amendment relates—it is a probing amendment to understand what sort of person

"another person with functions relating to air navigation"

could be. For example, they could be part of an existing body such as an industry association or an airspace change consultancy brought in after the consultation, perhaps, to look at how the process of the ACP is working. Or they could be from a new body set up to deal with a specific ACP or a group of ACPs. One might imagine a circumstance in which a group of airports set up a new ACP in order to help another airport to deal with its airspace change.

The reason behind the third part of Clause 2(2) is to provide flexibility, because it may be—and one can imagine circumstances in which it would be—that the person involved who was the subject of the direction was not an airport operator or an air navigation service provider. In all this, though—and again I hope that noble Lords will recognise this today—these powers are to be used only as a last resort. We hope that the process will be collaborative and involve various elements working together in order to achieve the positive change that we need. I hope I have explained the reasons why this flexibility is needed. It is that that third person may not be one of the other two but may nevertheless be quite capable of taking forward an airspace change.

Lord Berkeley (Lab): I am very interested in what the Minister said about who might be involved in seeking changes. Yes, it could be done to help a small airport to get better access to its flights or controls, but it could be done to keep someone away. In other words, it could be done to prevent competition. My worry would be how much it would cost for a small airport to oppose or indeed promote these things if those circumstances arose.

Baroness Vere of Norbiton: I think we will get into the detail of how airspace change proposals work in the next group of amendments. It is the case that there is a master plan that is overarching—I think hand gestures are needed to describe this—and covers the whole of the south of the country. Within that, there are then 17 airports that may need to make airspace change proposals to a greater or lesser extent in order to fit the master plan. When an airport, be it small or large, puts forward its airspace change proposals, those are considered by the CAA according to the criteria as set out in Section 66 of the Transport Act 2000.

Lord Berkeley: Section 70.

Baroness Vere of Norbiton: The noble Lord has just corrected me that it is Section 70, and he is absolutely right.

Within all this, it is the CAA that will ensure that airspace change proposals are appropriate. It is not the case that one airport will be capable of coming along to try to duff up another, because both airspace change proposals will be considered as they move through the system. The CAA will look at them, and equity between the two will be one of the important considerations that it will look at.

I turn back to the reasons why this change is possibly not needed. Airspace modernisation, as the noble Baroness, Lady Randerson, mentioned in her opening remarks, is a complex and multifaceted programme. There is the master plan, which will sit over the entire new airspace design, but that makes up just two of the initiatives out of the 15 that comprise the airspace modernisation strategy that has been set out by the CAA. For example, one of the initiatives, as is rightly also set out in the Transport Act, is that the use of airspace has to be equitable for all users. The Government are looking to ensure that airspace is not controlled—I do not want to say "unnecessarily" because I do not think it would be fair, but there might be

[Baroness Vere of Norbiton]
controlled airspace that could become uncontrolled and therefore allow a greater number of users to use it. I am thinking particularly about the general aviation field, and I certainly know that gliders have sometimes had difficulties because for them uncontrolled airspace is much easier to use.

However, any change in airspace will always go through a process, and that process will have safety as its absolute priority. I think noble Lords will be aware that the number one thing that we have to do when we look at airspace is ensure that planes are safe to fly. It will also take into account the airport's particular growth plans, so an airport could not turn around and say "No, I'm really sorry—I need that back". These are fairly long-term decisions and, as I am sure the noble Baroness is aware, the process takes a significant time. However, it is also consultative so there will be a consultation process not only with the general aviation sector but with the airport itself; it will be able to give its reasons why it would like to maintain that airspace as controlled, if indeed that is what it wants to do.

The noble Baroness, Lady Randerson, also mentioned the costs of airspace change proposals. I believe that they can be quite costly, and we will come on to them in a later group so I probably will not address them now. However, I hope that on the basis of my explanation she will agree that Clause 2(2)(c) should remain part of the Bill and feel able to withdraw her amendment.

Lord Trefgarne (Con): Can my noble friend confirm that the words of paragraph (c),

"another person with functions relating to air navigation",

also include the Ministry of Defence?

Baroness Vere of Norbiton: My noble friend is right. It may well include the Ministry of Defence, although I would expect that department to fall under the airports section because if it was putting forward airspace changes, as I believe it will be doing for RAF Northolt, it will be the sponsor in that regard.

Baroness Randerson: I thank the Minister for that response, and I will read her words carefully before Report. I am of course aware that this kind of phrase is a delightful catch-all, which Governments like to put in legislation in case some organisation crops up at a later stage that they have not thought of now. However, there is an important argument to be made here about ensuring that we have clarity at this point on exactly what the structure is. That is partly because it is always a welcome situation but also because there is quite a lot of interlink between the Secretary of State, the Civil Aviation Authority, the airport operators and the aviation providers. It is important that people have their tree of command and its requirements pretty clear in their minds but, having said that, I am happy to withdraw the amendment at this stage.

Amendment 1 withdrawn.

Amendment 2

Moved by ***Baroness Randerson***

2: Clause 2, page 2, leave out line 13 and insert "master plan for airspace modernisation, as set out in Civil Aviation Publication 1711 and Civil Aviation Publication 1711b."

Member's explanatory statement

This amendment would narrow the powers given to the Secretary of State to ensure they are being used for changes that assist in the delivery of the master plan for airspace modernisation, as directed by the co-sponsors of airspace modernisation, the Department for Transport and the Civil Aviation Authority.

Baroness Randerson: This group of amendments, of which we have put forward three, relates once again to clarifying exactly what the Government seek to do. Amendment 2 relates to narrowing the powers of the Secretary of State to make sure that they are used only for

"the delivery of the master plan for airspace modernisation"

that the Minister referred to just now.

Amendment 4 relates to requiring the master plan to be the subject of consultation, as the Minister suggested earlier would be the case. Importantly, it would ensure that we had an appropriate appeals procedure because, as I said earlier, this is a very complex process. The Committee may imagine that there is airspace to be carved up between two neighbouring airports, and perhaps it cannot be carved up so that both airports are equally happy with the impact of what happens. It is important that everyone involved has the right to transparent acknowledgement of the situation and clear reasoning for why decisions are made.

3.30 pm

Amendment 8 would narrow the powers given to the Secretary of State to ensure that they were used for the delivery of the master plan for airspace modernisation and not diverted for some aligned but not directly associated use. Concern has been expressed by the aviation industry about the breadth of the powers that we are talking about—I mentioned this earlier—which could enable the Secretary of State to make directions that were not in the wider interests of the airspace modernisation process as a whole. By narrowing the powers, we are trying to ensure that the Secretary of State is obliged to act in the interests of the master plan. Acting in the interests of the master plan might seem obvious, but I am told that discussions between officials and the industry have not produced a clear statement or clear reasoning as to how the airspace strategy and the master plan will fit together, because we are talking about different things.

Amendment 4—a similar amendment has been tabled by the noble Lord, Lord Tunnicliffe—would ensure that the master plan was consulted on with appropriate people and, as I have said, with an appropriate appeals procedure, because the wider industry is concerned that there should be answerability. I beg to move.

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): I should inform the Committee that if this amendment is agreed to, I cannot call Amendment 3 by reason of pre-emption.

Lord Kirkhope of Harrogate (Con): My Lords, I disagree with Amendment 2 because narrowing the Secretary of State's powers would not be desirable. I know that the powers under discussion relate directly to the modernisation programme, but they should be maintained permanently regarding the control of airspace. The CAA is not a good place for these matters to dwell, particularly as the Secretary of State is of course accountable to Parliament—so there is a way in which the Secretary of State can be challenged, which is rather more democratic and relevant than a narrowing of the powers. We do not want a shift in the balance of power from the Secretary of State to the CAA. That point goes for Amendments 2, 3, 8 and 9.

Amendment 4 refers to a consultation process and appeals. As we know, there was a very effective *Aviation 2050* Green Paper last year, which was a mammoth consultation. The consultation here proposed might duplicate the effort that has just gone in and could be a waste of resources. Aviation interests would be consulted in any event, but I am not sure that an initial consultation, as envisaged here, would be helpful.

Some airfields are obviously commercially able to find the resources to be involved, but some are not. It is, therefore, important that smaller airfields are looked after. Amendment 6, which would ensure that smaller airports have appropriate funding, is important and should be supported. Amendment 7 would allow a system of compensation to be set up, to cover the cost of airports being compelled to make changes. That seems reasonable, as airports are commercial entities.

Lord Tunnicliffe (Lab): My Lords, for the convenience of the House, I draw attention to the penultimate line on the front page of today's list, which states that the target for the day is to complete Amendment 23. That means that we are not going to do drones today. No Member has moved from their seat; never mind.

The essence of this group of amendments, with which I broadly agree, is to prevent mission creep. Having sat on the Front Bench opposite, I recall that whenever you create a right for the Government to do something or other, civil servants will creep up to you and say: "Make sure it is not restricted, because you might need it." I fear that, far too often, they do.

The Minister wrote to me and several other noble Lords. On the second page of her letter, under the heading "Proportionality", her second sentence states:

> "It is the government's intention that, at least initially, the powers to direct in clauses 2 and 3 would only be used by the Secretary of State in relation to ACPs that have been identified within the airspace change masterplan, currently being developed by NERL through the Airspace Change Organising Group (ACOG) with a view to incorporation of the masterplan into the CAA's airspace strategy".

I read the whole sentence for the avoidance of doubt. The words that sprung out at me are, "at least initially". Further on in the letter, the Minister seeks to soften those words with a series of intentions. However, intentions are not law: they are the words of the Minister. If she repeats those words into *Hansard* they become a little more useful. Nevertheless, there is a serious issue with that part of the Bill ending up in mission creep. There are so many things for which the CAA or the Government might wish to use these powers.

I share the view that the task in front of those who are trying to deliver the programme is such that consultation—ideally on the face of the Bill, as put forward by Amendment 4—would be useful. It would certainly be useful to hear the extent to which the Minister can assure the House about consultation. On the appeals procedure, I refer again to the noble Baroness's extremely useful letter, in which she says:

> "There is no formal appeals process against an ACAA decision relating to individual ACPs. CAP1616 is a fully transparent process in which consultation and engagement exercises are run throughout."

With the greatest respect, a consultation and engagement exercise is not an appeal. Because of the extent to which this process is entirely within the CAA's ambit, one can see a situation where, without some hook in primary legislation, small fish in this sea could find themselves swamped. A formal appeals procedure somewhere in the Bill might usefully add to it. I hope that the Minister will be able to react to those ideas.

Lord Craig of Radley (CB): My Lords, I first pick up the question that the noble Lord, Lord Tunnicliffe, started with, which is whether we shall end at the target of Amendment 23. My understanding is that we shall, because that has been agreed through the usual channels. Amendment 24 is in my name, so it is important that I can be confident that we will stop, if we get that far, at Amendment 23. I take the nodding to mean that that is the case and I appreciate it.

While I am on my feet, may I ask a more general question about all these amendments? There has been a great deal of talk about the interests of the civilian side of the aviation industry and how it interacts with the Department for Transport and the CAA, but I am not clear how the Ministry of Defence's position will be properly safeguarded. The CAA has RAF representation, but I do not feel that that is at a high enough level and I would like to be reassured that the Department for Transport and the Ministry of Defence are in continuous contact, at the right level, on these points. The Ministry of Defence, and the Royal Air Force in particular, needs aviation space not only for getting in and out of airfields; they also have training needs and other areas that have to be safeguarded if the Royal Air Force is to continue to be effective in its training.

Baroness Vere of Norbiton: My Lords, I thank the noble Baroness, Lady Randerson, for introducing this group. I also thank my noble friend Lord Kirkhope of Harrogate. I note that he strayed into the area of costs, which is the subject of a later group, but I look forward to his later contribution. As many noble Lords have pointed out, it is important that the Secretary of State is given the powers required to deliver airspace modernisation, but also that these powers are proportionate and do not go further than needed.

Clauses 2 and 3 of Part 1 give the Secretary of State the power to direct a person involved in airspace change to progress an airspace change proposal as required, or direct a person to co-operate with somebody else who is progressing an airspace change proposal. This means that airspace change will not be held up. I think that is an established fact and all noble Lords

[Baroness Vere of Norbiton]
can agree with it. Additionally, it ensures the delivery of the full range of airspace modernisation outcomes. Again, I have already mentioned that there are many important initiatives within airspace modernisation. These may be related to safety, capacity, noise, air quality, fuel efficiency, improving access to airspace for all users, military access or the introduction of new technology.

On improving access to airspace for all users, the issue of uncontrolled and controlled airspace has been rumbling along for a little while. It dates back to 2018, so airports have been aware that there was going to be a further look at airspace classification for quite some time. Initiative 10 of the airspace modernisation strategy was set out by the then Secretary of State and enhanced in October 2019, when the air navigation directives directed the CAA to progress the identification of airspace volumes. This is all about the balance between commercial aviation and general aviation. I do not believe that a single Member of your Lordships' House believes that one necessarily has to have priority over the other. It is a question of proportionality and balance.

I want to mention military airspace at this point. We speak to the military all the time. When I was Aviation Minister, I used to chair the Airspace Strategy Board, the highest level of ministerial oversight over airspace modernisation, and somebody from the MoD was on the board. I forget what rank he was, but he made me feel quite small so he was quite senior, and he would contribute to our discussions. In my time on this Bill and in my previous life as Aviation Minister, I was not aware that people from the military had concerns about this process or the processes we oversee. We work well with them, ensuring that they have the access they need and know the processes for RAF Northolt to have the right routes to upper airspace, for example.

3.45 pm

Lord Trefgarne: My Lords, I apologise for interrupting again. Is the Minister saying that the Secretary of State for Transport now has powers to direct the Ministry of Defence in these matters?

Baroness Vere of Norbiton: My noble friend asks a very interesting question. I will check with my lawyers and officials, but I believe that if a Ministry of Defence airfield was holding up airspace modernisation throughout the country by not getting its act together and progressing an airspace-change proposal, the Secretary of State would be able to direct the Ministry of Defence. What would be the alternative—the Ministry of Defence dragging its heels and not participating? Although one cannot imagine a time when the Ministry of Defence would do that, this is, as I will say many times today, a collaborative process. I have never heard of any examples where we have not collaborated well with the Ministry of Defence and all government departments.

Returning to these powers, they would be used by the Secretary of State only if it assisted delivery of the CAA's strategy and plan. However, airspace modernisation is not just about the master plan. That is why the Government cannot accept the amendments tabled by the noble Baroness, Lady Randerson, and the noble Lords, Lord Rosser and Lord Tunnicliffe. Terminal airspace redesign is the master plan. At the moment we are considering the south, but we will move on to the north; these are only two of the initiatives to be delivered through the airspace modernisation strategy. As I have said, there are many others, including the airspace classification review and so on. The powers to direct relate only to airspace change proposals. They will stand as a last resort if airspace modernisation cannot be continued because an ACP sponsor is dragging its feet.

This goes back to the question of who airspace belongs to. It does not really belong to anybody. It is right that we encourage people to act collaboratively, so that we can all get the most out of our airspace. Coming down the track are the development of a solution for electronic conspicuity, the implementation of more precise and flexible satellite navigation-based arrival and departure routes—which, as noble Lords will know, will have positive implications for noise in some areas—and various international obligations which we have to comply with relating to air traffic management. Here again, these directions may be helpful, but as a last resort.

I cannot accept the amendments that would state that we were looking particularly at the master plan rather than at airspace modernisation as a whole. It is a much broader strategy, and certainly covers a wide range of things, although I would probably say that the master plan and the airspace modernisation from that master plan is one of the key elements of it.

It is worth mentioning that the two documents named in Amendment 2 and Amendment 8—*CAP 1711* and *CAP 1711b*—cover only the period to the end of 2024, the first phase of airspace modernisation. The entire modernisation is due to run until 2040, so it is likely that these documents will be updated and ultimately replaced. Therefore, it is possible that having these specific documents in an amendment would not help the development or deliverability of airspace modernisation.

While I am on my feet, I will clarify something on the master plan. It is being developed by ACOG, which was set up to do so. It will need to be accepted by the CAA into the airspace modernisation strategy and plan. Of course, the CAA will do so only if it is consistent with the directions that it has been given and if it has been appropriately consulted on. The CAA is quite hot on this, actually. It rejected at least one airspace change proposal submitted in 2018, I think, because not enough consultation had gone on with communities. The CAA is clear that its role is very much as an honest broker and to make sure that people have been able to have their say.

When the master plan is complete, and with providing the benefits in mind, ACOG will look at the potential conflicts, trade-offs, interdependencies and the preferred implementation plan, but it will not look at individual airspace design solutions. Clearly, in the lower airspace, that is up to the airports to figure out. It is an extraordinarily iterative process, necessarily so, and enormous engagement is already happening as the master plan goes through its stages.

I hope I have been able to reassure noble Lords, particularly on the inclusion of "master plan" rather than mentioning the airspace modernisation strategy and plan. Also, it is not really appropriate to mention particular documents if we are to give the Bill the longevity that it needs. As I explained, the master plan will already have had regulatory acceptance into the strategy by the CAA, which will assess whether stakeholders have been spoken to. That will include airports, air navigation service providers, and many more people involved in the process.

We believe that there are sufficient avenues of challenge from airport operators and ANSPs. Resolution of conflicts in airspace change proposals already happens, of course, usually through a collaborative process mediated by the CAA. If any airspace change sponsor is still not happy, they can submit an application for judicial review.

I hope that I have been able to convince noble Lords that the powers are appropriate and will enable the Government to take forward airspace modernisation over a matter of decades rather than just in the short term. I also assure them that concerns are heard at every step of the way and are usually resolved collaboratively. That is a process between Her Majesty's Government, the CAA, the airports and all their stakeholders.

Lord Tunnicliffe: Will the Minister be kind enough to formally affirm that we will not take Amendment 24 today?

Baroness Vere of Norbiton: I am absolutely delighted to stand at the Dispatch Box and reassure all noble Lords that I really am not on top of my speaking notes for Amendment 24, so we will not take it today.

