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PARLIAMENTARY DEBATES  
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# HOUSE OF LORDS

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<b>Abbreviation</b>	<b>Party/Group</b>
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

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# House of Lords

Tuesday 12 May 2020

11 am

Prayers—read by the Lord Bishop of Durham in a Virtual Proceeding via video call.

## Arrangement of Business

Announcement

11.13 am

The announcement was made in a Virtual Proceeding via video call.

**The Lord Speaker (Lord Fowler):** My Lords, I apologise for the slight delay, which was due to a technical issue with the transmission of information. I remind Members that these proceedings are subject to parliamentary privilege and that what we say is available to the public both in *Hansard* and to those listening and watching. Members' microphones will initially be set to mute, and the broadcasting team will unmute their microphone shortly before we reach their place in the speakers' list. When Members have finished speaking, their microphones will again be set to mute. I ask everyone to keep questions and answers as brief as possible, so that we can reach as many on the list as we possibly can. Virtual Proceedings on Oral Questions will now commence.

## Covid-19: Vulnerable Populations

Question

11.14 am

Asked by **Baroness Bull**

To ask Her Majesty's Government what assessment they have made of the measures in place to protect vulnerable populations during the COVID-19 pandemic.

The Question was considered in a Virtual Proceeding via video call.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con):** My Lords, social distancing and shielding measures are in place to protect vulnerable and clinically extremely vulnerable populations. Those identified as clinically extremely vulnerable are advised to stay at home with no face-to-face contact until at least the end of June. Our approach is under continuous review. The Government's position on shielding and social distancing reflects the latest SAGE and clinical advice from the Chief Medical Officer.

**Baroness Bull (CB):** My Lords, every person with a learning disability has the right to be supported to live in their community, but Covid-19 is putting already-delayed in-patient transfers at risk. In March some 1,900 adults and 200 children were still locked away in in-patient units, the majority sectioned under the Mental Health Act and staying for five years in facilities intended to be short-term. Can the Minister share his department's updated assessment of whether the Mental Health Act easements provided for in the Coronavirus Act will be required, now that the peak in infections has been passed and a plan for lifting restrictions is

taking shape? Does he share concerns that these easements, if enacted, would risk the delivery of the care needed to support community living and the achievement of the goals set out in *Transforming Care*?

**Lord Bethell:** The noble Baroness, Lady Bull, asks a searching question. On whether the Mental Health Act easements of which she speaks have already been enacted, I will have to find out exactly what those arrangements are and write to her. However, I assure the House that the care of the most vulnerable is absolutely the Government's number one, top priority. It is true that some of those caring and providing important pastoral care for the most vulnerable have been worst hit by Covid—the examples she gives are really good ones—but we are absolutely putting the care of the most vulnerable at the top of our priorities.

**Baroness Healy of Primrose Hill (Lab):** Yesterday, the Prime Minister said of his road map:

"it is a plan that should give the people of the United Kingdom hope."

But on examination of the plan, I see no hope offered to the clinically extremely vulnerable, who are just told that they must continue to shield beyond June. The Government offer only a future review into the effects on their well-being. Can the Minister say how and when this review will be conducted, and by whom?

**Lord Bethell:** My Lords, the advice from the Government is that the clinically extremely vulnerable should continue to be shielded until the end of June. That is under review at the moment. We are seeking to have more refined and more targeted guidance after the end of June, and we will publish that before the end of that month.

**Lord Truscott (Ind Lab):** My Lords, can the Minister reassure those healthy over-70s that they will not be obliged to self-isolate against their will? Will he also comment on evidence that many care homes were forced to admit Covid-19-positive patients, so causing this pandemic to spiral out of control in those homes?

**Lord Bethell:** I reassure the noble Lord that the Government are not obliging healthy over-70s to self-isolate. However, the guidance is clear: they are a vulnerable group and the disease targets those who are older. They are therefore advised to avoid all social contact, if necessary. That advice is based on the science of the disease, and we will seek ways of trying to ameliorate that once the disease has fallen back.

**Baroness McIntosh of Pickering (Con):** My Lords, does my noble friend agree that the most vulnerable are clearly the residents of care homes and their care workers? Will he confirm the very sad figures of, as I understand it, 10,000 deaths suffered in care homes? Will he also confirm that these figures have now been added to the total? Will the Government now prioritise care home workers for the full kit of PPE, to give them the utmost safety as they look after our most vulnerable people?