Baroness Randerson: I thank the Minister for that reply. She said something very interesting early in that response, which was that she had to balance the interests of commercial and general aviation, and that she does not feel that one should have priority over the other. First, "general aviation" is a very broad term. A lot of planes with transponders that would be classed as general aviation are able to fly perfectly safely in regulated airspace. However, there are also a lot of leisure pilots with small private planes who have a great deal of fun but do not have sophisticated equipment for flying in that airspace.

With all due respect to the Minister, commercial aviation is worth many billions of pounds to this country. It carries many billions of pounds' worth of freight and is of huge importance to our business and tourism industries. It is essential that the safety and efficiency of commercial aviation are maintained as a result of this legislation. Anything which complicates that process and makes it more difficult would strike at the importance of our aviation industry at this moment.

I will read the Minister's words very carefully and invite her to look again at the amendments and what we have said on them to reassure people—airlines, airports and others involved with a key interest in commercial aviation—that their interests remain at the heart of this.

Lord Kirkhope of Harrogate: My Lords, I hope the noble Baroness does not want to give the impression that there is a high preponderance among those engaged in general aviation—whether for business or, as she put it, leisure—who are not using the latest technology and training in the work they do. I speak as a private pilot and others here are similarly qualified. "General aviation" is a very wide term, but in our discussion on regulated airspace the noble Baroness should be quite clear that a considerable number of people involved at the leisure end are very well-equipped, technologically and personally.

Baroness Randerson: One of the key reasons behind my intervening on this point was to make it absolutely clear that "general aviation" is a very broad term. There are many people involved in it with extremely high-tech equipment, but it is not realistic to expect all smaller leisure pilots to have the latest equipment. I do not know whether the noble Lord was in the Chamber for the Question earlier today, but, if he has read the reports that came from the sad experience of that accident, he will be aware that there are many key issues associated with the regulation of smaller planes and the way in which some people—I emphasise this—use them.

There are important aspects to this, and in responding to that Question the Minister made it clear that the department was looking at it. It is important that we bear that aspect in mind in this debate, because the vast majority of the general public were, for example, completely unaware of the kind of grey charter flights referred to in that Question. It is an issue not just of equipment but of where the planes have flown. That makes it still safe to fly them, even though they have not perhaps got the latest or highest-spec equipment. That is why this discussion is ongoing and why it is important that these amendments are being tabled. I will read the record carefully and see what the Minister has said. If she wishes to write to clarify some of the things said in this debate, I would welcome that. In the meantime, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendments 3 to 5 not moved.

4 pm

Amendment 6

Moved by ***Baroness Randerson***

6: Clause 2, page 2, line 23, at end insert—

"( ) If a direction given to a person under subsection (1)—

(a) is predominantly or wholly to enable the airspace change proposal of a third party to be completed as part of the master plan for airspace modernisation,

(b) is not given to the third party itself, and

(c) would lead to an excessively high financial burden for the person under subsection (1),

the Secretary of State must ensure that person receives appropriate compensation."

Member's explanatory statement

This amendment seeks to ensure that smaller airports have appropriate funding if they are to be subject to directions that could have severe financial implications.

Baroness Randerson: My Lords, I will speak also to Amendment 10 in this group, which in my name. Both amendments would ensure that smaller airports have appropriate funding if they are subject to directions that could have severe financial implications for them. We have referred to the cost of airspace modernisation a number of times this afternoon, and I have already said that not all airports are Gatwick or Heathrow; they are not all even Bristol, for example. Some of the smaller airports that might be subject to expensive requirements on their airspace change could find this very difficult indeed to accommodate financially.

One estimate is that the cost of airspace modernisation could reflect 15% of the annual turnover of a small airport, which would be impossible for them to deal with financially. It is one thing to deal with it financially if it will be to your commercial benefit, and another thing if it will be to the benefit of your neighbouring airport. Noble Lords can see why some airports are rather concerned about this, because it could have serious financial implications. On the order of magnitude of the money involved, I gather that it could cost hundreds of thousands or even millions of pounds for each airport, and if a charge is incurred against their will and against their commercial interests, that will be difficult for them.

In our amendments we have tried to take what I regard as a reasonable line, to set a pretty strong test. We suggest that compensation would apply only if it imposed

"an excessively high financial burden".

They might have to shrug and accept a small financial burden, but if it becomes extremely high, compensation should be considered. Our concept was that funding would come from NATS, but there are other proposals related to that.

These two amendments are designed to protect small airports. They aim to ensure that, in parts of the country where small airports are of huge importance, both to the economy and to people who wish to travel in those parts, those small airports survive. I beg to move.

Lord Kirkhope of Harrogate: My Lords, I apologise for misreading my Order Paper and trying to head into areas of amendments before I should be allowed to: I thank my noble friend for correcting me. However, on this amendment, there is a strong case for some compensation to be allowed for smaller airports—in particular, those that are compelled to make changes. The amendment is unclear on whether this covers just the cost of making the change, however that is defined, or the negative commercial impact as a result. That is a totally different area but one that I know is of great concern to smaller airports.

Amendment 10 awards compensation for an excessively high financial burden, as the noble Baroness just said. That is also extremely difficult to assess. I think one would have to be more specific than a "high financial burden", because there is a lot of argument there. The principle, however, seems right, because whatever we decide to do or is decided, smaller businesses should not be forced to foot large bills for airspace changes forced on them by the Government and may be forced on them through government as a result of pressures from those who can better afford the costs associated with such changes.

Lord Berkeley: My Lords, the two points raised by the noble Lord, Lord Kirkhope, and the noble Baroness are well illustrated by Newquay Airport in Cornwall, where I live. I use the airport occasionally. It is subject to a public service obligation which the county council has negotiated to ensure four return flights a day between Newquay and a London airport. It has been very successful. There has been recent discussion, as noble Lords will know, to change the London location from Heathrow back to Gatwick, for reasons we do not need to go into today. The point is that Newquay has a few flights going to other places in the UK, on the continent and in Ireland. It is also the base for Richard Branson's latest idea of getting to the moon—taking passengers there, or something—which may be the subject of a government grant. It is odd, but if it was required to make changes to its airspace because of some other reason, the airport would be in severe financial difficulties. That is why it has been given a PSO: because it is an important part of improving the transport between Cornwall and London.

One can challenge or disagree with some of the text of the amendment, but the principle is there. If, when she comes to respond, the Minister does not like the wording, perhaps she can go away, have some discussions about it and come back with more acceptable wording. We should hold on to the principle of a small airport not being put to severe financial difficulty because of something over which it has no control.

Lord Craig of Radley: I have no particular difficulty with the idea of compensating somebody who is being adversely affected by a decision for larger national reasons, but going back to the concern about the Ministry of Defence interests, let us suppose that a Ministry of Defence interest is such that it needs to be accepted. Looking ahead, the Armed Forces will have drones as well as manned airframes. Their needs may be quite unusual compared with the normal. In those circumstances, a decision would have to be taken either in the interests of the Ministry of Defence or the commercial civilian operator concerned. I am not clear how such a decision would be arrived at. Perhaps, once again, the Minister will be able to make it clearer to us all where the Ministry of Defence fits into this type of decision.

Lord Bradshaw (LD): During the discussion that the Minister held in Committee Room G, I took the opportunity to talk to the legal advisers to the department, who assured me that consideration was being given to the financial detriment that may arise. How you determine that is quite difficult because if somebody has a detriment, presumably somebody has a gain. It will be a question of offsetting one against the other. I take the point made by the noble Lord, Lord Berkeley, that this applies also to remote areas of Scotland with access to the very busiest airports, such as Edinburgh—which is much prized by the small places that have one or two flights a week but is considered almost a nuisance by the large airports.

Lord Tunnicliffe: My Lords, our four amendments in this group say more or less the same thing: the master plan may involve a need for compensation.

The Bill asks the philosophical question of who owns the airspace. There is almost a reasonable argument for you owning the airspace above what you own; that does not work so we must have some other ownership of the airspace. Clearly, the only such ownership that makes sense is that it is a national asset. It must therefore be managed for the general good.

That is a complex exercise because you must try to achieve two things: efficiency and equity. There is a problem with efficiency. Take a situation where individual entities have been working largely on their own and making optimal use of, in this case, airspace: if you recognise that it is becoming a scarce resource and therefore seek to manage it for maximum efficiency, there will be winners and losers. The problem is that, if that is so, the losers will look on it as inequitable. There are probably only three solutions to that lack of equity. One is to say, "Tough. Life is like that." The second is the situation we have now: a suboptimal situation where you are not using the airspace to its maximum efficiency. The third is that you recognise the special position of the losers and pay compensation.

This is a difficult philosophical point. However, the problem is that United Kingdom airspace is no longer a philosophical point but a practical one. Therefore, as I said, we have tabled amendments that are similar to the Liberal Democrat ones to tease out the Government's thinking on this dilemma and how we may take the debate forward.

Baroness Bloomfield of Hinton Waldrist (Con): I thank noble Lords for tabling amendments and speaking so thoughtfully on such an important subject.

I assure noble Lords that we have considered, and will continue to consider, the potential impact of the Secretary of State directing a smaller airport to progress an ACP—airspace change proposal—when it may not have sufficient funds. At this stage, I want to assure the noble and gallant Lord, Lord Craig of Radley, that to support Ministry of Defence force development, the MoD will continue to require flexible and timely access to UK airspace. Also, the master plan will consider and include detail of the military's future airspace requirements.

In general terms, it is a long-standing policy that air passengers should fund the cost of their travel, including the cost of changes to airspace structure, rather than this being subsidised by the taxpayer. However, the Government recognise that there may be occasions when a small airport requires financial assistance to carry out some aspects of an airspace change proposal. We expect the CAA's oversight team to work with the airport operator or other person involved in airspace change before recommending that the Secretary of State uses the powers of direction relating to airspace change proposals.

Lord Tunnicliffe: Does the Minister recognise that airline passengers pay quite considerable amounts of tax? It is not unreasonable for them to look to the state to provide operational efficiency in regard to that tax.

4.15 pm

Baroness Bloomfield of Hinton Waldrist: I acknowledge the noble Lord's point. This argument is not all about efficiency. I will finish my points.

At this early stage, if the airport operator expressed concerns that it did not have sufficient funding to proceed with a particular ACP, we would expect the oversight team to work with the operator to suggest alternative solutions. We expect that this could include an alternative sponsor paying for the changes. The CAA oversight team could help identify and seek support from another ACP sponsor—most likely to its benefit—whose own ACP plans depend on the change in question. An example of this is Heathrow Airport, which currently provides assistance to various smaller airports to bring forward their ACPs in order to ensure that its own ACP can be developed, due to the interdependence of their airspace.

As for alternative funding support, the CAA has created from its determined costs an airspace modernisation support fund of £10 million for the 2020-25 regulatory period. The airspace modernisation support fund, ASF, is intended to be utilised to address projects that are important to the success of the airspace modernisation strategy where there are no other appropriate mechanisms for the recovery of these costs. It should support AMS deployment, including activity critical to the implementation of the airspace master plan that ACOG has been commissioned to deliver under the AMS. There is therefore the potential to apply for funding support, which would need to be considered alongside other funding bids.

As a last resort the Government could consider, on a case-by-case basis only, whether grant funding under Section 34(1)(b) of the Civil Aviation Act could be provided to an airport directed to bring forward an ACP that resulted in adverse financial impacts. This funding would be subject to Treasury approval and offered only if it proved absolutely necessary. We consider that offering government funding on a wider basis would go against the "user pays" principle.

I assure noble Lords that, due to the steps I have outlined, we do not expect a situation to arise in which an airport operator would be put in financial difficulty by being directed to progress an ACP where there is no positive business case for one. In extremis, if this were to happen, under Section 34(1)(b) of the Civil Aviation Act 1982 the Government would be able to provide compensation to an airport for the losses it has incurred, but this would still be considered on a case-by-case basis.

Lord Berkeley: I was interested when the Minister gave the example of Heathrow Airport being prepared to provide the funding necessary for a small airport to propose changes. Heathrow Airport does it not exactly on a charitable basis but for its own benefit. It is a commercial outfit. It tried to do this in the last year with the flight I spoke about earlier from Newquay to Heathrow. The county council said: "We don't want that. We'd rather stay at Heathrow than be transferred to Gatwick."

[Lord Berkeley]

The Minister is looking a bit bemused. My point is that Heathrow offering somebody else the funding to help make these changes is not exactly independent. It will be in its commercial interests, so it should probably be ignored.

Baroness Bloomfield of Hinton Waldrist: I thank the noble Lord, Lord Berkeley, for his intervention. I think he was talking about aircraft slots in that instance, which is not the subject of this debate. Also, Newquay is not subject to the ACP in the same way as other airports; it is outside the master plan.

I hope I have been able to reassure noble Lords that this amendment is unnecessary. We do not anticipate that a situation of loss will arise. Based on these points, I therefore hope that the noble Baroness feels able to withdraw the amendment.

Baroness Randerson: My Lords, the responses from the noble Baroness and noble Lords who have taken part emphasise that this is a very tricky issue. I certainly would not disagree that aviation and its passengers have to pay their way, and we would not normally expect aviation to be subsidised by government—although of course, the public service obligation does allow for that.

A key point from the Government's perspective was raised by my noble friend Lord Bradshaw, who talked about detriment versus benefit. We have been looking at big airports versus little ones. But take two airports—for example, Luton and Stansted—which are close to each other and reasonably similar in size. If an arrangement has to be made on their airspace modernisation that does not please both of them equally, how will that problem be solved financially? I am slightly surprised that the Government have got this far on this issue without having a clear answer to that. Fortunately, this debate has given us the opportunity to think about it in some detail.

I welcome further developments from the Government and am happy to withdraw the amendment.

Amendment 6 withdrawn.

Amendment 7 not moved.

Clause 2 agreed.

Clause 3: Direction to co-operate in airspace change proposal

Amendments 8 to 11 not moved.

Clause 3 agreed.

Clause 4 agreed.

Clause 5: Delegation of functions to CAA

Amendment 12

Moved by ***Lord Tunnicliffe***

12: Clause 5, page 4, line 29, at end insert—

"( ) The Secretary of State must prepare and publish a report on whether the CAA is sufficiently resourced to carry out its functions under this section within six months of its coming into force."

Member's explanatory statement

This amendment would require the Secretary of State to prepare and publish a report on whether the CAA is sufficiently resourced to carry out the new functions in this Bill.

Lord Tunnicliffe: My Lords, it will emerge as the afternoon goes on that I am somewhat unbelieving that this process will work. One reason I fear it may not work is the sheer lack of resources. The complexity of the trade-offs that will be necessary to work between the various demands to produce an optimal solution will be considerable. As I shall bring out in a later amendment, I believe that it is less than clear who is responsible for making that happen. I will make that point later. The point I make now is that the burden is likely to fall back on the CAA.

The Minister was kind enough to write to me and sort of assure me that money would not be a problem—I hope she reaffirms that. In her letter, she basically said that any additional expenditure that the CAA incurred could be met by industry through an appropriate levy procedure.

The real problem is talent, as is true throughout our economy. The number of people who have the skills to work in this area is limited. Therefore, I would value in the Minister's response an assurance to the House that the pool of talent available to the CAA, and indeed to other parties involved, is sufficient. If it is not sufficient, what are we going to do about it?

The second part of this group is essentially whether Clause 5 should stand part of the Bill. Industry has raised the issue that there will be a conflict in the CAA between its responsibilities for policy execution and for regulation. It used to be a feature of the finance sector that firms would declare that there were Chinese walls and that these walls worked. As we know from the financial crisis, they worked to the extent of a bottle of Bollinger. I hope the Minister does not frown too readily; certainly at least one wall went down for the price of a bottle of Bollinger.

We could well have conflict between parts of the CAA. I am sure that they are people of great regulatory correctness, but when the same business has two parts trying to do things that might be in conflict, it is important to know how they can assure society that no conflict takes place. It is simple things, such as whether there will be physical separation. Will the two parts be in different buildings? How will we manage to assure industry, for whom significant financial consequences rest, that the CAA parts which will both be involved in this exercise are properly separated?

Baroness Randerson: My Lords, we also question whether Clause 5 should stand part of the Bill. I have often raised in this Chamber the fact that the CAA has an extraordinarily diverse range of responsibilities, which it seems to carry out very effectively. I say that with great care, because, while I support the noble Lord, Lord Tunnicliffe, in the call for there to be adequate Chinese walls, that is not a criticism of the CAA and the way it has so far done its job. However, no organisation is ever perfect. It is important that it is given the resources and set-up that enables it to carry on undertaking its various and broad roles in a fully efficient way.

The Government add to the CAA's responsibilities all the time. They have done so on several occasions over the last two or three years. It seems always to rise to the challenge, but it is important that the Government put the right structure in place. Therefore, I support the noble Lord, Lord Tunnicliffe.

Viscount Goschen (Con): My Lords, when my noble friend comes to respond to the argument, would she accept that the Civil Aviation Authority already deals with what could be considered potential conflicts? I think in particular between the economic regulation group, which is the economic regulator for the airport sector, on the one hand and the safety regulation group on the other, which, as the name suggests, performs oversight and regulation of safety. This is not new ground for the CAA, which is a highly competent, highly professional organisation with a very difficult and, as the noble Baroness said, very broad mandate of economic and safety regulation. It is used to doing this. Of course there are new aspects in the Bill, but the principle of how the CAA operates is very well established, even down to some of the debates we had about changes in airspace policy, in which it has participated over the years. This is not new; airspace changes and it is rearranged under the current arrangements.

Lord Tunnicliffe: While I take the noble Viscount's point, does he accept that I have raised this point because the industry has come to us and expressed its concern? This is the same industry that has lived in the environment he has just described. I cannot see a way round not having the CAA doing both these parts. I cannot see who else would have the skills set, but we may have to debate that later. There has to be some process for convincing the industry that the separation in this case is effective. My concern about Clause 5 standing part is to get that assurance out of the Government.

Viscount Goschen: No one here would disagree with the noble Lord this is complex and difficult stuff. The point I was trying to make, which is entirely valid, is that the CAA, under its existing mandate, already balances these types of conflicts. There is not a great deal new here, certainly in principle.

4.30 pm

Baroness Vere of Norbiton: I again thank the noble Lord, Lord Tunnicliffe, for introducing this group. I shall start with Amendment 12 and then move on to matters relating to Clause 5 stand part.

As noble Lords have already noted, airspace modernisation is complex: it is a long-term programme and will require close oversight from the CAA in its co-sponsor role and the expert capability of its regulatory teams to assess airspace change proposals. These will be submitted by sponsors under the master plan which is being produced by the Airspace Change Organising Group, ACOG. That all makes sense but it is complicated.

It is crucial that the CAA has the resources to carry out these important functions. I can reassure the Committee that the CAA already reports on its resourcing through multiple channels and these reports are in the public domain. In December 2019 the CAA published its annual report on progress against the airspace modernisation strategy. The CAA is required to produce this report every year through the directions made by the Secretary of State. This report includes an overview of CAA's resourcing position against the strategy. The next one will be published towards the end of this year. The CAA also produces an annual report covering all of its activity, including its resourcing position and its top-level risks to the organisation. Again, this information is available publicly and is provided as part of its annual consultation on its charging scheme.

On the timing of the report specified in Amendment 12, it is unlikely that the Government, or indeed the CAA, would know within six months of the Bill coming into force whether it will be necessary to use any of powers in the Bill, when it might be necessary to do so and how many airspace change sponsors may need to be directed. Therefore, in addition to those already produced, a report on a specified day would probably not add much to what is already in the public domain. However, I will share the most recent CAA report on airspace modernisation of December 2019 after the debate.

On Clause 5 stand part—this is an important consideration which is worth time—the clause gives the Secretary of State powers to delegate the Secretary of State's functions under Clauses 2 to 4 to the Civil Aviation Authority and for a notice in writing of this to be published by the CAA. It would provide another means for the airspace changes identified to help deliver the strategy to be delivered, but only if it appeared desirable for this to do so in the future. The CAA is the nation's airspace regulator and has the expertise to take on this role if required. Given that both the Secretary of State and the CAA have various roles in relation to airspace change, appropriate internal governance structures would need to be put in place, an issue mentioned by a number of noble Lords, including my noble friend Lord Goschen.

This is important because the CAA carries out many different functions—it is a policymaker, a policy implementer, a regulator and a decision-maker—and, as noted by my noble friend, it is able to manage these kinds of conflicts of interest. I frowned earlier when the noble Lord, Lord Tunnicliffe, tried to liken the CAA to an investment bank, but the comparison is not a valid one.

The CAA is an entirely different sort of organisation. The incentives for going against what would be put in place are simply not the same. For example—again, it is not proposed that this would be done, but it is to provide flexibility—if the Secretary of State decided to delegate these powers to the CAA, the Secretary of State and the CAA would need to put in internal governance structures. For example, the DfT would need to make internal governance arrangements to separate the teams for discharging the new powers of direction, deciding on whether to call in an ACP and making recommendations to Ministers on that called-in ACP. This is rather like what the DfT does already on decisions on DCOs where one Minister decides and another Minister is kept well out of the process, and it works. The CAA would make similar internal governance arrangements to separate the CAA teams tracking

[Baroness Vere of Norbiton]
ACPs, advising on when to use the power, deciding on an ACP and discharging any new powers to direct ACPs if delegated to the CAA. The CAA has already created the internal governance structure that separates the first and second items there because that happens already.

One of the things I wish to press home to your Lordships today is that ACPs are already being considered and are successfully reaching the other side. So when the noble Baroness, Lady Randerson, was talking on the previous group about possible challenges that will occur between airports and asking how they are going to be resolved, we are already resolving them. This process has been going on for quite some time. It is only because of the new aviation modernisation strategy and its requirement to do it on a much more complex area, according to the master plan, that we have decided to take these powers. However, in normal circumstances without these powers airports are perfectly capable of sitting down, talking to each other and coming up with an equitable agreement. In this case, a CAA team would be tracking and advising an ACP, and another team would be making the decision. I believe that the CAA is well used to making these sorts of decisions, if it were to need to do so in future, and to creating those Chinese walls between the different functions it is expected to carry out.

Lord Tunnicliffe: The assurances the Minister has just provided are clearly useful. Will they be formally published in any way, in an appropriate document—a CAP or something like that—so that the industry can see what is happening, what governance structures are being put in place and the extent to which there might be physical separation?

Baroness Vere of Norbiton: That is a very good suggestion from the noble Lord. I will certainly take it back to the officials and consider how that might be taken forward. I agree that it certainly would provide reassurance to all stakeholders involved in this process to know that in circumstances where the powers were delegated it was clear what was going to happen. I will be in touch with the noble Lord with more information.

Skills are very important because airspace change requires specific skills. The CAA's annual progress report includes details specifically covering the resourcing plan for the oversight function, which is the high-level function to make sure that airspace modernisation is happening, and the technical expertise which is required to assess the airspace change proposals. I know that the CAA has a medium-term recruitment plan. Last year it was successful in recruiting the people that it needed. It is early days to speak about this year, but it has a plan in place and it knows how many people it will need as ACPs start coming down the track. Although such circumstances are not currently foreseen, we would like to have the flexibility to allow the CAA to take over these powers if deemed appropriate, or if circumstances arise in the future where the Secretary of State feels that it is the best way to go forward. I hope that, based on my explanation, the noble Lord will feel able to withdraw his amendment.

Lord Tunnicliffe: I thank the Minister for her response and will study her words carefully. I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Clause 5 agreed.

Amendment 13

Moved by ***Lord Tunnicliffe***

13: After Clause 5, insert the following new Clause—

"Responsibility for CAA airspace strategy

( ) The Secretary of State is responsible for the implementation of the CAA's airspace strategy.

( ) The Secretary of State must, before the end of the period of 12 months beginning on the day this Act is passed, lay before both Houses of Parliament a statement setting out progress towards the implementation of the CAA's airspace strategy.

( ) The Secretary of State must lay before Parliament a report in similar terms covering each subsequent 12-month period, within six months of that period ending."

Member's explanatory statement

This amendment would make the Secretary of State responsible for the implementation of the CAA's airspace strategy, and require related reports.

Lord Tunnicliffe: My Lords, we come to our most important amendment. The Minister will no doubt tell me that it is unnecessary; none the less, we feel it is important. The essence of Amendment 13 is that the Secretary of State must take responsibility for this process—and it must be personal responsibility.

I have very little faith in the process. I have suffered personally from this sort of situation in delivering a large project. We set down in all the project agreements that parties must co-operate, but they did not. Technically, we had various enforcement mechanisms but these run into the courts and the courts run into delay—and you cannot afford delay. It is pretty weak. The structure requires all participants to behave benignly. Unfortunately, these organisations are in the business not of being benign but of making profits. They are large organisations owned by shareholders, and the shareholders expect profits. I am afraid that the history is not terribly good. There was a project called the London Airspace Management Programme—LAMP, the stated aim of which, according to the CAA, was

"to redesign the airspace network over the whole of London and the south-east"—

not unlike the master plan. The CAA says:

"Initial plans were to consult on a complete package of network changes and 'swathes' and follow this up with airport-specific consultations, prior to a phased implementation at single, or groups of, airports. However initial design work and programming issues meant that this plan was revised so that LAMP design and consultation was to be addressed in two main phases. The first centred around London City and Gatwick (referred to as LAMP Phase 1A) and the second around Luton, Stansted and Heathrow".

This comes from a report by the CAA; I would like to make sure that the correct document is quoted—it is in *CAP 1692*, on the end phase. The rest of the programme was essentially abandoned. I have just read out paragraph 23, but this is also set out in paragraph 24 and 25 et cetera. In a sense it is a sorry

tale, but not one that we should be surprised about. It requires the miracle idea that individual entities in this process are able to maximise their own position and, at the same time, that of the whole. When one thinks about it logically, that is fairly improbable.

So, one looks to how we are going to do it this time. The Minister's answer will probably quote *CAP 1711b*, which is the airspace modernisation governance. I hope she had more success in understanding it than I did. I got to paragraph A7, which followed a flow diagram headed "Governance structure for airspace modernisation" that I did not understand, showing the roles for delivering airspace modernisation. I thought, "Is there something tangible here?" Paragraph A7, under the heading "Airspace Strategy Board", says:

"The Aviation Minister-chaired Airspace Strategy Board (ASB) is the first tier of the governance structure."

I thought, "I'm there. That is where it must happen." But the next sentence says:

"The Airspace Strategy Board is not a decision-making board, but will engage stakeholders on the policies that will govern the strategy and will advise DfT on potential changes to the overarching policy, regulatory, legal and funding framework if these are required to address delivery issues."

So it is not decision-making, it is just a talking shop.

4.45 pm

Then, at the next level, there is this lovely idea of co-sponsors. The Department for Transport and the CAA are going to co-sponsor this. That is great if they agree, but what if they do not? They are coming from different points of view and they may have different objectives. The idea of co-sponsorship means that you get into the blame game, and I do not find that at all reassuring. Meanwhile the Airspace Change Organisation Group can also only ask people to bring forward their plans; it cannot make plans itself.

Will this get done? I do not think it will; it will go the same way as the previous effort. To get something of this complexity done—I have been involved in issues of similar complexity—you need a single individual you can hold accountable for its success. That individual must have the appropriate authority and, because we are talking about something in common ownership—airspace—that individual must be politically accountable. The only person who meets that test is the Secretary of State. I beg to move.

Lord Trefgarne: My Lords, at the risk of being boring—I apologise if I am—I ask my noble friend again if the Ministry of Defence is part of this discussion group.

Lord Davies of Gower (Con): My Lords, I cannot help but feel that this is fundamentally a bad amendment. I certainly oppose the CAA being the prime adjudicator on airspace. It should really be the other way around; the Government should set the strategy, which is then implemented by the CAA. The power of the CAA in airspace strategy should not be increased; rather, it should be constrained to act in a role to advise the Government on safety matters related to airspace. Overall, I believe that the management of modernisation should firmly rest with the Government.

Lord Tunnicliffe: Could I interpret that as the noble Lord agreeing with me?

Lord Davies of Gower: I am disagreeing.

Baroness Vere of Norbiton: My Lords, as I have said and will probably say many times during the passage of this Bill, airspace modernisation is incredibly complex. A wide range of organisations are responsible for delivering it, and it will be for the benefit of the community as a whole. I understand noble Lords' concerns about who is ultimately responsible for delivering it. I hope I may be able to add some clarity on the exact responsibilities of the Secretary of State, the Department for Transport and the CAA with regard to airspace modernisation, because it is far from straightforward.

Under Section 66 of the Transport Act, the Secretary of State may give directions to the CAA imposing duties, conferring powers or both with regard to air navigation in a managed area. That is our first stage: the Secretary of State giving instructions or directions to the CAA. In those directions given by the Secretary of State to the CAA, the Secretary of State directed it to prepare and maintain a co-ordinated strategy and plan for UK airspace up to 2040, including modernising the use of such airspace. Again, I believe that all noble Lords will be in agreement with that, which is what has happened.

The CAA is therefore responsible for preparing the strategy, as set out in Clause 8(1), by reference to the directions. If the directions change, the strategy would then change. This is consistent with the CAA's role as a specialist aviation regulator and its broader statutory responsibilities. The CAA meets this requirement through its airspace modernisation strategy, *CAP 1711*, and of course the governance of that, as mentioned by the noble Lord, Lord Tunnicliffe, in *CAP 1711b*.

It is envisaged that the master plan currently being developed to identify in more detail the sort of changes that we will look for will become part of the CAA's airspace modernisation strategy, which it has been asked to prepare by the Secretary of State. The legislation therefore makes it clear that the CAA is required by the Secretary of State to prepare and maintain the airspace strategy and to publish a report on it, and that the Secretary of State will hold the CAA accountable for this, while Parliament will hold the Secretary of State to account.

However, although that stands in all circumstances, it is not quite so straightforward, because there are responsibilities that lie elsewhere. It is important that we recognise that, alongside the CAA and the DfT having responsibilities to co-sponsor the framework, the actual delivery cannot take place without the active participation of the industry. This precisely makes the case for the powers that we seek to take in the Bill that the Committee is discussing. We hope for the wonderful carrot world of active participation by the industry, and we have the stick of a potential direction if that does not happen. The noble Lord mentioned the previous attempt at airspace modernisation; he is absolutely right that it did not work because there were no sticks. It was therefore difficult to focus minds on reaching an agreement without the need to use a

[Baroness Vere of Norbiton]
stick. It would not be beneficial for our relationship with the industry, or indeed stakeholders, to utilise the stick too readily—but, as a last resort, we would.

On the amendment's requirement to lay a Statement in Parliament on progress against the strategy, I think I mentioned that the CAA already provides an annual report on the progress against the modernisation strategy. I therefore feel that that is probably not warranted. I hope I have clearly explained where the current roles and responsibilities lie so that there is no confusion and that, on the basis of this explanation, the noble Lord might—no, he might not.

Lord Tunnicliffe: The Minister says that the Secretary of State now has a stick—great. It is a very blunt stick, if I may say so. Nevertheless, does that mean she accepts that if this goes wrong, and an effective airspace strategy does not emerge from the process, the Secretary of State will be responsible for that failure?

Baroness Vere of Norbiton: At the end of the day, in maybe a decade's time—I do not know how long this will take but it may well be in a decade's time—I suspect that if this is not going according to plan, there will be questions in this House and in the other House. It will then be for the Secretary of State to answer those questions; in that respect, he has responsibility for making sure that this programme proceeds. However, as in many areas of the world that we live in, there may be circumstances that are beyond his control and are the responsibilities of others. Essentially, however, the responsibility for directing the programme lies with the Secretary of State.

Lord Tunnicliffe: I thank the Minister for that response and, while I will consider her words with care, I beg leave to withdraw the amendment.

Amendment 13 withdrawn.

Clauses 6 and 7 agreed.

Amendment 14

Moved by ***Lord Tunnicliffe***

14: After Clause 7, insert the following new Clause—

"Emissions reporting

(1) The Secretary of State must, before the end of the period of 12 months beginning on the day this Act is passed, lay before both Houses of Parliament a report detailing total emissions of targeted greenhouse gases as set out in section 24 of the Climate Change Act 2008 from aircraft beginning or terminating flight in UK airspace over a 12 month period ending not more than six months before the report is laid.

(2) The report must meet the obligations laid out in Article 5 of the 1998 Aarhus Convention.

(3) The Secretary of State must lay before both Houses of Parliament a report in similar terms covering each subsequent 12 month period, within six months of that period ending."

Member's explanatory statement

This amendment would require the Secretary of State to prepare and publish a report on aviation emissions and ensure compliance with Article 5 of the 1998 Aarhus Convention.

Lord Tunnicliffe: My Lords, the amendment would require publication of a report on aviation emissions. Although this information is already available, the report would ensure that it was presented in such a way as to comply with the Aarhus convention, which considers steps to reduce emissions.

According to the Government, the Bill will enable sustainable growth in air travel. In the light of climate change, there is of course a debate as to whether it is right for the Government to increase air travel—or, at least, whether they should explain how they will ensure that growth is sustainable and how they intend to offset emissions. The Government should make emissions information readily available and allow for greater accountability over their policies to reduce them.

A key section of the Aarhus convention is about access to information,

"the right of everyone to receive environmental information that is held by public authorities … This can include information on the state of the environment, but also on policies or measures taken, or on the state of human health and safety where this can be affected by the state of the environment. Applicants are entitled to obtain this information within one month of the request and without having to say why they require it. In addition, public authorities are obliged, under the Convention, to actively disseminate environmental information in their possession."

I beg to move.

Lord Kirkhope of Harrogate: My Lords, why do the proponents of the amendment believe that this is the right legislative location for it? Perhaps I am missing something, but should it not be looked at as part of the Environment Bill that will come before us in due course or in some other capacity, rather than in the tight confines of what we are debating today? With great respect, I do not think that the noble Lord has explained precisely where it fits into these proposals.

Lord Tunnicliffe: I apologise for that. I just feel that the issue of the environment is so important that one should take every reasonable opportunity to raise it. One area where we all know that environmental information about emissions in this country is deficient is the acknowledgment of aviation and maritime impacts. This is clearly an aviation Bill, so it is reasonable to make the inquiry at this point.

Baroness Randerson: My Lords, perhaps I can add to that response by saying that, when I discuss airspace modernisation with those who take part in the aviation industry in one role or another, they all raise the fact that this is a key opportunity to reduce CO_2 emissions from the industry. CO_2 emissions from transport are a huge source of problems, and aviation is the greatest part of them, not in percentage terms but because it is difficult to address. Solutions to many problems relating to road transport are gradually coming into general use, but no sensible time limit has been set for a solution to emissions from air travel. It is, therefore, very reasonable to suggest using this opportunity to see how much airspace modernisation has been able to contribute to reducing CO_2 emissions from the aviation industry and to look at other ways in which this might be done.

Events of the last year have shown that, when you put information about the impact of CO_2 emissions in the hands of the general public, they understand and start to take their own steps. However, aviation is a

very large-scale industry that is difficult to crack through individual contributions—other than not flying, of course. A lot of people are taking that solution but, in the interests of the aviation industry's future, it is surely important to take this opportunity to measure how effective airspace modernisation has been in reducing CO_2 emissions.

5 pm

Lord Berkeley: My Lords, I support the views of my noble friend Lord Tunnicliffe and the noble Baroness, Lady Randerson, on this amendment. It is extraordinary that the air sector is the only one that does not pay any kind of fuel duty. I think that goes back to the Chicago convention a very long time ago. Air passenger duty was introduced as a way of trying to compensate. We can see how important the Government think that is, because they have given Flybe—which I keep going on about—a holiday from it, to enable it to survive. For me, the policy implications of this are all wrong. The Government do not really care about the environment. They want to keep this company alive because Virgin would not be able to save it and it would be a disaster. This might not be the right place to cover this important issue, but this is an aviation Bill and we need to see it addressed on a consistent basis, so I support the amendment.