**Lord Bethell:** I reassure the House that deaths in care homes have always been part of the official figures. It is a very sad affair, and it shows how the disease attacks those who are most vulnerable. The arrangements for PPE in social care settings have improved dramatically, and we have put in place measures so that any care home can make its own application for PPE as it needs it.

**Baroness Jolly (LD):** Will the Minister tell the House what advice or support local authorities have been advised to give to the more than 100,000 vulnerable adults aged over 70 caring for their adult children who have a learning disability?

**Lord Bethell:** The advice given to local authorities is spelled out in guidelines. Those who are vulnerable are advised to avoid social contact. Where necessary, those whom they live with, including any children they have with learning disabilities, should also avoid the same social contact.

**Baroness Verma (Con):** My Lords, I refer the House to my interests in the register. Will my noble friend tell me what work has been done to ensure that public health messaging and advice on access to support for mental health and anxiety issues among the BAME community is easily available to those communities, particularly where they live in densely populated home environments?

**Lord Bethell:** My Lords, mental health advice is very clearly available, most of all from GOV.UK/coronavirus, where there is a huge amount of practical and pastoral advice, and access to resources.

**Baroness Finlay of Llandaff (CB):** My Lords, I declare that I am an honorary fellow of the Royal College of Emergency Medicine. How will the Government ensure that emergency departments never again become the crowded places that they were, which act as a source of nosocomial infection—hospital-acquired infection—for the vulnerable and those caring for them, especially child carers, who might present with acute injuries, particularly once they are out and undertaking more activities?

**Lord Bethell:** My Lords, a strange and peculiar feature of the epidemic has been that accident and emergency wards are, surprisingly, below normal capacity since people have sought to avoid them because of the obvious threat of the disease. That said, nosocomial infection is of grave concern. It is an inevitable and frequent feature of any epidemic, but we are applying new ways of working and seeking to section off those with the disease to ensure that the infection does not spread in our hospitals and from there into the community.

**Baroness Thornton (Lab):** My Lords, I am pleased to note that today is International Nurses Day. I pay tribute from these Benches to all our nurses, at home and all over the world, for their work and courage in these dark pandemic times. I will ask the Minister about testing in our care homes. On 15 April the Government announced that they were rolling out testing to all care workers. On 28 April they extended this scheme to all staff and residents in care homes. Could the Minister

explain why, then, yesterday's strategy document set a target of 6 June? Which is it? It looks like the Government failed to meet the promise to provide the tests on time and have now moved the goalposts again.

**Lord Bethell:** I share the noble Baroness's celebration of Florence Nightingale Day, which is an important day for the nursing profession and for all of us. We have made huge progress on testing in care homes in the last three weeks. The new portal was made live on Monday and care homes are now massively supported by satellite care home facilities manned by the Army. I am not sure about the 6 June date of which she speaks, but I reassure the House that care home testing is the number one priority of our testing facilities and is benefiting from the large increase in capacity.

**Baroness Tyler of Enfield (LD):** My Lords, over the course of this crisis we have seen substance misuse and mental health services adapt their provision to better support homeless people facing multiple problems. Could the Minister say what the Government, in particular the new homelessness task force, will do to ensure that these flexibilities remain in place?

**Lord Bethell:** The noble Baroness is right to raise concern for the homeless—surely one of the groups suffering the most in the current epidemic. We are putting in place facilities for testing, housing and mental health support for the homeless. We envisage that these will continue for the length of the epidemic.

**The Lord Speaker (Lord Fowler):** My Lords, I fear that the time allowed for this Question has elapsed.

### Coronavirus Business Interruption Loan Scheme Question

11.24 am

Asked by **Lord Razzall**

To ask Her Majesty's Government what assessment they have made of the operation of the Coronavirus Business Interruption Loan Scheme for small- and medium-sized businesses.

*The Question was considered in a Virtual Proceeding via video call.*

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con):** My Lords, as of 6 May, loans worth over £5.5 billion were issued under the Coronavirus Business Interruption Loan Scheme for 33,812 businesses. The bounce-back loan scheme was launched on Monday 4 May, and nearly 160,000 loans, worth almost £5 billion, were approved in the first three days of the scheme's operation. The Government continue to monitor the schemes and to work with the financial services sector to ensure that companies receive the full benefit from the support available.

**Lord Razzall (LD):** Does the Minister accept that, although the number of loans is quite large, the number of SMEs receiving them as a proportion of the whole is relatively small? Is he concerned that, under the two existing schemes, banks are primarily lending only to people to whom they would have lent anyway in normal times? This is particularly hitting the hospitality and retail sectors.