Baroness Vere of Norbiton: My Lords, I thank the noble Lord, Lord Tunnicliffe, for tabling the amendment. I agree with him—and, I am sure, with all Members of your Lordships' House—that the fight against climate change is one of the most pressing issues of our time. It is absolutely right that we continue to highlight emissions, to publish data on them and to plan for their ongoing reduction. The Government already publish emissions data for domestic and international flights. The Department for Business, Energy and Industrial Strategy reports annually on these greenhouse gas emission statistics. The statistics cover all sectors of the economy, including transport. Those for 2018 were published just last week and are readily available online. I will happily share a link so that all noble Lords can see them.

Within the statistics, individual transport modes—including aviation—can be identified. Domestic aviation is reported on separately from international aviation, because the methodologies used are different. The data is obtained from the National Atmospheric Emissions Inventory, produced by Ricardo Energy and Environment. It is also available online. The amendment referred to the 1998 Aarhus convention, the three pillars of which are already implemented in domestic legislation. Article 5, which relates to access to information, has been implemented through a number of measures, including legislation such as the Environmental Information Regulations 2004.

Measures in the Bill, as many noble Lords have noted, can help tackle emissions by reducing the amount of fuel burn that will come from aircraft, because they will be making more efficient journeys into airports. We are also moving into circumstances now where new technologies will allow for steeper climbs and steeper descents into an airport: again, this reduces the amount of fuel needed. It will also reduce the need for holding stacks, a big user of fuel. Early analysis suggests that modernisation in the south-east could reduce the amount of fuel burn by 20%, which would be a 20% reduction in carbon.

However, I will go away and look at the data. I am as interested as anybody in making sure that the data is correct, that it is published correctly and that it is available for all to see, because only then will we be able to really see the impact of our actions. If the noble Lord has any further details of the sort of data he would like to see, I cannot guarantee to put it the Bill but I may be able to make sure that it is published by colleagues.

Lord Tunnicliffe: Will the noble Baroness be good enough to include in that information, which will be very welcome, the methodology behind the figure of 20%?

Baroness Vere of Norbiton: I will certainly look to see how that figure was calculated and write to the noble Lord. I am fairly sure that there is a robust methodology behind it.

Lord Tunnicliffe: I beg leave to withdraw the amendment.

Amendment 14 withdrawn.

Schedules 1 and 2 agreed.

Clauses 8 and 9 agreed.

Schedule 3: Modification of licence conditions under section 11 of the Transport Act 2000: appeals

Amendment 15

Moved by ***Lord Bradshaw***

15: Schedule 3, page 21, line 32, leave out "24" and insert "12"

Member's explanatory statement

This amendment would reduce the time limit on the determination of an appeal from 24 weeks to 12 weeks.

Lord Bradshaw: I have some experience of the matters in this clause, although not in respect of the air transport industry. As an academic I was involved, over the period of regulation and deregulation, in the activities of the Competition and Markets Authority.

The Bill is about efficiency, and what I am proposing is an improvement in efficiency. I presume that any appeal referred to in new Section 19A should be about competition matters only—I do not see any purpose in referring it to the CMA if it is about anything else—but the Bill allows it 24 weeks to consider the appeal. As I understand it, it has a very small panel of its members that considers aviation matters. These people ought to be known and put to work quickly. The pace of work of the CMA in some cases is such that a snail would be envious that it can go so slowly. I believe there is a strong case for saying that it should come to a decision within 12 weeks of a matter being referred to it. It

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should have its members, of whom there are a large number, at the ready. There are usually three or four of its members that consider a case and they should give it immediate attention. These people are drawn mostly from the academic community, for which time is something that can be spent lavishly, shall I say? I think this matter demands immediate action. The Bill is about efficiency; let us impart a little efficiency to this. I beg to move.

Baroness Vere of Norbiton: I thank the noble Lord, Lord Bradshaw, for introducing this amendment.

Schedule 3 introduces the new process by which the Competition and Markets Authority—CMA—may consider appeals against decisions by the CAA to modify conditions in the licence to provide air traffic services. The provisions in this schedule enable the licence holder, airlines and certain airports that are materially affected by the CAA's decision to modify a licence condition to appeal that decision. The provisions also deal with matters including who may appeal, the grounds on which appeal may be allowed, what steps the CMA may take when it determines an appeal, the time limits for determination of appeal, and the publication of the appeal determination.

These appeal rights are essential to ensure that the CAA is accountable for its decisions and to safeguard the interests of the licence holder and others whose interests are materially affected by the CAA's decision-making. As set out in the Bill, the CMA is required to determine an appeal within 24 weeks of the day the CAA publishes a notice of the decision that is subject to the appeal. This is in line with appeals relating to licences covering the economic regulation of airports in the Civil Aviation Act 2012. That is why we selected 24 weeks as a guide. The CAA may extend the appeal period, up to a maximum of a further 12 weeks, but only if there are good reasons. The CAA may also extend the appeal if there is a parallel appeal in the Competition Appeal Tribunal which the CMA considers to be relevant. Again, this is the same as under the Civil Aviation Act 2012.

I point out that the 24 weeks is already a shorter timescale than the CMA usually operates when it is dealing with price-control appeals from other sectors. I feel that we have settled on a good middle ground with 24 weeks. The Electricity Act 1989 allows the CMA six months to determine an appeal, and that is from the date that the permission to appeal is granted, not the original publication of the decision itself.

Permission to appeal to the CMA must be given within six weeks. If it were to be made at the latter end of that six weeks, and there was then an appeal, in the worst-case scenario the CMA would have only 18 weeks to grant permission, consider and determine an appeal, and so we feel that 24 weeks is entirely appropriate. However, if, in due course, we feel that the CMA is being a bit tardy, as the noble Lord suspects it might be, the Government are able to change the time limits for appeals and for the processes within the appeals. These can be made at a later date, perhaps once some appeals have been considered under the powers in new Section 19A(1) and paragraph 25 of new Schedule A1. I hope that, based on my explanation, the noble Lord feels able to withdraw his amendment.

Lord Berkeley: The Minister will be aware that one of the consequences of Brexit is a lot more work heading towards the CMA, something that our EU Internal Market Sub-Committee, chaired by my noble friend Lady Donaghy, is looking at. Is the Minister happy that the CMA will be able to recruit more people to cover the civil aviation issues as well as everything else, or will they be constrained by the usual Treasury financial limits?

Baroness Vere of Norbiton: We have been discussing the Bill with the CMA. We are talking about appeals to modify the conditions in the licence of the single air navigation service provider which is dealing with the upper airspace. Therefore, we do not expect to keep the CMA particularly busy and are not aware that it would have a shortage of resources.

Lord Bradshaw: I thank the Minister for that reply. I was suggesting simply that there were areas where economy was possible. The Government say that they are committed to economy. I suggest that they look at this very seriously. I beg leave to withdraw the amendment.

Amendment 15 withdrawn.

Schedule 3 agreed.

Schedule 4 agreed.

Clause 10 agreed.

5.15 pm

Schedule 5: New Schedule B1 to the Transport Act 2000

Amendment 16

Moved by ***Baroness Vere of Norbiton***

16: Schedule 5, page 48, line 27, leave out "relevant Chapter 1 requirement" and insert "requirement that the CAA has determined is being or has been contravened"

Member's explanatory statement

This amendment clarifies that where a penalty is to be imposed for contravening a requirement in an enforcement (or urgent enforcement) order, the penalty notice given by the Civil Aviation Authority must specify that requirement.

Baroness Vere of Norbiton: My Lords, I come to a series of government amendments that are minor and technical, slightly improving the Bill. I hope that noble Lords will agree with them.

Schedule 5 gives the Civil Aviation Authority the tools that it needs to act in the most effective and proportionate way in response to contraventions by the licence holder of licence conditions or statutory duties. Those duties are otherwise known in the Bill as Chapter 1 requirements. The licence holder may also contravene orders, which may be enforced under these provisions.

The amendments concerning new paragraphs 11, 12 and 13 of new Schedule B1 to the Transport Act 2000, which is in Schedule 5 to the Bill, are technical

and relate to the procedure associated with the giving of a notification of penalties. They will ensure that the reason for imposing a penalty on an affected licence holder is made clear, and ensure alignment with equivalent provisions in the Civil Aviation Act 2012 so far as is practicable. The Government gave notice of the amendments on Second Reading.

The first amendment clarifies that, where a penalty is imposed for contravening a requirement in an enforcement or urgent enforcement order, the penalty notice given by the CAA must specify that requirement. The next amendment, to line 29 of page 48, inserts wording at the end and provides that, where a penalty notice is given by the CAA specifying a requirement of an enforcement or urgent enforcement order, that penalty notice must specify the Chapter 1 requirement in respect of which the order was originally given.

The next amendment is to line 44 of page 49, and replaces "relevant Chapter 1 requirement" with

"requirement that the CAA has determined is being or has been contravened".

It clarifies that, where a penalty has been imposed for contravening a requirement in an enforcement order, the penalty notice given by the CAA must specify that requirement. The amendment at line 46 of page 49 inserts wording towards the end that provides that, where a penalty notice has been given by the CAA specifying the requirement of enforcement, that penalty notice must specify the Chapter 1 requirement in respect of which the order was originally given. The amendment at line 37 of page 50 leaves out from "with" and inserts further wording. It provides that, in determining the amount of a penalty, the CAA must where relevant have regard to the steps taken by a person towards complying with both the requirement of an order and the Chapter 1 requirement in respect of which the order was originally given.

The amendment at line 40 of page 50 inserts some wording at the end and provides that, in determining the amount of the penalty, the CAA must where relevant have regard to the steps taken by a person towards remedying the consequences of both the requirement of enforcement and the Chapter 1 requirement in respect of which the order was originally given. The amendment on line 41 of page 54 provides that a reference in new Schedule B1 to the Transport Act 2000 to remedying the consequences of a contravention of a requirement of an enforcement order includes paying certain amounts to a person by way of compensation or in respect of annoyance, inconvenience or anxiety.

Overall, the amendments will enable the CAA to issue effective notices and ensure that the licence holder is treated fairly when the amount of a penalty is determined, therefore reducing the likelihood of challenge and allowing the Bill to function as intended. I beg to move.

Lord Tunnicliffe: It seems to me that the key words in that presentation were "minor" and "technical". They had better be.

Baroness Vere of Norbiton: I thank the noble Lord for his contribution.

Amendment 16 agreed.

Amendments 17 to 22

Moved by ***Baroness Vere of Norbiton***

17: Schedule 5, page 48, line 29, at end insert—

"(e) where the penalty would be imposed under paragraph 10, specify the Chapter 1 requirement in respect of which the enforcement order or urgent enforcement order (as the case may be) was given."

Member's explanatory statement

This amendment provides that where a penalty notice is to be given by the Civil Aviation Authority specifying a requirement of an enforcement (or urgent enforcement) order, that penalty notice must also specify the Chapter 1 requirement in respect of which the order was originally given.

18: Schedule 5, page 49, line 44, leave out "relevant Chapter 1 requirement" and insert "requirement that the CAA has determined is being or has been contravened"

Member's explanatory statement

This amendment clarifies that where a penalty has been imposed for contravening a requirement in an enforcement (or urgent enforcement) order, the penalty notice given by the Civil Aviation Authority must specify that requirement.

19: Schedule 5, page 49, line 46, at end insert—

"(da) where the penalty is imposed under paragraph 10, specify the Chapter 1 requirement in respect of which the enforcement order or urgent enforcement order (as the case may be) was given;"

Member's explanatory statement

This amendment provides that where a penalty notice has been given by the Civil Aviation Authority specifying a requirement of an enforcement (or urgent enforcement) order, that penalty notice must also specify the Chapter 1 requirement in respect of which the order was originally given.

20: Schedule 5, page 50, line 37, leave out from "with" to end of line 38 and insert—

"(i) the requirement specified in the notice under paragraph 11(1) by virtue of paragraph 11(2)(c), and

(ii) where the penalty is to be imposed under paragraph 10, the Chapter 1 requirement specified in the notice under paragraph 11(1) by virtue of paragraph 11(2)(e);"

Member's explanatory statement

This amendment provides that in determining the amount of a penalty the Civil Aviation Authority must, where relevant, have regard to steps taken by a person towards complying with both the requirement of an enforcement (or urgent enforcement) order and the Chapter 1 requirement in respect of which the order was originally given.

21: Schedule 5, page 50, line 40, at end insert "mentioned in paragraph (b)(i) and, where relevant, paragraph (b)(ii)"

Member's explanatory statement

This amendment provides that in determining the amount of a penalty the Civil Aviation Authority must, where relevant, have regard to steps taken by a person towards remedying the consequences of both the requirement of an enforcement (or urgent enforcement) order and the Chapter 1 requirement in respect of which the order was originally given.

22: Schedule 5, page 54, line 41, after "requirement" insert ", or a requirement of an enforcement order or an urgent enforcement order,"

Member's explanatory statement

This amendment provides that a reference in Schedule B1 to the Transport Act 2000 to remedying the consequences of a contravention of a requirement of an enforcement (or urgent

[Baroness Vere of Norbiton]
enforcement) order includes paying certain amounts to a person by way of compensation or in respect of annoyance, inconvenience or anxiety.

Amendments 17 to 22 agreed.

Schedule 5, as amended, agreed.

Schedule 6 agreed.

Clause 11 agreed.

Amendment 23

Moved by ***Lord Tunnicliffe***

23: After Clause 11, insert the following new Clause—

"Report on General Aviation

(1) The Secretary of State must, before the end of the period of 12 months beginning on the day this Act is passed, lay before each House of Parliament an assessment of the impact of Part 1 and Part 2 of this Act on general aviation.

(2) In preparing the report the Secretary of State must consult bodies including but not limited to–

(a) the Aircraft Owners and Pilots Association,

(b) the General Aviation Safety Council,

(c) the Light Aircraft Association,

and summarise and respond to issues raised in that consultation."

Member's explanatory statement

This amendment would require a report on the impact of Part 1 and Part 2 of this Act on general aviation.

Lord Tunnicliffe: My Lords, this amendment guarantees that general aviation is taken seriously in the process. General aviation is more important than people realise. *Aviation 2050: The Future of UK Aviation*, Command Paper 9714, published in December 2018, asserts that general aviation flying is worth about £1.1 billion and supports 10,000 jobs. It is a significant part of aviation and a significant employer.

There are Members in the Chamber—just about—who are part of the general aviation community. They may disagree with me, but my sense from friends in this community is that it feels unloved or left out. The short philosophical discussion I had earlier was about the fact that there is a general right to airspace—that, because it is owned by the whole community, it should be treated such that restriction of controlled airspace is balanced against general aviation's right to use uncontrolled airspace.

It is crucial in this day and age in that it generates airline pilots for the United Kingdom. I lived in a highly privileged age when the national airlines generated their own pilots. They paid for my training—more accurately, they paid for me to have fun, but let us get back to the subject. It is very easy in these situations for these small activities to get lost in the consultation processes. The fact that this amendment calls for a report will mean that officials will have that in mind and increase their propensity to be able to show that the needs of general aviation are appropriately taken account of.

General aviation is not universally popular; it creates noise and is seen as the privilege if not of the rich—although private jets are a big chunk of it, and you have to be either rather important or rather rich to use one—then of those involved in sports flying and training. The cost of hiring an aeroplane is about 5p a second—£180 an hour upwards—so you have to be affluent, if not rich, to take part in it. It has different forces working about it in society, which is a good reason for making sure it has its own special place in the process, which this amendment would allow.

The Government set out their position in *The Future of UK Aviation*:

"The government aims to ensure that there are appropriate and proportionate policies in place to protect and support General Aviation (GA) and its contribution to GDP and jobs. The government recognises that the needs of GA have to be seen in the wider context of civil and military aviation. In areas such as the use of airspace and the allocation of slots it is important to balance the needs of private flying, commercial GA and scheduled aviation, so that all classes of aviation are properly and proportionately considered and the benefits of GA can be supported."

My amendment goes towards ensuring that that objective is met. General aviation is something of an enigma, but it deserves the special attention that this amendment would require. I beg to move.

Baroness Randerson: My Lords, I thank the noble Lord for moving this amendment and raising an important issue.

During an earlier part of our discussions today, I felt that one noble Lord almost suggested that by asking the question one attributes blame. The important thing for general aviation—for a start, that is a massive phrase, which incorporates many different strands of aviation—is that its position is recognised and it is given the right to make representations. I notice and particularly welcome the noble Lord's amendment saying at proposed new subsection (2) that the report of the Secretary of State

"must consult bodies including but not limited to … the Aircraft Owners and Pilots Association"

and the General Aviation Safety Council. Many organisations involved in aviation have strong views on this, and in the modern world, it is important that the situation is properly considered and a proper, strategic approach to it is developed.

Just as I stressed earlier the importance of commercial aviation to our economy, the noble Lord, Lord Tunnicliffe, made the significant point that general aviation is also worth money to our economy—although on a much lower scale. However, the phrase includes such things as the hugely important air ambulance services, so it is important that the views of those involved across the spectrum of general aviation are taken into account. This is not all just about people going out on leisure flights on a Sunday morning.

Viscount Goschen: My Lords, I repeat the declaration of my interests that I made at Second Reading; I am a private pilot and operator of an aircraft.

This House has developed a somewhat irritating habit of thanking people for things that they do not really want to thank them for just by way of rote. But I

really do thank the noble Lord, Lord Tunnicliffe, for raising from his position opposite the point about the importance of general aviation in the great ecosystem of aviation in the UK and of course internationally. It is an important part of the broad system of aviation; there is a strong and measured economic benefit to the nation, and there are other benefits, such as the production of pilots—the supply of pilots who come through training systems rather than training overseas. We have all sorts of disadvantages with training in the UK, the primary one of which is weather and the secondary one is cost, and it is very easy for training to be done overseas. So I very much associate myself with the breadth of the remarks that the noble Lord, Lord Tunnicliffe, made about the importance of general aviation and the breadth of what is covered by that system.

Successive Governments of different hues have made public statements about the importance of general aviation—this is not a political matter in any respect. But there are essential freedoms to be preserved, and it is important that this debate in your Lordships' House has given some balance to this. A noble Lord said that perhaps general aviation feels unloved. Perhaps it does and perhaps it does not, but it is certainly an important factor in our broader aviation system in the UK.

I am not generally a great believer in endless reports from the Secretary of State on every Bill. There are endless demands on the Secretary of State to produce reports, and sometimes I would be interested in the production costs for the Civil Service and the amount of time that this takes. But the fundamental point is well made; a report of the sort that the noble Lord suggested would help to emphasise that and provide a bit of backbone for the Secretary of State in considering these matters. I look forward to my noble friend's response.

5.30 pm

Lord Craig of Radley: My Lords, I wonder whether the Minister can clear up something in my mind and perhaps in those of other noble Lords. We have talked about general aviation in the usual sense but, looking to the future, we will get more unmanned aircraft either working commercially in one form or another or working for the emergency services and so on. Will they get classified as general aviation? If so, should not their interests also be taken into account? I would like clarification on that particular point.

Lord Trefgarne: My Lords, I likewise thank the noble Baroness. I must declare an interest. The Light Aircraft Association referred to in the amendment was once the Popular Flying Association, of which I had the honour of being president for a number of years, although I have long since ceased to do that.

There is some merit in concentrating the Secretary of State's mind on these matters from time to time. I am therefore not unsympathetic to the amendment moved by the noble Lord, Lord Tunnicliffe—although hopefully today's exchanges will serve the same purpose.

Baroness Vere of Norbiton: I thank all noble Lords who have contributed to a nice, uplifting debate on the final group of amendments in today's Committee.

This Government, and in particular the current Secretary of State, are big fans of general aviation. We recognise completely that it is a key part of the aviation sector. It is an important source of pilots, engineers and technicians who may in future, in their turn, contribute to the success of commercial aviation; of course, they may instead stay in the general aviation sector and also be successful in its growth. So the Government support general aviation and will continue to ensure that its needs are not overlooked at both the local and national level when it comes to airspace modernisation. I assure noble Lords that we have taken steps to ensure that general aviation is represented at every single level of the airspace modernisation governance structure.

CAP1711b, the Government's annexe to the airspace modernisation strategy, lists all the organisations that must be engaged. For example, the Airspace Change Organising Group, which is charged with creating the master plan, is required to demonstrate that it has engaged with GA bodies, including Airspace4All and the General and Business Aviation Strategic Forum, which is a much broader forum consisting of lots of different stakeholders from the general aviation sector. It must have carried out that engagement for the master plan to be accepted by the CAA. There are also two general aviation representatives on ACOG's steering committee. The Airspace Strategy Board was discussed earlier. It is chaired by the Aviation Minister and meets regularly, and it too always has at least two representatives from GA, namely the GA advocate and a representative from, again, the General and Business Aviation Strategic Forum.

Furthermore, under CAP1616, the regulatory process that governs airspace change proposals, there must be consultation with local stakeholders, including general aviation, at many stages.

We are also aware that volumes of controlled airspace are underused. This has been a focus for the Secretary of State, who recently directed the CAA to carry out an airspace classification review to identify volumes of controlled airspace where classification could be amended. This is being done because we feel that we have a good relationship with general aviation and that we understand its needs.

The Secretary of State has also directed the CAA to prioritise airspace change proposals from GA aerodromes relating to global navigation satellite systems—a satnav-type approach. The DfT has provided the CAA with funding to set up a facilitation team to advise and support these small aerodromes in progressing these critical ACPs, and has provided it with financial assistance as well. So I hope that this reassures the noble Lord that we take the contribution of GA very seriously.

Turning to the timing of the proposed report, the amendment states that the Government must assess the impact of airspace modernisation on general aviation within 12 months of the Bill becoming an Act. I am sure that noble Lords will agree—and, indeed, have heard many times today—that this is quite a complex and time-consuming undertaking. Therefore, I do not believe that much airspace change would happen in 12 months, as most of the sponsors would be in a consultation phase for their ACP, and it would certainly

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be wrong for the Government at that stage to prejudge the outcome of those processes, which are of course independent.

I hope that noble Lords accept my assurances about the importance that the Government attach to general aviation and the measures that we are taking to ensure that all types of aircraft in the general aviation sector are heard, not only in airspace modernisation but far beyond that and within the strategy for the aviation sector as a whole.

I have just realised that I forgot about unmanned aircraft. Of course, airspace for unmanned aircraft will be a very important consideration. At the moment, it is envisaged that they will not fly in controlled airspace, so this is not therefore a matter for consideration today, but in future we will have to consider drones and what used to be called "unmanned traffic management"; I believe that it is now called "unified traffic management". That is a whole new world of pain that perhaps we will return to in future legislation.

I hope that, based on these assurances, the noble Lord will feel able to withdraw his amendment.

Lord Trefgarne: I need to apologise once again to your Lordships, I am afraid. There is an interest I forgot to declare earlier: I am president of the British Association of Aviation Consultants. That is in the register, of course.

Lord Tunnicliffe: My Lords, I thank all noble Lords who have taken part in this debate; I have rarely had so much support. The noble Viscount, Lord Goschen, hit the nail on the head. Let us go back to the bigger picture. I take the point that this Government probably take general aviation more seriously than any recent Government, and that is a good thing. The problem is that it may well depend on the particular Secretary of State.

The beautiful thing about a regular reporting process is that it concentrates the mind. Anybody who has worked in a large organisation in which several work streams are going along knows that if a work stream is picked out by the chief executive, the board or whoever for regular reports, it sits there in the minds of the officials, operatives, project managers or whoever is trying to do it. They think: "We've got to produce this report, and because it will become public we'd better make sure that our reasons for our various actions are well explained."

On the point about timing, as the Minister knows, it is entirely up to government to bring along amendments to suggest more appropriate timings. This is just an amendment to get the idea off the ground. I think that it is a pretty reasonable idea, and I hope the Government give it some more consideration. Of course, I will look at this debate with great care and decide whether to bring it back on Report. I think it will push things.

Baroness Vere of Norbiton: I would like to reassure the noble Lord that we will certainly give great consideration to what he has said today, and perhaps after Committee we might have further discussions about what this report might look like.

Lord Tunnicliffe: With those enthusiastic words, I beg leave to withdraw the amendment.

Amendment 23 withdrawn.

Schedule 7 agreed.

House resumed.

5.40 pm

Sitting suspended.

Planned Deportation Flight to Jamaica

Statement

5.45 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I will repeat in the form of a Statement the response to an Urgent Question given by my honourable friend the Immigration Minister in the other place. The Statement is as follows:

"Thank you, Mr Speaker. Righting the wrongs suffered by the Windrush generation has been an absolute priority for this Government. People who arrived in this country as little more than infants, who had built lives and raised families here, were told that they were no longer welcome. This should never have happened. It was a terrible mistake by successive Governments and by the Home Office. Since these injustices came to light, the Government have moved swiftly to give those affected the certainty they need.

That is why we set up a task force to help people confirm their status. I can confirm that over 8,000 people have been granted some form of documentation, including over 5,000 grants of citizenship, under the scheme. We have also launched a compensation scheme, to redress the financial hardship suffered by those left unable to work or to access other support systems. To ensure nothing like this ever happens again, the former Home Secretary commissioned an independent lessons learned review.

In recent days, news coverage has referenced extracts of a draft report that were leaked in June last year in the context of a planned deportation charter flight to Jamaica. I am not going to comment on leaks, but let me be very clear: the lessons learned report has not been suppressed. The report is yet to be submitted to Ministers by the independent adviser, Wendy Williams. It will be for the Home Secretary to publish her report once it has been received. It is vital that we allow Wendy Williams the time and space to produce her report without political interference. When it is available, the Home Office is committed to publishing it as soon as is practically possible and will take its findings, and any recommendations, very seriously.

With regard to tomorrow's charter flight, the Home Secretary is required by law to issue a deportation order for anyone who is a serious or persistent foreign national offender. It does not matter which part of the world they are from, whether it is the United States, Jamaica, Australia or Canada; it is criminality, not nationality, which counts. It is a legal requirement, as set out in the UK Borders Act 2007, introduced under a Labour Government. Just to remind the right

honourable Member for Tottenham, he was a member of that Government and did not, as far as I recall, raise objections at the time to its provisions.

We cannot breach the Act, and we will not allow foreign nationals who are convicted of the most serious offences, including rape and child sexual abuse, to remain in Britain. Tomorrow's flight is about keeping the public safe. It cannot and should not be conflated with the wrongs suffered by the Windrush generation."

5.48 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the Minister for repeating the Answer given in the other place to an Urgent Question earlier today. When will the Windrush lessons learned review be published? Why are there delays in getting this report to the Home Office? Can she tell the House what the Government's position will be when the report is published if it comes to light that, as a consequence of recommendations in the report, individuals on the flight tomorrow, or on other deportation flights, include people in categories that would not be recommended for deportation?

Baroness Williams of Trafford: As the noble Lord will know, I cannot pre-empt what the report will say, nor would he expect me to. As to when it will be published, the lessons learned review was commissioned by the Government but we would not wish to interfere in the process and tell Wendy Williams when to hand it over to us. However, as I outlined in the Statement, when we get the report, there will be a full government response.

Baroness Hussein-Ece (LD): My Lords, the lessons learned review may well throw up the question of those who came to this country as infants and are therefore more British than they are foreign. Yesterday, on the "Andrew Marr Show", the Justice Secretary was asked whether the Windrush generation are British, and he said yes. But when asked why some of these people were being deported, he then said, "Because they are foreign nationals." I think there is some confusion there.

Will the Minister tell us specifically whether reports are true that those facing deportation tomorrow include the vulnerable and those with medical conditions, such as a former UK soldier who was medically discharged and a blind man who has been told that his elderly grandmother can take care of him? Reports from those who have tried to legally represent these people claim that there are potential victims of human trafficking among the 50. Can the House be reassured that victims of human trafficking are not among them? What assessment has been made of those with disabilities and medical conditions, who are vulnerable, of their fitness to fly and whether they should be deported? Should there not be a proper assessment before they are deported tomorrow?

Baroness Williams of Trafford: I thank the noble Baroness for those questions. None of them is a British citizen. Those who have been detained and will be removed on the flight are not eligible for the Windrush scheme. It is right—in fact, we are legally obliged—to deport foreign nationals who abuse our hospitality by committing crimes in the UK. That ensures that we keep the public safe. As the noble Baroness will probably know, the Home Office removes tens of foreign national offenders each week, applying the same consideration and with the same legal recourses as in these cases. She is absolutely right to point out instances of human trafficking. It will all be done in the round when assessing a decision to deport. She is also right about mental health issues: we have a duty to consider some of those human rights considerations when we deport people.

The Lord Bishop of Southwark: My Lords, following on from the previous question, will the Minister consider whether or not it is appropriate for this country to seek to deal with the offences and aftermath of those brought up here as children, rather than expel them to countries of which they know little, save in the most exceptional circumstances?

Baroness Williams of Trafford: My Lords, all those who will be on the charter flight are foreign national offenders convicted of serious offences. They have had their cases fully reviewed to ensure that no outstanding legal barriers would prevent their removal from the UK. Careful assessment is made of the Article 8 claim of a foreign national offender who is subject to deportation to a family and/or private life, including the length of time that they have lived in the UK, which is an important consideration, but not the only one when weighed against their offending.

Lord Boateng (Lab): My Lords, the UK Borders Act 2007, which relates to foreign nationals, is subject to the European Convention on Human Rights and other treaty obligations. The National Audit Office has found, and Ministers have accepted, that the quality of the Home Office's decision-making has at times been less than satisfactory. Can the Minister assure the House that in each and every one of these cases, consideration has been given to the UK's responsibilities under the Human Rights Act? Can she assure us that Ministers have personally reviewed each and every one and taken into account the known recommendations of both the National Audit Office and the independent reviewer as to the importance of making sure that care is taken in these decisions, given that more than 40 British children will be deprived of parents as a result of the Home Office's decision in this case?

Baroness Williams of Trafford: I assure the noble Lord that all those considerations will be taken into account. Each case will be gone through to ensure that the right decision is made, because we are making life-changing decisions for these people. This is not a flippant decision to make. The noble Lord is absolutely right to raise that issue to ensure that we are rigorous in making decisions on who we will deport. Do not forget that these are serious criminals.

Lord Lilley (Con): My Lords, my noble friend and the Government are right to take a robust line with foreign criminals, but it must be at least doubtful how

[Lord Lilley]
foreign people are if they have been here for an awfully long time and they probably thought that they were British citizens. Why is there such a contrast between the Government's robustness on this issue and their failure immediately to deport people who come across the channel from safe countries on the continent who are manifestly foreign and have no legal right to be here? Why do they go through a lengthy process of considering whether they have any right to be here when they manifestly do not?

Baroness Williams of Trafford: My noble friend asks a very valuable question. Most of the people we deport go to the EU. He is also right to point out that it is very difficult to deport people to some countries. We would, of course, not deport people to places where they would suffer human rights abuses.

Lord Scriven (LD): My Lords, new guidance came out in May 2019 from the Home Office on Article 8 being applied to such cases. How does a child who came over here aged five, committed a crime at 17, possibly through being recruited by a gang, has all his family in the UK and is on the plane to be deported meet with that guidance?

Baroness Williams of Trafford: My Lords, as I said, human rights considerations are in play for anyone we decide to deport. These people are not British citizens. The Labour Government laid out in 2007 what would happen when such people committed such crimes. The Home Secretary is obliged to abide by the law that they have to be deported.

Lord Boswell of Aynho (Non-Afl): My Lords, while I very much welcome the Minister's readiness in contrition to learn lessons as and when they develop, can she give the House an assurance that that same attitude will persist for the administration of the settled status scheme that is now under development as part of Britain's withdrawal from the European Union?

Baroness Williams of Trafford: The noble Lord makes a really good point. The scheme is a constitutive, as opposed to declaratory, scheme. We had the Windrush generation in mind when we did this so that identity assurance status is in play for every single one of those people who become British citizens under the EU settlement scheme.

Flood Response

Statement

5.59 pm

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, with the leave of the House, I will now repeat a Statement made by my right honourable friend the Secretary of State for the Environment, Food and Rural Affairs in the other place. The Statement is as follows:

"Mr Speaker, with your permission, I would like to make a statement about the significant flooding caused by the heavy rain and severe gale force winds brought by storm Ciara.

First and foremost, I want to extend my condolences on behalf of the whole House to the family and friends of the individual who lost his life in Hampshire earlier today; our thoughts are with you.

I would also like to express my support and sympathy to all those whose homes and businesses have been flooded over the weekend. For each individual affected, flooding can have appalling consequences and I want to provide the assurance today that the Environment Agency, local government and the emergency services are working hard to keep people safe in all of the areas affected by this devastating storm.

Storm Ciara brought rainfall ranging between 40 and 80 millimetres in 24 hours across much of northern England. The highest levels were recorded in Cumbria with 179.8 millimetres of rain over the course of the day.

Particularly severe impacts have been felt in Yorkshire along the River Calder; in Lancashire along the River Ribble; in Greater Manchester along the River Irwell; and in Appleby on the River Eden. Regrettably, four of these communities—the Calder Valley, Whalley and Ribchester, the Rossendale Valley and Appleby—were flooded in 2015.

The current estimate is that over 500 properties have been flooded but this number is expected to increase as further information is collected. The latest number of properties confirmed to have flooded are: 40 in Cumbria; 100 in Lancashire; 150 in Greater Manchester; and 260 in Yorkshire. Defences in Carlisle have held.

There is local road disruption across the affected areas and a shipping container is stuck under a bridge in Elland Bridge.

One severe flood warning was issued over the weekend to communicate a 'risk to life' along the River Nidd at Pateley Bridge. This has now been removed. Flood defences were not overtopped and no properties were flooded.

Our coastal communities have also been affected in parts of the south, west and north-east of England, where high tides, large waves and coastal gales have occurred. The weather is expected to remain unsettled and 97 flood warnings are currently still in place.

While river levels in West Yorkshire and Lancashire are now receding, we must expect high river levels further downstream in South Yorkshire over the next few days. We urge people in at-risk areas to remain vigilant, not to take unnecessary risks and to sign up to receive Environment Agency flood alerts. Some coastal flooding is also probable tomorrow.

There is extensive work taking place in the impacted areas, including clearing debris that can block up river flow. Environment Agency teams have been deploying temporary flood barriers where necessary. I pay tribute to all the dedicated professionals who are working so hard on the emergency response to this situation, operating flood defences, supporting communities and keeping people safe. That includes the hardworking

staff of the Environment Agency, along with local authority staff and, of course, the police and fire services. I also thank all the volunteers who are part of the local flood action groups helping the response effort.

Every effort is being made to keep people safe and I can confirm this afternoon that the Government are today activating the Bellwin scheme. This will provide significant financial support to the local authorities in the areas affected by storm Ciara, helping them fund the costs of recovery. I would encourage councils in the areas affected to consider applications to the Bellwin fund.

In a changing climate, we all want our country and our communities to be better protected from flooding and more resilient when severe weather occurs. In the areas hit by flooding at the weekend, there are at least 25,000 properties and businesses which have been protected by flood defences.

But we know that more needs to be delivered and we are determined to do this. So, since the incidents of Boxing Day 2015, we have been taking action on a range of schemes to strengthen defences and improve resilience. We are investing more than ever before in these defences in a £2.6 billion programme up to 2021 to manage flood and coastal erosion risk. This will enable better protection of over 300,000 properties.

In early 2016, we committed an unprecedented £35 million to improve flood protection for homes and businesses in Mytholmroyd, Hebden Bridge and across Calderdale. Construction in Mytholmroyd is progressing and we expect the defences there to be completed in the summer. We have built 28 new flood defences in Cumbria and Lancashire protecting 23,100 homes, and 59 new flood defences in Yorkshire protecting 13,200 homes. In the autumn I announced an extra £60 million to boost flood schemes in the north, including £19 million for the Calder Valley. Our manifesto commits us to a further £4 billion of new funding in the five years up to 2026.

In 2016 we introduced the Flood Re scheme to make insurance cover for flooding more affordable and more accessible. Following the flooding in November, I announced an independent review of the data on insurance cover to ensure that the scheme is working as effectively as possible. Since the incidents of 2015, we have strengthened and improved our system of flood warnings, and we have established a flood recovery framework to prepare for and guide flood recovery schemes.