**Lord Callanan:** The noble Lord is right that only a relatively small proportion of the total number of SMEs have applied for or received loans. However, it is important to remember that not all businesses want loans, and of course other government support schemes are also available to help them through the crisis.

**Baroness Drake (Lab):** My Lords, the Government have to ease people back to work safely, increase the flow of funding to SMEs and avoid scarring unemployment. SMEs employ 60% of private sector workers, and many are now critically dependent on both government-backed loans and job retention schemes. Withdrawing these measures too soon when their very purpose is to keep jobs and businesses going will undermine them. When will the Government publish their road map for phasing out the CBILS and job retention schemes, and what impact will that have on structural employment and the longer-term stimulus package for SMEs?

**Lord Callanan:** The Government will continue to monitor and review all their business support schemes and make changes where necessary. I am sure that the noble Baroness has noticed that this afternoon the Chancellor will be making a Statement in the House of Commons on the job retention scheme and the Government's wider economic coronavirus support package. I am sure that she will get more information then.

**Lord Palmer of Childs Hill (LD):** My Lords, under the bounce-back scheme, interest is charged at 2.5%, but under CBILS lenders are charging considerably more. At the same time, banks are paying savers interest of less than 1%. My noble friend Lord Razzall talked about the small number of SMEs taking up loans under the scheme. Does the Minister agree that banks have a different idea of "We are all in it together" compared with the rest of the population?

**Lord Callanan:** No, I do not accept that criticism of the banks. They have worked extremely hard, as have the British Business Bank and the department, to try to get as many loans approved as possible for businesses that want them. The Government are—certainly through the bounce-back scheme—supporting 100% of the amount of those loans. Therefore, a lot of work is going on in all the sectors to try to help the businesses that require support.

**Lord Caine (Con):** My Lords, I strongly commend the Government for their support for business during this crisis. Can my noble friend give more detail of the operation of both the business interruption scheme and the bounce-back scheme in Northern Ireland, which is predominantly an SME economy? Will there be regular updates on the number of successful applications, along with their value? Is he aware of concerns among

some big players, including the Bank of Ireland, that they have yet to be accredited for the bounce-back scheme? Finally, has any assessment been made of support available in the Republic of Ireland and how it compares with what is on offer to business in Northern Ireland?

**Lord Callanan:** I know that my noble friend takes a close interest in matters in Northern Ireland. These schemes are available to businesses across all regions of the UK, and many lenders acting in Northern Ireland have received accreditation. However, we are working to get more lenders fully accredited as quickly as possible. Fourteen lenders have now been accredited for the bounce-back loan scheme and we are seeking to get more approved as quickly as possible.

**Baroness Lane-Fox of Soho (CB):** Smaller companies will rely on the future fund for support, yet the Government have said that companies are required to have already raised £250,000 to be eligible. This will put both diverse funders and locations outside of the south-east at an enormous disadvantage. How will the Minister ensure that the future fund will neither deepen existing inequalities nor perpetrate new ones, particularly when, as I understand it, all 13 advisers to the fund are men?

**Lord Callanan:** We have introduced a comprehensive package of measures designed to support any business facing difficulties in this period, including the various loan schemes and grants and support for the self-employed. Start-ups may be able to access CBILS or the bounce-back loan scheme if they fulfil the eligibility criteria. We keep them constantly under review to ensure that as many businesses as possible receive the support that they need.

**Lord Stevenson of Balmacara (Lab):** My Lords, unlike the pubs that they supply, most of our small breweries are not eligible for grants or business rate relief. As a consequence, over half of them have not been able to access any financial help from the Government. Two-thirds have stopped brewing completely and there have been many redundancies. Will the Minister agree to meet urgently with officers from the small independent brewers association to see whether a satisfactory solution can be found to this problem?

**Lord Callanan:** Small breweries are a subject close to many of our hearts. We are responding rapidly to feedback to ensure that all eligible businesses, including breweries, can feel the full benefit of support that is available through the package. I would be very happy to join the noble Lord in meeting representatives if that is required.

**Baroness Burt of Solihull (LD):** I do not expect the Minister to agree with me but it seems to the business community that the business interruption loan scheme has largely failed SMEs because the banks were not prepared to take the risk. Now, the Government are taking the risk with taxpayers' money through the bounce-back scheme but small businesses applying for a bounce-back loan are still expected to take the full risk, which many are hesitant to do. What difference to take-up do the Government estimate that the introduction of the bounce-back scheme will make?

**Lord Callanan:** As I said in an earlier answer, a huge number of loans have been approved—160,000 in the first three days of the scheme—so I am afraid that many small businesses do not agree with the noble Baroness.

**Lord Haskel (Lab):** CBILS is much criticised for being slow due to the many checks. This approach is much more suitable for equity investment. Will the Government create such a vehicle instead, to help create new ways of working and particularly to help those firms already overloaded with debt?

**Lord Callanan:** As I said in earlier answers, there are a number of different support packages besides CBILS, including the furlough and direct grant schemes. A number of supports are in place for all businesses. I do not accept that the systems have been slow to operate. As I said, 160,000 loans were approved under the bounce-back scheme in the first few days of operation.

**Baroness Warsi (Con):** I draw the attention of the House to my interests as listed on the register. I congratulate the Government on their package of measures to support both businesses and individuals during this difficult period but, as my noble friend the Minister will appreciate, time is of the essence for businesses. Does he therefore have an average figure for the time between applications for business investment and bounce-back loans and the arrival of funds into company accounts? Secondly, on the furlough scheme, I understand there will be an announcement later today by the Chancellor. Has any consideration been given to the minimum furlough period for employees and whether it would be appropriate for a more flexible approach to be taken for those companies—many businesses—which are working week-on, week-off to cope with ad hoc business conditions?

**Lord Callanan:** I can tell my noble friend that many bounce-back loans are being approved within a day. We are getting the money out to companies as quickly as possible. I am sure she will understand that I do not want to give out information in advance of what the Chancellor might say in Parliament this afternoon.

**Lord Taylor of Warwick (Non-Affl):** My Lords, ethnic minority business owners have historically found it more difficult to access bank loans and other finance. In many cases, they operate microbusinesses where they would have to be almost a prophet to accurately forecast their profit. Have the difficulties faced by ethnic-minority business owners been factored in?

**Lord Callanan:** The noble Lord raises a good point but CBILS is open to businesses across all sectors in all parts of the country. We continue to monitor and review the implementation of all our loan schemes and we will not be slow to make any necessary changes. If the noble Lord has any specific information about difficulties being experienced by ethnic-minority businesses, I would be very happy to see it.

**The Lord Speaker (Lord Fowler):** My Lords, I regret that the time allowed for this Question has elapsed.

## Schools: Relationships and Sex Education Question

11.36 am

Asked by **Baroness Massey of Darwen**

To ask Her Majesty's Government what assessment they have made of the ability of schools to deliver the new compulsory elements of relationships and sex education curriculum from September 2020.

*The Question was considered in a Virtual Proceeding via video call.*

**The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con):** My Lords, the Government have worked extensively with schools, teachers and experts throughout the development of these subjects. This has included working with over 1,500 early adopter schools to support their journey, learn lessons and share good practice. The department also conducted an impact assessment as part of the consultation. We are committed to supporting teachers, which is why we are investing in a programme of support featuring training materials, case studies and support to access resources.

**Baroness Massey of Darwen (Lab):** I thank the Minister for that reply. Does she agree that relationships and sex education fosters self-esteem and social skills in children and young people as well as enhancing academic performance, and that those skills will be important when pupils return to school after a long absence? I welcome the Government's decision to include RSE in the compulsory curriculum, but how is this commitment supported precisely with resources and training? Could she give an example?

**Baroness Berridge:** My Lords, I agree with the noble Baroness that health and relationships education will be an essential part of re-socialising children as more go back to school from 1 June. A central school support package will be on offer, which will include training materials—both online and face-to-face where appropriate—and will be based on the “train the trainer” model. Schools can also access additional training support if they need particular help.

**The Lord Bishop of Durham:** My Lords, I declare my interests as stated in the register as chair of the National Society. In November, the Church of England produced a charter to support schools in preparing for the new compulsory elements of RSHE. It is important to us and our schools that we consult parents on how best to deliver this new material, to ensure that we provide a sensitive education enabling all pupils to flourish. Will Her Majesty's Government reassess the delivery date of the new elements of RSHE to accommodate the current constraints on schools' time and energy due to Covid-19?

**Baroness Berridge:** My Lords, I am grateful for the support, and in particular the charter, outlined by the right reverend Prelate. We are aware that there are a number of curriculum decisions that schools need to take. I reassure noble Lords that due consideration is

being given to RSHE implementation and its implications for schools. We are working closely with the RSHE working group, which includes the teachers' unions and faith organisations. I undertake to keep the House updated.

**Lord Sheikh (Con):** My Lords, three issues greatly concern me, which I have spoken about in the United Kingdom and during my visits abroad: FGM, forced marriages, and honour abuse. Can my noble friend say whether schools in certain areas will be able adequately to discuss these issues and whether teachers have appropriate knowledge and sufficient training to do so? Furthermore, what support is available centrally to assist them?