This Government are determined to maintain and enhance our readiness to respond when extreme weather hits our country. Our swift activation of the Bellwin scheme today and our investment in the biggest ever programme of flood defence improvements illustrate that commitment. We stand ready to help communities recover from flooding. We are investing in the defences needed in the warmer, wetter, less predictable climate that scientists tell us we must expect in the years to come. I commend this statement to the House."

My Lords, that concludes the Statement.

6.06 pm

Baroness Jones of Whitchurch (Lab): My Lords, I thank the Minister for repeating the Statement and I join with him in paying tribute to the emergency services and the Environment Agency for their prompt response to the threat of flooding in so many communities around the country. We echo the thoughts for the family of the man who died and send our condolences.

Yesterday, storm Ciara brought the most severe winds and heavy rain seen by many parts of the country for several years. It is heartbreaking to see local communities which endured so much in previous floods having to relive the experience. As the noble Lord said, a number of communities in the north of England were hit again, including Appleby, Bury and the Calder Valley, and there were further incidents in Scotland and Wales as well. There will be more frequent occurrences as we battle the extreme weather incidents that arise from the climate emergency. Once again, this is a huge wake-up call to the Government to act more quickly and decisively to stop global warming and the havoc caused by warmer, wetter winters and warmer, dryer summers, both of which increase the likelihood of intense rainfall events and flooding.

This is why we are critical of the Government's net zero emissions target of 2050, when urgent action is needed now, not in the future. According to the Committee on Climate Change, there are 1.8 million homes at significant flood risk in England, and the number will rise unless we hit net zero in the next 10 years. Can the Minister confirm that the UK plan to be put before COP 26 in Glasgow will be more ambitious than the current plan and have more ambitious timelines? Does he accept that, as well as being more proactive on halting rising temperatures, the Government should also be more proactive on the practical mitigation of flood risk?

Sadly, action to prevent flooding has been hit by years of Conservative cuts to the Environment Agency, emergency services and local authorities, which all play a significant role in managing and responding to flood risk. The Minister will know that only last year the Environment Agency said it needed an extra £1 billion a year to provide an effective response to flood risk. Can he clarify whether that money has now been made available? Can he explain what extra funding is being provided—in addition to funding for specific flood barriers, which is very welcome—to emergency services on the ground? Can he explain why the money provided to South Yorkshire after the floods last November was made on the basis of match funding? Is there not a danger that that will penalise poorer communities even more? Will he clarify whether the same principle is going to be applied to any assistance provided after these storms?

This is about more than erecting higher barriers. As people said on the news last night, water will always find a way around those barriers. There is a great deal more that can be done through habitat restoration and better use of flood plains. Does the Minister accept that there is a need for a more comprehensive rethink of land use combined with a comprehensive plan for flooding that crosses communities and authorities? Where do environmental land management schemes

[Baroness Jones of Whitchurch]
fit with this? What are the Government's plans for the co-ordination of schemes if they will be the basis of flood relief in future?

We welcomed the Flood Re scheme introduced in 2016 to provide flood insurance for those in high-risk areas, but there are still many businesses that cannot get insurance. This was again highlighted on the news last night. If we cannot help those businesses out, they will be forced to close and that will create ghost towns where there were once thriving communities. Can the Minister clarify what support is being given to small businesses to ensure that they continue to be economic and to keep their neighbourhoods alive? I hope when the Minister replies he will be able to assure this House that, for once, the Government have a comprehensive response to the rising tide of floods together with an urgent action plan to turn the tide of global warming that lies at the heart of the problem.

Baroness Pinnock (LD): My Lords, I thank the Minister for repeating the Statement and draw the attention of the House to my interests as set out in the register, which include being a councillor in Kirklees in West Yorkshire.

Yesterday I spent several hours visiting flood-affected neighbourhoods in my town. Businesses, which are often located on the flatter land that is close to watercourses, found torrents of water rushing through their premises. Anxious residents were out in the appalling weather watching the levels rise, fearful that flooded cellars would lead to something even worse. In the face of the overwhelming nature of what happened, local emergency services were able to help only the very worst affected, and I thank them and all those in the local authorities, the Environment Agency and the energy supply companies who sought to keep people safe.

The towns affected by flooding yesterday were also the ones that were hit hard previously. Flooding does long-term damage to homes and businesses that can be very difficult to overcome. The immediate concern is the cost of the clear-up and the damage to homes and businesses. As the Minister said, the Government have activated the Bellwin scheme, which enables local authorities to claim some of the costs of the flooding. However, the scheme's criteria state that a local authority has to fund the first 0.2% of its revenue budget before qualifying. No doubt that appeared generous when the scheme was drawn up before the 40% cuts to local government funding were imposed. Now with council budgets so squeezed, it is not approaching anywhere near generous. It puts enormous pressure on local authorities. On top of that, the same councils have had to fund clear-up costs from earlier flooding events, which, when they occur year-on-year, as they do, take a toll on council reserves set aside for such risks. Will the Government consider changes to the criteria to take these factors into account so that local authorities can have a more generous Bellwin scheme for areas that are affected time and again?

Obviously, insurance costs for residents and businesses often become prohibitive, especially for residents who already struggle to fund such costs. In my area, lower-value homes are often those most likely to flood; their owners or tenants are also the ones who struggle to pay for insurance costs. Can the Minister provide any comfort to such people and offer a more generous contribution towards these insurance costs?

One factor that constantly rises to the surface following flooding is that of drainage. One difficulty is that several different organisations are responsible for effective water drainage: the local authority, riparian owners, the water company and the Environment Agency. Can the Minister tell us whether the Government are thinking about how drainage systems can be better co-ordinated so that management and responsibility become more transparent?

Finally, there is the question of the consequences of ill-thought-through development. The Government are keen to accelerate planning application decisions and even, perhaps, to remove some of the detailed responsibilities of local planning authorities. This approach could well result in worsening the flood risk for a neighbourhood, with all the long-term consequences that follow. Will the Minister, through national planning guidance, consider putting a requirement on planning authorities to fully consider flooding risk, its mitigations and the responsibility of developers to fully fund such mitigations? Further mitigations could be made, for example, via the requirement of developers to restrict hard, impermeable surfaces and to set aside sufficient land for tree planting.

Of course, there is much more that can and should be done, such as, in my area, restoring the capacity of the peat uplands—something that in Yorkshire the water company is already beginning to do. I appreciate that I have asked a number of questions which may be outside the scope of the Minister's portfolio. If that is the case, will he undertake to provide a written response?

Lord Gardiner of Kimble: My Lords, I am most grateful to the noble Baronesses for posing a number of questions. If any further details are needed on any of the questions, I will write to them.

I open by saying that, between 2010 and 2015, £1.7 billion was spent on flood defences. Between 2015 and 2021, that figure will be £2.6 billion. That is a record amount, and the manifesto commitment of my party is £4 billion for five years from 2020. I can say that this Government, and indeed the coalition Government before, invested very considerable sums, but it is clear that we will need to do ever more. I agree with the noble Baronesses that we will have to use a mix of conventional flood defences and natural capital; that is clearly the way to work on this, particularly in the uplands.

When we come to deliberations on the Agriculture Bill, one element of Clause 1—if I remember rightly; I cannot remember the number—refers to financial assistance and, indeed, the importance of tree planting. This is not a partisan matter—although we might vie for the number of trees we would plant—but a matter that we need to move forward. I say to the noble Baroness, Lady Jones of Whitchurch, that, on both mitigation and adaptation, we are fully seized that global warming must be addressed, not only in this country but across the world. We are the world leader

on this and the G7 economy that has been decarbonising the fastest. We absolutely recognise the importance of this issue; that is why I am looking to great success for our country and its reputation at COP in Glasgow, with all of us working together.

I am also very conscious, having visited flood victims in Swaledale last year, of what it must be like not only to have been flooded, but to have been flooded again. Having seen what people endured, I am sure that all your Lordships will agree that it is impossible to ask people to withstand that. This is why I said what I said about the emergency services and our gratitude to them, and why I take seriously the accusations made about resources. I will take away the points that have been made about Bellwin. However, under this long-standing scheme for emergencies, we have said that we will reimburse 100% of the eligible costs incurred by local authorities, precisely to deal with this storm. This has been announced in what is probably record time because we understand the severity of the situation.

On Flood Re, it was very important that—as was said in the Statement—the Secretary of State announced a review of insurance cover at the end of last year following the November 2019 flooding. I am very conscious that, in many instances, Flood Re has been remarkably successful. It has meant that many property owners have been able to go to a number of insurance companies for their insurance cover; that has been successful. However, we recognise that, as some noble Lords have raised before, there are other areas that this review should look into; it will investigate these areas to help identify any implications for future flood events and see what more can be done. I should say that Defra officials have been in touch with the Association of British Insurers to ensure that insurers are doing all they can to support those affected.

I come to sustainable drainage. I understand that we will have to build more houses for our growing population. Sustainable drainage presupposes that we need to build them in a manner that allows the reuse of water—grey water. We need to work on all this; I have taken back what the noble Baronesses have said. I agree, for instance, particularly in relation to rainfall in the uplands, that we need to look at how we work with hill farmers, landowners and managers to ensure that we can retain water. This is, once again, part of what we will discuss in both the Environment Bill and the Agriculture Bill. Working with the deep grain of our contours, how do we plant trees in the right places?

I am most grateful to the noble Baronesses. I agree that we need to review Flood Re, and that is taking place. I accept that there is damage to communities. That is why I have outlined, and the Statement outlines, some of the schemes already in place following the investments over the last decade relating to those parts, particularly in the north, that have traditionally had very high rainfall and are now experiencing even more. All of that is why our energies in this new phase are about getting the balance right between hard defences and natural capital. I remember being told the rainfall in Cumbria at the time of the last floods. We would have had to have walls going through some towns there that were so high that it was almost impossible. It is unrealistic to have barriers of that sort going through towns. We need to look at how we slow the flow and at any means to assist people who, I am afraid, are going through great difficulty at the moment.

6.23 pm

Baroness McIntosh of Pickering (Con): My Lords, I echo my noble friend's comments about sympathy, condolence and thanks to the emergency services. Does he agree that many livestock will have been lost? I wonder what the position is and whether any support, as has been given to farmers in the past in that regard, will be thought of.

Properties built after 1 January 2009 are not covered, yet we are continuing to build in inappropriate places, so I hope that the review of Flood Re will have regard to that, along with the fact that businesses and farms are not covered and nor are flats in whole blocks.

My noble friend referred to the Bellwin scheme. Of course, what is exercising a lot of local councils is that many businesses have been given an exemption to business rates because times are hard. How will that shortfall be made up to local councils to ensure that they have the wherewithal to do what we are asking of them under the Bellwin scheme?

My noble friend will be aware of the Slowing the Flow at Pickering scheme because I never miss an opportunity to mention it. That was entirely a public partnership. I know the Government are very much minded to have private involvement in these partnerships. Could he update the House on progress in that regard?

Lord Gardiner of Kimble: My Lords, we will be assessing vis-à-vis farmers and the impact on them. The investment of £2.6 billion that I outlined is also designed to protect an additional 700,000 acres of agricultural land, but we will certainly be assessing what the situation is for farmers following Storm Ciara. On Flood Re, as I said, we are undertaking a review. I cannot pre-empt that but I have taken all the points that have been made.

On Bellwin, my right honourable friend the Secretary of State for MHCLG has announced that. I will pass back the points made about Bellwin but I think it indicates that we recognise that the parts of the country that have had these terrible floods and that impact need assistance, and our intention is to help them.

Lord Campbell-Savours (Lab): My Lords, I would like to take the Minister back to the question just asked by the noble Baroness, Lady McIntosh, about Flood Re. He is not being drawn on three critical areas that she mentioned: private rented property cover, commercial buildings cover and post-2009 developments. These are critical areas that have to be considered by the review. The Minister could at least give us an assurance that those three specific areas will be a subject of the review so that we can further consider them when the review is published.

Lord Gardiner of Kimble: My Lords, the whole point of a review is to review all matters arising from this. Obviously, I cannot pre-empt the result of the

[Lord Gardiner of Kimble]
review, but it is helpful that the points that my noble friend and the noble Lord have raised are precisely the sorts of areas that we need to look into. As the noble Lord has mentioned to me, in parts of Cumbria there have been leaseholders for whom this has been a problem. I assure your Lordships that I will take back the points made about the review, and we will be reviewing insurance cover with those points in mind.

Lord Shutt of Greetland (LD): My Lords, I declare the interest that I live in Greetland in the Blackburn Valley, less than a mile from the confluence with the Calder Valley. I saw the floods yesterday; I saw the Black Brook rise and come over its banks, and I saw it flood into several fields in front of my house from my own front window. I saw the same thing on Boxing Day in 2015. I am well aware of how those floods seriously affected Sowerby Bridge, Mytholmroyd, Hebden Bridge and Todmorden, and that has happened again this time. A mere 38 years ago, when I happened to be mayor, I had to visit various people, while wearing my chain, who had been flooded, so it is nothing new that we have floods in the Calder Valley, particularly the upper Calder Valley.

I note what the Statement said about the serious amount of money spent on flood protection, particularly in Mytholmroyd and Hebden Bridge. The upper Calder Valley is of course a place where we have steep valleys and no flood plains. Therefore, however good the work that will be done in the valley bottom, work has also to be done in the uplands. It seems to me that these things should go hand in hand, so we have to look very seriously at the uplands because the work that was done in the upper Calder Valley is seriously stressed now. I hope that is taken in.

Living in Calderdale now, we are at the latter part of the local plan preparation process. A revised draft has been produced, consultations are taking place and an inspector has been appointed. Can the Minister assure me that an inspector looking at a local plan will look at the issue of houses being built on a flood plain? Some 600 houses are proposed in the Blackburn Valley. Will that be looked at in the next few weeks?

Lord Gardiner of Kimble: My Lords, the noble Lord is of course right that all sorts of areas have been flooded over the centuries. I was only just discussing that happening in York, parts of which have flooded for centuries. Our purpose with the investment we are undertaking is to do everything we can to protect houses and businesses; that is why it is unprecedented. But we understand and accept that we are going through unprecedented times. The noble Lord is also right about steep valleys. I often think about this in terms of the upper reaches of, say, the Severn. We need to think about how we use natural capital. What are the ways in which we can slow the flow in those steep valleys, given that, as he said, very often there are no flood plains but there are traditional areas, which were used when we had those floods? My understanding about development on flood plains has always been that the Environment Agency has to be consulted about these matters as well. If the noble Lord would like to give me more detail on either the application or proposal, I would be very happy to ensure that the agency is consulted again.

Lord Mackenzie of Framwellgate (Non-Afl): My Lords, during the general election I recall seeing the Prime Minister on television, visiting a village that had been largely flooded; I think it was in Yorkshire. He promised £5,000 per household for each house that was flooded. I assume that has been honoured, but I heard a lady on the radio this morning from Hereford, a strong Conservative seat—the other seat was a marginal, by the way—who had applied for the same grant and been refused. Can the Minister explain this inconsistency?

Lord Gardiner of Kimble: My understanding is that the property flood resilience recovery fund was part of the package following November's flooding. The grant allows eligible local authorities, with 25 or more properties flooded in this timeframe of flooding—as in South Yorkshire and the north Midlands—to run a local property flood resilience scheme. Each eligible property under it would be able to receive £5,000 to fund changes that would help it become more resilient to any future flooding. To my knowledge, a number of insurance companies will also assist with that resilience. Having been flooded, one thing to do is to move obvious things such as the electric points. Where are they and can they be further up, particularly in areas that traditionally flood? That is why the pub in York, for instance, has its bar on the first floor.

Lord Inglewood (Non-Afl): Does the Minister not agree that a good place to start would be to have a simple, blanket moratorium on constructing houses and other sorts of buildings in areas proven to flood? No ifs or buts; it should just be no.

Lord Gardiner of Kimble: My Lords, I think that would mean most of London could never have been constructed. I do not mean to be facetious by saying that, but the truth is that many parts of our towns would be so deemed now. That is why we have the Thames Barrier and the hard flood defences that we do, and the Environment Agency is absolutely key to this. While I do not have the statistics in front of me, I think that very few planning applications that would be in a flood plain are permitted, precisely because of the point that my noble friend has alluded to.

Lord Judd (Lab): Can the Minister—

Lord Gardiner of Kimble: I have not finished yet. I say to my noble friend that the last thing we want to do, obviously, is to build houses which then get flooded. There needs to be an assurance that newly built houses will not then be flooded, with all the misery caused to their residents.

Lord Judd: Can the Minister reassure the House that in preparation for events of this kind, which are likely to recur, enough is being done to involve the non-statutory bodies—the Red Cross and a range of other relevant bodies—in planning to meet the

contingencies that may arise? Thanks to the Meteorological Office, we had lots of warning of what was to happen this weekend. Across the country, how far were planning arrangements put in place involving those non-statutory bodies, to work out exactly how everybody could make the best possible contribution?

I put one other point to the Minister. Is this whole episode not a stark reminder of the crucial importance of what will happen in Glasgow later this year? Are we really convinced that we have a streamlined approach across government, as a whole, to prepare for Glasgow and ensure that all relevant departments are playing into the plan? Are we absolutely clear what our priorities will be in that conference?

Lord Gardiner of Kimble: My Lords, the answer regarding the voluntary spirit is yes. That is an absolutely key part of resilience, and of how communities have got through many of the floods. When I went to Swaledale last year, the local community certainly came together with the Red Cross and all the local civic action. The communities in North Yorkshire were obviously working with the local authorities and the agencies, but what struck me most was how those communities worked together. They helped each other. There was not a resident who had been flooded who did not have two cooked meals a day. That is where we see that working of civic society: the volunteers with the agencies, backed up by support from local authorities and the emergency services.

Having the COP in our country gives us a great responsibility. We need to lead on that, and that is what the Government will do. People will obviously make their point but I think that during the COP in Glasgow we will see this country as a whole, and this Government, saying that this is the most serious enterprise and that it has to be addressed by all nations.

Lord Redesdale (LD): My Lords, the Minister talked about natural capital. Will he give an undertaking that the Environment Bill will look at catchment areas in the round? They were raised in the Water Act 2014, but dealing with the entire catchment area system is very complicated. I declare an interest as owning land in the upland areas. We have planted tress under higher-level stewardship, but it seems a disjointed event. Farmers are asked to plant trees, whereas, lower down, impermeable paving has been put in.

Those of us who know people who have been flooded know that it is not a short-term issue and that there is a massive cost to the health service. A recent report looking at the cost in mental health services from the previous flood talked about tens, if not hundreds, of millions of pounds being needed for those services over a long period. Is the Minister prepared to talk to those dealing with the National Health Service to make sure that the mental health budget is adequate to meet those needs?

Lord Gardiner of Kimble: Again, my experience is of how extraordinarily resilient communities are, but, very often, they will not admit that they are under great pressure. I went to see a number of farmers in Yorkshire last year. There was a facade of coping, but I was very struck by the powerful sense of devastation felt at losing livestock and all that went with it. I understand that and will pass it back.

On catchments, in both the Agriculture Bill and the Environment Bill the whole concept will be for the farmer to have an ELM, which we will bring forward, but some of the great advances have been seen where there are much wider clusters and you are thinking about how you manage that wider catchment area. A very good example is Slowing the Flow at Pickering, but there are other ways of getting ownership that goes much wider than a number of landowners or farmers, which gives you an advantage. The schemes will be trialled and co-designed with ranges of farmers and landowners so that we get that advantage of working with the countryside and with natural capital.

Baroness McIntosh of Hudnall (Lab): My Lords, perhaps I may take the Minister back to the response that he gave to the noble Lord, Lord Inglewood. The kind of building that goes on in towns and cities—this is particularly true in London—can exacerbate the risk of flooding. I give as an example the frequent removal of front gardens in densely populated urban areas and the substitution of hardstanding, which is usually to accommodate cars. When there is inundation, the effect is often not on the houseowner who has done that but on others. I am old enough to remember a serious example in London about 40 years ago when a very hot summer was followed by extreme rain, and the impact of water running off Hampstead Heath was that many houses at the bottom of that incline were flooded. As we know, that sort of thing is more likely to happen as extreme weather events become more common. Does the Minister think that it is time for planners to take a more active part in preventing that kind of low-level intervention by individual houseowners who exacerbate the risk of flooding?

Lord Gardiner of Kimble: My Lords, that is a very important point; we should all be playing our part. I would like to say to people who want to concrete-over or tarmac their front garden, "Think about it. It might even be your house that is inundated.". It is important that we look much more at this. I shall pass it back to MHCLG, because I know that it has been considered in your Lordships' House. Each of us can find ways of reducing run-off and having permeable surfaces. If we need to have hardstanding, how about using gravel or choosing other ways in which we might reduce flooding which might affect either our own house or, perhaps more worryingly, those of our neighbours'?

Lord Campbell of Pittenweem (LD): My Lords, my experience of flooding over the weekend was confined, I fear, to what for me were the unfortunate events at Murrayfield. My noble friend pointed out that the incidence of flooding is often greater in houses in less affluent parts of the community. Such households find it very difficult to meet the expense, not least because the cost of insurance is inevitably increased. Is there some way in which we can recognise that, so as to ensure that the burden of the consequences of

[Lord Campbell of Pittenweem]
flooding of the kind that we have been talking about is not felt disproportionately by a particular section of the community?

Lord Gardiner of Kimble: The noble Lord makes a very good point, and it is precisely why my predecessor, my noble friend Lord De Mauley, and others worked hard on Flood Re. The introduction of Flood Re has seen four out of five households with a previous flood claim get price reductions of more than 50% on their insurance. So we know that Flood Re has been a benefit, but, as a number of your Lordships have said, it is something that we need to review and come back on.

Health: Learning Disability and Autism Training

Question for Short Debate

6.44 pm

Asked by ***Baroness Hollins***

To ask Her Majesty's Government what steps they are taking to mandate training on learning disability and autism for all health and social care staff in England.

Baroness Hollins (CB): My Lords, I declare a non-financial interest as founder and chair of the charity Books Beyond Words. The charity co-produces educational and therapeutic resources to empower people with learning disability and autism and to educate those who support them.

Paula McGowan, mother of Oliver McGowan, wrote to me ahead of this debate to encourage Parliament to add some urgency to the work that is currently being done. She said: "My teenage son Oliver died a horrific and preventable death due to ignorance. Ignorance from healthcare staff, who should have had the skills and expertise to understand his neurodiverse needs, but they didn't. Oliver had autism and a mild learning disability as a result of meningitis as a baby. However, his additional needs did not hold him back and he had a good life; one that he enjoyed tremendously." Paula went on to say that when his parents took Oliver, who was having seizures, to hospital, he was very frightened. Paula assumed that clinicians would understand autism and learning disability; understand about sensory overload, crisis, and meltdowns. She thought they would understand how to make reasonable adjustments. She thought they would know about the Autism Act. She said: "Worse still, I thought they knew more than me. But they didn't. The reason for this was because they had received little to no training in autism and learning disability awareness. Most harboured subconscious bias and beliefs around Oliver's additional needs and simply labelled his cries for help as a mental health condition."

This ignorance led to Oliver being chemically restrained, and dying at just 18 years of age. The good news is that Her Majesty's Government have committed to introducing the Oliver McGowan training in autism and learning disability awareness and this will be crucial to saving lives. In my experience, unless this is mandatory and co-delivered by experts by experience, it will not have the desired effect. I hope the Minister will agree. It is right and fair that all NHS and social care staff have the skills to treat and support patients like Oliver. Some 2% of the population have learning disabilities, and 1% have autism. They are separate and distinct conditions, but they can and often coexist. People with these labels belong in all racial, ethnic, socioeconomic and gender groups, and they are much misunderstood everywhere. I welcome this Government's commitment to improve their health and care by including learning disability and autism as priorities in the long-term plan. The promise of £1.4 million to develop and test some new training packages and to make training mandatory is wonderful.

I have been passionate about this issue since 1981—shockingly, nearly 40 years ago—when I first became a senior lecturer in learning disability. That is when I started teaching medical students at St George's in Tooting, and involving people with learning disabilities in regular small group workshops, initially with the Strathcona Theatre Company. In 1992, after a Winston Churchill travelling fellowship in the USA, I came back and persuaded St George's to employ two people with learning disability as co-trainers to co-deliver our teaching for both undergraduate and postgraduate doctors. Our focus was not primarily to provide information but to develop their communications skills and their empathy, so that they would be positive and confident in their future encounters with patients with learning disabilities and autistic people. We trained and engaged actors with learning disabilities as standardised patients for the final clinical examinations, which essentially meant that our course became mandatory.

In its response to the Government's consultation last year, Learning Disability England identified four key areas for training and I agree with all of them, particularly meaningfully involving people with learning disability and autism. A number of third sector organisations have already taken the initiative to do this and to offer training to health and social care professionals and health and social care students in universities and colleges. These include Mencap's Treat Me Well, the My GP and Me programme from Dimensions and Books Beyond Words, and numerous initiatives by disability arts groups including Freewheelers, Act Too, Blue Apple Theatre and many more. Other special interest groups have been busy too, including some doctors who have recently succeeded in getting positive support from the Royal College of Physicians to develop a proposed credential programme with an advanced diploma for physicians and a certificate for GPs. Health Education England funding support would be needed to take this further but upskilling generalists with additional special skills could be a very positive step forward.

All the reports into premature and avoidable mortality in patients with learning disabilities point to common themes of inequality of care, lack of understanding and not listening to patients and their families. There is another worry too, known as diagnostic overshadowing, which seems to happen even in the most specialist

services. The label of learning disability, or autism, seems to stop clinicians looking beyond the label. Everything is attributed to the label. This is ill informed. We owe it to Oliver, and all other patients who have received inadequate care due to ignorance, to do better. We owe it to our staff to ensure that they have the correct skills and expertise to enable them to give the best care possible.

It is vital that high-quality training, designed and delivered in partnership with people and families, is made mandatory. This needs to include those who expect to have regular contact—everyone working in primary care, A&E and the emergency services, and everyone working in specialist community learning disability services—and staff who can expect less regular contact. It also needs to include those working in specialist, acute and mental health services; they should have the highest level of expertise.

My son, who has a learning disability and autism, was involved in some training with his local GP practice. The face-to-face contact he had with another expert by experience talking to everybody in the practice, all of whom needed to have the same skill, changed everything. The receptionists, the nurses, and the GPs all needed to know and all needed to have face-to-face training. That is what makes his experience so different now. However, this must have a high profile if it is to have any chance of achieving culture change in our health and care services. I have been hosting a reception in this House for the Challenging Behaviour Foundation. One speaker, telling a story about what had happened to her daughter, whose care had been so poor, said that it was as if her daughter had not been seen as human. Somehow, we have to change the culture so that everybody sees other people as human. This discrimination has been evidenced many times, including in Mencap's *Death by Indifference* report, in Sir Jonathan Michael's *Healthcare for All* report and in the LeDeR reports.

It often seems to be family members who take the initiative. Ginny Bowbrick, a consultant vascular surgeon in Medway and mother of autistic twins with severe learning disabilities, told me what she is doing in her trust. Just as the NHS rainbow badge campaign has been successful in raising awareness and understanding of LGBT patients among NHS staff, her Not Less campaign seeks to do the same for patients with autism and learning disabilities. Ms Bowbrick says, "The message of the campaign is simple; to care, to understand and to listen." She plans to distribute badges and information packs about autism and learning disability, with the help of the trust's comms team, to dispel commonly held myths and misunderstandings. The Royal College of Surgeons of England has given provisional support to her scheme, pending a final review. She hopes that it will work alongside the proposed mandatory training.

The Association of Anaesthetists sent an excellent briefing for this debate, strongly endorsing better training to achieve a safe, high-quality service. It made the point that delivering anaesthesia to patients with learning disabilities or autism presents particular challenges. They may have epilepsy, be obese or have serious mental health issues and are more likely to have congenital and chronic problems, including craniofacial anomalies and airway issues. Their physical and psychosocial challenges and their heightened anxiety may affect their ability to cope and co-operate, potentially putting themselves and others at risk.

The Royal College of Psychiatrists, of which I am a past president, also supports mandatory training. Its briefing, for which I am very grateful, raises important questions among which I have picked out a couple. Do Her Majesty's Government agree that although e-learning can have value within a broader package of training, it is not sufficient on its own? What steps are they taking to involve local societies, learning disability and autistic groups, carers and providers in the development and delivery of the programme, and to meaningfully consider the specific barriers to employing people directly in programme planning and delivery?

The real purpose of today's debate is to ask the Minister for an update on progress being made to develop the Oliver McGowan training in autism and learning disability awareness. It would also be nice to know when the White Paper on the Mental Health Act can be expected. I look forward very much to the contributions of other noble Lords and I am grateful for their participation.

6.55 pm

Lord Sterling of Plaistow (Con): My Lords, my involvement in autism over a number of years has been on two fronts. One is through Motability, where we are getting ever more people with an autistic background coming to us for mobility. Then, of course, as some noble Lords are aware, my grandson is on the spectrum but, pleasurably for me and all of us, at a low level. I can only emphasise what I have said so many times. I asked myself: is there anything new about what we want to do? Frankly, there is not.

I was very pleased indeed that the manifestos of all political parties—I am not getting partisan at all—all agreed that greater support for the disadvantaged and disabled are critical for everybody. I also want to say, from our experience and from my own experience, that the earlier you can identify autism, the better. That is the key. We were very fortunate that our little lad was identified at the age of three. Why? Because in the school he was at, the headteacher had actually studied and been trained and she identified it.

I deliberately thought, "I am not going to look at the old speeches I have made before. They are all there." What I want to say specifically is that I have discussed many times with a lady many of you know, Professor Vivian Hill, the fact that, sadly, until we have many more educational psychologists who are in a position to make it quite clear and agree that somebody is on the spectrum, diagnosis will take too long.

Many of us here have chatted, individually, separately and together. People say, "Let us do some more analysis—let us wait another five years to see what we can understand". We know what needs to be done. I have seen it myself in action. Fortunately, in the state school in West Sussex where he is at now, the headteacher has had training, and that makes a huge difference to how a school is run. It is a marvellous school, one of the finest state schools in the country, and they are so conscious of the training.

[Lord Sterling of Plaistow]

In practice, when you think about the identification of what we are talking about, a young teacher of 21 who might be in her first job, if she has had some training, it could well be that she can actually identify certain things. She can make a note and then ask the headteacher whether it should be looked at, so that autism is identified at a much earlier age. The opportunities then are immense. When people are trained and given the support they need, the children stand a much greater chance of going into mainstream schools and then, in due course, being able to get on in general life and society.

Having said that, I am afraid that people say that, somehow or other, those who are autistic should be made normal, like the rest of us. It is we who have to change. I have seen the autism figures and in actual fact, as they get older, only 16% of those on the spectrum have been able to have jobs. That is a problem of the employers. I have seen it myself in business. In practice, people are nervous handling somebody who they are told is autistic. We are the ones who have got to change.

On the need for training, I feel quite strongly about that—including for the public at large. My daughter's little boy had a meltdown in a major store. It was terrible. He ran off and she ran after him. She got him to the floor and people surrounded them. She is quite strong, but she was so embarrassed that she picked him up to get him out, because she also had her little girl with her, and was thinking about what would happen to her if she ran away and left her. Did anybody come to support her at all?

The following day she had two policemen at her door saying, "We understand that you've abused your child", and so she went on to the list. That is a shocking outcome. People did not volunteer to help. It is not just about educating teachers, which should be mandatory—no one should become a headmaster or headmistress until they are educated on this—but we should also find ways and means to educate the public, so that if they see something, they help and it registers with them that this person needs some support: "I'll look after the little girl while you look after him", et cetera.

I thank the noble Baroness, Lady Hollins, so much for introducing this debate. I should have thanked her at the start. I have very strong feelings on it.

Anxiety is a key factor in mental health. People are starting to understand, but it should become law that every headmaster and headmistress in the country, and anyone in a teaching role, should have compulsory education on this, so that they have the opportunity of picking up one or two points which can give a kid a chance early on.

Noble Lords probably know better than I do that the available support money in these areas is quite uneven in different parts of the country. In some, it is very high; in some, it is very low. Some do not have any support for people at all, or any understanding of what it is about. That must be addressed.

Now that we have got all of last year out of the way, I would like to think that, going forward, all political parties agree on this; it is totally non-partisan. I hope the Minister recognises that it would be a pleasure for all of us if things happened sooner. We do not need more analysis; we know what is needed and we need to get on with it.

7.02 pm

Lord Wigley (PC): My Lords, I am delighted to follow that moving speech. I draw attention to my registered interest in the form of my links to Mencap, and thank the noble Baroness, Lady Hollins, for facilitating this debate. I also pay tribute to her campaigning zeal on these issues over so many years; we all admire it tremendously and are indebted to her.

This is not the first time that we have addressed these issues. I spoke in a very similar debate in 2014. I served on the special investigation under the Disability Rights Commission, chaired by David Wolfe. Our 2007 report highlighted many issues to which we are returning today. It is immensely depressing that, despite warm words, so little progress of substance has been made. However, I welcome the opportunity to speak in this debate on tackling the inequalities that people with a learning disability face in relation to their healthcare services.

The noble Baroness set out clearly why all health and social care staff should receive learning disability and autism training. I, too, pay tribute to the campaigning of Paula McGowan, without whose efforts we would not be debating these matters today.

For far too long, people with a learning disability have faced inadequate healthcare and social care advice and services because of the inability of those providing the services to do so in a manner that enables the person with a learning disability to access them fully. We have heard in this House of scandal after scandal involving people with a learning disability dying avoidable deaths, often in tragic circumstances. Mencap has campaigned on this issue for many years, and I would highlight their report, *Death by Indifference*. Through six case studies, it revealed the reality that people with a learning disability face when receiving care in the NHS. While it led to the confidential inquiry and, subsequently, to the learning disability mortality review, things have not moved on quickly enough.

The first annual report from that review revealed that women with a learning disability are dying 29 years sooner than women in the general population, and men 23 years earlier. We can all imagine how we would feel if we were told that we might expect to live much shorter lives for reasons that could quite easily be counteracted. One can but imagine the sense of fear and anxiousness, arising from seeing shocking cases on the news, as each time you go into hospital, you think it might be the last time you do so. That is why, since 2018, Mencap has been running its Treat Me Well campaign, to transform how the NHS treats people with a learning disability and bring about equal access to healthcare.

However, equality in healthcare does not necessarily mean treating two people the same way. It is about everyone receiving the right healthcare for their needs. The NHS and social care staff are overwhelmingly dedicated to their profession and seek to provide the best possible care for every person, but they need the

appropriate skills to achieve this. We must not assume that all such staff have direct personal experience of engaging with people with a learning disability or, necessarily, positive attitudes when doing so.

The Treat Me Well campaign revolves around local groups working with their NHS Trusts and healthcare professionals in a positive manner, rather than simply criticising poor practice. It is our duty to ensure that all staff, existing and new, are equipped with the essential skills and tools to provide the best possible care, regardless of a person's disability. That is why mandatory learning disability and autism training must be part of the curriculum.

This debate is primarily about England, but health inequalities are not bound by borders so it might be helpful to share the progress made in Wales, where almost all the relevant responsibilities are devolved to the National Assembly. There may be much that we can learn from each other. Actions to reduce health inequalities have been in place in Wales since 2014, when the Welsh Government introduced the learning disability care pathway. This was a direct response to the tragic death of Paul Ridd in Morriston Hospital, Swansea, in 2009. Paul's family have worked tirelessly in partnership with Mencap Cymru to improve awareness of the needs of patients with a learning disability. I pay tribute to Jayne Nicholls and Jonathan Ridd, Paul's sister and brother, for their commitment over the last decade to improving health outcomes for people with a learning disability in Wales.

In November the Welsh Government announced plans to introduce mandatory learning disability awareness training for all NHS staff. This will, appropriately, be named after Paul Ridd. Such training is being designed with input from Mencap Cymru, the Paul Ridd Foundation and the University of South Wales. It is expected to be rolled out gradually and systematically, starting very shortly. I warmly welcome that move and congratulate all who helped to bring it about. I hope that NHS England engages with colleagues in Wales to share best practice in both directions and to learn from our respective experience.

A key element of the training provided in Wales is the central role that those with their own lived experience have played in its creation. I agree with the noble Baroness, Lady Hollins, that central to rolling out effective learning disability and autism training in England, and preventing it becoming a tick-box exercise, is ensuring its co-production and co-delivery by people who themselves have direct lived experience. Tick-box training simply will not stop the continuous list of scandals we have experienced. Putting those with lived experience at the heart of the training will go a long way towards breaking down negative attitudes and stereotypes and help to develop staff communication skills.

My ultimate hope is that training co-developed and co-produced by people with lived experience will help to prevent premature deaths. I hope that the Minister can give some reassurance that those with lived experience will play a central role in such training, and that she accepts that this is one vital step among many for ensuring that people with a learning disability receive the standard of healthcare that they have a right to expect.

7.10 pm

Baroness Watkins of Tavistock (CB): My Lords, I declare my interests as outlined in the register and thank the noble Baroness, Lady Hollins, for securing the debate. I will speak only briefly because other noble Lords have made several of the points that I wished to contribute, particularly the noble Baroness in relation to the co-design and co-delivery of inclusive education with experts by experience, and the noble Lord, Lord Sterling, in his statements about teacher education and early diagnosis. Of course I follow the noble Lord, Lord Wigley, and his excellent outline of how Mencap is working successfully in Wales through Treat Me Well.

In 2019, the Government held a public consultation on the potential introduction of mandatory training relating to learning disability and autism for all health and social care staff in England. The review was predicated on concerns identified in the learning disability mortality review programme. As already outlined, it made specific reference to the circumstances of Oliver McGowan, a teenager with autism who died in 2016 after being given anti-psychotic medication when treated for a seizure.

In response to the consultation, the Government made a commitment to pursue the introduction of mandatory training in this area, with trials beginning in April this year and due to report in March 2021. This is extremely welcome, and the results of the trials will inform the content and nature of the delivery in future. However, I particularly ask the Minister whether sufficient resources will be made available to ensure that the training, even at tier 1, will not rely on computer-assisted learning alone. Without interaction with families and other people with lived experience of supporting people with learning disability and autism, success will not be achieved. In tier 2, for example, it is essential that staff are trained in the accessible information standard, so that they can explain to people seeking help in care what is actually going on.

For tier 3—education for staff directly providing care and support for people with learning disability—learning disability nurses are key. Noble Lords will be aware of the ongoing shortages of learning disability nurses and the challenges of recruiting them, particularly as students of nursing. The Council of Deans of Health welcomes the new student support arrangements, as I do, particularly the additional student maintenance grant for learning disability and mental health nursing students. That will assist in recruitment. It is vital that there is increased partnership working between the independent and voluntary sector, the NHS and universities to ensure the sustainability of the profession and appropriate clinical placements during training. Let us be clear: CPD and the NHS alone will not solve these issues. Can the Government clarify that the new maintenance support arrangements will be fully funded for nurses in training for at least all new intakes during this Parliament?

The development of a postgraduate certificate programme in learning disability and autism, with co-creation from patients and families involved in a meaningful way, may be a gateway to encouraging more health and social care staff to enter learning

[Baroness Watkins of Tavistock]
disability care, and to retaining those staff with clear pathways for career development. If the Government are to achieve their mandate of further reducing in-patient provision by 2023-24 at the latest, it is essential that significant investment in staff development and recruitment of new staff is undertaken. Not everyone who works in a hospital environment is well suited to more community-oriented provision, as we found when we closed mental health hospitals in the 1980s and other learning disabilities facilities.

I warmly support the Government's plans but seek assurance from the Minister that adequate investment will be made in health and social care education for competence to work with people with learning disability and autism to enhance services for this vulnerable group, not only to save lives but to improve the experience of people with learning disability and autism who access and rely on the NHS and social care services. For once, I will steal a line from an independent insurer, Bupa: we need to ensure that people with learning disability and autism

"live longer, healthier, happier lives."

7.15 pm

Lord Addington (LD): My Lords, there is an unpleasant familiarity about this debate. Anyone who has been here for any length of time has heard these issues raised before. The similar issue has also been raised—the noble Lord, Lord Sterling of Plaistow, beat me to it in mentioning the Department for Education—that if you are not trained to deal with something, you will not deal with it. You will go back to your original training because that is what is in your DNA and you will refer to it straightaway. If you are told that that is not the way—"You're a professional, you know better"—you will fight against it. Thus the tiger parent, who has often been helping this person out for so much of their life, is in a situation of conflict. This has been a rich thread running through most of the examples of things going wrong: somebody who knows how this individual behaves is not being listened to in delivering the help.

There is nothing new about this, nor anything particular to the health service about it—it is just that you get dramatic results from the health service. You do not get long periods of decline in medical health; mental health care might normally have a slower drip, but it is there. The person involved often has to be trained to listen to those outside. That will be one of the steps forward. As has been said, different levels of training will be required for the first to be efficient. Just having an awareness programme delivered online or in person will not be enough. You will need expertise to come in and help with that situation, because anybody who has trouble processing information and giving it out, which both of these groups have, will be a problem.

The medical profession works by talking to you often—allowing you to know what is happening and allowing you to explain the problems. The Minister will have come across communication problems with those who are deaf. Their problems are different, but there is a similarity in the general thrust of what is going forward. If we value these people as fully as the law tells us we should, we have to make sure that this communication is facilitated and that people know they have to do it. The senior nurse and doctor involved need to know that it is not a slight on their professional conduct to get somebody else involved. It is the same in teaching and other areas. You have to make sure that they understand when they have to get support and help in. If they do not do that, it does not really matter what else you write down. If they do not realise that they have to reach out, they have problems.

As has been said, we need to hear from the Minister what the structure of progress is for making sure that this happens more frequently. It is an excellent idea that all new staff be started on this programme, because that cements it as something that is there and solid. CPD can then start to pick up some of the rest of it, provided the structure is in place. I accept the caveat that you must have a decent training programme in the first place, because there is no point wasting your time with bad training. What are we doing there? How will we start this and make sure that we say it is a requirement? This is the big question, and I would like the Minister to answer it today.

If we are to carry on developing a programme that allows people to interact quickly, we need a starting point. It would also help to have some idea when the Government think they will have good coverage across the board, or at least enough knowledge for someone who has not received this training to ask where they can get the help and support, call in somebody else and not have it seen as a slight on them, because this will take resources and occasionally slow down the process. Pretending that it will not happen will help nobody. Can we get something to go through on this?

If we go on pretending that once you are trained, you are fine—I think it has been agreed on an intellectual level that this cannot happen—we will achieve very little. The rate of progress will be very much slower than it should be. Can we get an idea of the time structure for making sure that everybody knows that it is okay to ask for help and support, and that if something is identified then there are processes that have to be gone through and accessed? What duty is there to make sure that you have read clearly and understood what may be a note on paper or in a file somewhere telling you what process to go through? This is a very odd thing, because the Minister will say, "Of course you're supposed to understand it", but what training is there to say, "By the way, do it and ask for help"? These things will all come together.

It will never be easy, because you have to tell someone to change their behaviour, and there will always be entrenched resistance to that. Look at us: we do not like being told that we get things wrong and have to change—there may be one or two noble Lords here who do, but I know that I certainly do not. However, we have to do it occasionally. This problem is further exemplified in this field in so far as it was once said to me, "Once you know about an autistic person, you know about one autistic person." There is a huge number of patterns and variations in that field: those who hate to be touched and those who are huggers, for example. That is a pretty basic difference in patterns of behaviour between two people who are supposed to be in the same group.

Can we get some idea of the progress structure? We have already heard that we have enough information to do better things, even if they are not perfect. Can the Minister give us an idea of start dates, progress dates and when information will come down to those who have not been taken into this that they must refer to those who have? If we do that, we have the start of fundamental change to the system. If we do not have that, we will just have bits of good practice and will see the horror stories coming through here at a slightly slower rate. Surely we do not want to aspire to that.

7.22 pm

Baroness Thornton (Lab): My Lords, I declare an interest as a lay member of a CCG, and as someone who is therefore involved in the monitoring of LeDeR and other issues related to this debate.

It is a pleasure and an honour to participate in this debate initiated by the noble Baroness, Lady Hollins, who has probably done more than anyone I know to shift opinion and public policy in this area. I pay tribute to her for that. I hope she will not mind me saying that she is a great example of how expertise and persistence are such an effective combination in your Lordships' House. This welcome debate should be seen as yet another step on that journey.

All the expert contributions tonight are important, but the theme of all of them is how to combat ignorance and ensure that there is expertise and learning on this from top to bottom of the NHS and our social care system. Like the noble Baroness, I welcome the Government's commitment and specific inclusion of learning disability and autism as one of the clinical priorities in the long-term plan. However, I echo her questions about the introduction of mandatory training. I am grateful for the briefing we received on this, and I particularly appreciated the briefing from the Royal College of Psychiatrists, which pointed out something that we all know:

"The existence of significant co-morbidities and health inequalities for people with learning disability and autism demonstrates the need for better training across all of health and social care, including psychiatry, to improve patient outcomes and patient experience."

I am also pleased to learn that the Royal College of Psychiatrists will soon publish its own report,

"on the psychiatric management of autism and Asperger's syndrome in adults, which include specific recommendations for autism learning objectives within all sub-specialities of psychiatry."

I think those are the expert's words for what the noble Lord, Lord Addington, said: if you have met one person with autism, you have met one person with autism.

We know that last year the Government launched

"a consultation on proposals for introducing mandatory learning disability and autism training for health and social care staff"

and received a significant number of responses, including from lots of the organisations that have briefed us all prior to this debate. However, the challenge, as other noble Lords said, is significant indeed:

"There are over 1.2 million NHS staff and nearly 1.5 million adult social care staff in England"

and, as we learned, we have also to consider staff who work in Wales.

My first question is about the progress of developing and testing the learning disability and autism training pack, as well as developing guidance to employers to support them in assessing what level of training staff require. When are we likely to see that?

The noble Baroness, Lady Hollins, posed many of the questions that I thought were relevant here. Does consolidating autism training and learning disability training run the risk of not appropriately reflecting those differences? I am sure that the Minister will have an answer to that question. I echo what has already been said on e-learning, which I do not believe would be sufficient for training and learning in this area. Having been involved as a lay member of a CCG, even at that very low level one is required to undertake a lot of e-learning. We have to learn about safeguarding and conflicts of interest—it is all e-learning. I have done it all, and it is fine, but I am not sure that a huge amount of it stuck in my head. I got through, passing pretty much everything that I was asked to do, but I am not sure that that was the point. In this area, the lived experience of and learning from people who are experiencing these conditions will stick and will be much more relevant. Therefore, just e-learning and training packages will not be sufficient, as expert as the NHS is at producing these online packages for people to experience.

We have heard about powerful lived experiences, and I have been moved by some of the contributions this evening. I was also struck by the briefing from Mencap. I know that the House does not need to be reminded about life expectancy, but I was struck when Dan Scorer from Mencap said that this makes "grim reading", and by his article in the *Guardian* last November about the scandalous detention of learning-disabled people.

In other words, there are some serious issues here. I echo what the noble Lord, Lord Sterling, said: we do not need more reviews; we need some action and investment.

7.29 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, I thank all noble Lords who took part in this short debate. In particular, I thank the noble Baroness, Lady Hollins, for her Question, which has allowed us to have this important and moving debate, and for her dedication to this issue; she said that she has been working on it for more than four decades. She has certainly gained this House's unremitting respect for her work. In particular, I thank her for her vital work as independent chairperson for the care and treatment reviews of people with a learning disability and autistic people in long-term segregation. That work could not be more important, and her contribution in that respect is invaluable.

Noble Lords will know—they have demonstrated this—that the care and treatment of people with learning disabilities and autistic people has come under intense scrutiny in recent months, with widespread concerns about how we care for and support some of the most vulnerable in society—and rightly so. Tonight's debate has been part of that. Everybody should receive the

[Baroness Blackwood of North Oxford]
same high-quality care, whether or not they have a learning disability or are autistic. Despite this, as has been said, there remain serious disparities in the quality of care and support that they receive. As has also been said, evidence shows that they can experience poorer health and die sooner than the population as a whole. We must change that.

As the noble Baroness, Lady Hollins, rightly said, these disparities can arise as a result of health and social care professionals lacking the training or experience—or, sometimes, just the confidence—to deliver effective and compassionate care. I have no doubt that staff want to support everyone, including people with a learning disability or autism, to the best of their ability. Like the noble Lord, Lord Wigley, I pay tribute to Mencap's survey for its Treat Me Well campaign, which found that almost half of staff responding thought that a lack of training on learning disability might be contributing to avoidable deaths and that two-thirds of staff wanted more training focused on learning disability. We are listening to that.

As noble Lords are aware, last year DHSC consulted on proposals for mandatory learning disability and autism training. The consultation was in response to the Learning Disabilities Mortality Review programme's second annual report, which recommended the introduction of mandatory training. A common theme in the deaths reviewed by the programme was, as has been pointed out, the need for better training and awareness of learning disability. The same is true of autism. We published our response to the consultation in November, setting out our plan to introduce the Oliver McGowan mandatory learning disability and autism training across the health and social care system. The training is named in memory of Oliver McGowan in recognition of his family's tireless campaigning—including a previous debate on this matter—for better training for staff.

In future, we want all health and care professionals, before starting their career or through continuing professional development—a point made by the noble Lord, Lord Addington—to undertake learning disability and autism training, covering common core elements so that we can be confident that there is consistency across education and training curricula. We are working with professional bodies and the devolved Administrations to align syllabuses and training requirements with the learning disability and autism capability frameworks at the earliest opportunity.

We have committed £1.4 million to develop and test, during 2020-21, a package of learning disability and autism training in a range of health and social settings to help us better to understand the implications of mandatory training and the associated costs before wider rollout in 2021. I assure the House that the training will involve people with lived experience at every stage throughout its design and delivery, which I know is critical to its success.

We are also clear that, to realise fully the benefits of this training, it must be mandatory. We will undertake a number of actions, recognising that different approaches will be needed for different staff groups to make sure that it is effective. These will include proposed changes to secondary legislation to ensure that providers who carry out regulated activities ensure that staff receive training that is appropriate to their roles. We will also explore options for those working in non-regulated activities.

I will just pick up on a few of the specific points raised. The first is e-learning, raised by the noble Baronesses, Lady Hollins, Lady Watkins and Lady Thornton. In the consultation on mandatory training, we heard very clearly that having a face-to-face component is important. We will consider how to build this in in an appropriate way as we develop and trial the training package. We are currently developing the specifications for trial and evaluation.

In response to the question about the timeframe from the noble Lord, Lord Addington, and the noble Baroness, Lady Thornton, the strategic oversight group met for the first time last week. We will publish invitations to tender later this month, and will then seek to appoint and sign contracts with suitable training and evaluation partners in April. We will commission and publish an evaluation of the training package by March 2021 to inform a wider rollout of mandatory training across the system. I hope that is reassuring. Of course, we will seek to learn best practice from anyone we think can help us; this will include the devolved nations, which I hope is reassuring for the noble Lord, Lord Wigley.

I will just pick up on the question raised by the noble Baroness, Lady Watkins, regarding workforce, which will of course be critical to making sure that this is effective. In addition to our new maintenance grant funding for eligible pre-registration nursing, midwifery and allied health students, we announced additional payments of £1,000 for new students who study in challenged specialisms, which would include learning disability specialisms. I think that answers the question she raised.

On the question regarding the review of the Mental Health Act raised by the noble Baroness, Lady Hollins, this was completed in December 2018 and its findings were clear that we need to modernise the Mental Health Act to ensure that patients are not detained longer than absolutely necessary. We have said we will bring forward a White Paper in the coming months. We intend to pave the way for a reform of the Act and tackle the issues raised in that review to ensure that people subject to the Act are treated with dignity and respect. The intention is to ensure that we provide more patient choice and autonomy and enable patients to set out in advance their care and treatment preferences, and also to improve the process of detention, care and treatment. I hope that is reassuring. The reason for doing it in this White Paper process is because of some of the complexities around the legislation and to ensure that there is appropriate pre-legislative scrutiny.

Baroness Watkins of Tavistock: I would just like to clarify that my question about funding for the maintenance support was not about whether it applies to the learning disability group but whether it will apply for all five years of intakes of this Parliament.

Baroness Blackwood of North Oxford: It applies to all staff coming in from September, so it will apply from now on. I am happy to write and confirm the specific details if any further clarifications are necessary.

I want to reply to the very moving speech and lived experience given by my noble friend Lord Sterling. He will know that there is an autism strategy. Its intention is to address some of the important concerns he raised about improving diagnosis, helping adults with autism into work and improving access for adults with autism to the services and support they need—but obviously this does not address some of the concerns he raised about the experience of children with autism in schools and public services. That is why DHSC recently refreshed the Government's arrangements around the autism strategy to improve its performance, to address explicitly the causes behind the gap in life expectancy that autistic people face and to make progress towards reducing it, but also to take forward a new autism strategy, which will be published in the spring, to extend the scope of the strategy to children and to deliver on one of the key commitments, which is in the long-term plan: to test and implement the most effective ways of reducing waiting times for autism diagnosis for children and young people. I hope that answers a few of the noble Lord's questions and is reassuring.

I particularly note the very relevant points made by the noble Baroness, Lady Hollins, regarding diagnostic overshadowing and the reports by parents of children with learning disabilities and autism who feel as though they are treated as somehow less than human. As the noble Baroness and the noble Lord, Lord Addington, said, this must, and will, change.

Mandatory training, and many of the issues we have debated this evening, will play a key role in bringing about that culture change. But it will happen only through the collective commitment and work of every member of staff who takes on the training and looks for help when they do not understand how to do it, and by realising that we must have change not just in our health service and public services but within our culture as a whole. As this debate has shown, we all can and must do better in this area.

House adjourned at 7.40 pm.

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