**Baroness Berridge:** My Lords, all aspects of safeguarding are covered in the statutory guidance, *Keeping Children Safe in Education*, and issues to do with violence are considered, particularly within health education. We have also given specific guidance about sexual violence between young people to assist schools with that very delicate matter.

**Baroness Hollins (CB):** My Lords, I declare my interests as set out in the register. What support is being provided to special schools? Are teachers in special schools well prepared to deliver relationships and sex education in a developmentally appropriate way and in a way that will support pupils' social, emotional and mental health?

**Baroness Berridge:** Yes, indeed, the attitude of the department is to embed SEND in every strand of the RSHE work, and we are working closely with the Sex Education Forum and NASEN to ensure that. We have also employed SEND experts to help with the development of the curriculum so that there will be specific resources in the school support package that I have outlined to assist teachers, most of whom have a child with SEND in their classroom.

**Lord Watson of Invergowrie (Lab):** My Lords, the guidance issued by the Department for Education last year stated that relationships and sex education should be

“part of the basic school curriculum ... which allows schools flexibility in developing their planned programme”.

But last week the Schools Minister, Nick Gibb, stated that the department was giving due consideration to the implementation of the statutory relationships and sex education curriculum in the context of Covid-19. That suggested the possibility that implementation could be delayed due to the coronavirus, even if schools have returned by September. What process of due consideration was the Minister referring to and what additional support will the Government explore to ensure that RSE can be taught online if schools have not returned by September?

**Baroness Berridge:** My Lords, as the right reverend Prelate outlined, parents are required to be consulted as part of the process before a school introduces its policy to teach these subjects. I reiterate that we are prioritising operational discussions in relation to the curriculum and I will keep the House updated on any further developments.

**Baroness Benjamin (LD):** My Lords, according to the government guidelines, parents need to have been consulted about the new relationships, sex and health education curriculum changes, so what expectations will there be for schools that have not been able to consult parents about the changes due to the coronavirus school closures?

**Baroness Berridge:** My Lords, the school support package that we will issue will enable schools and give them examples of best practice in order to consult parents. We have specifically produced leaflets so that they have the confidence to distribute that resource. In terms of the operational decisions in relation to the curriculum, I will update the House when there is any further information

**Lord Polak (Con):** My Lords, I commend the department on producing sensitive and helpful guidance. The guidance makes it clear that from September, schools, in consultation with parents, will determine what is age-appropriate. Thus teaching explicitly about LGBT+ matters is not mandatory for primary schools. But current Ofsted guidance and the practice of inspectors does not reflect that. Numerous primary schools have been downgraded in at least one category for not teaching LGBT. Will my noble friend confirm that Ofsted will inspect in line with DfE policy and not its own self-generated policies, and that primary schools will not be penalised if they do not teach LGBT, according to the wishes of the parents of a particular school?

**Baroness Berridge:** My Lords, Ofsted has welcomed the department's guidance on RSHE and, when it is implemented in the next academic year, Ofsted will use it as a guide for assessing part of the personal development section of inspection. As my noble friend outlined, the guidance is clear that secondary schools should include LGBT content but,

“primary schools are strongly encouraged and enabled”,

when teaching about different types of relationships within families, to include families of same-sex parents. That is clearly a move from mandatory to permissive language. Obviously, the Equality Act is also enforced in schools and schools are required to take into account the other protected characteristics, including of course the religious background of students in the school.

**Baroness Deech (CB):** Does the Minister share my anxiety that the opting-out provisions of the new law are so wide that children in faith schools may well be taken out of the sex education classes that they sorely need? All children need to learn to respect a variety of lifestyles, and learn how to look after themselves and avoid harmful practices such as FGM. Children in very religious schools are the ones most vulnerable to ignorance and prejudice. What steps will the Minister take to avoid large numbers of parents removing their children from this education, and how will the Government help teachers contend with protesting parents?

**Baroness Berridge:** My Lords, as relationships education in primary schools does not usually include sex education, there is no right to withdraw your children from that provision. However, at secondary school, when sex

[BARONESS BERRIDGE]

education is part of the content, parents have the right to withdraw their child from that education up until three terms before the child is 16, and the school is required to outline that right to parents. The balance is struck by allowing this only until three terms before the child is 16. Obviously, at that stage, when approaching the age of legal consent for sexual relationships, it is appropriate to provide some sex education if the child wishes to have it. The balance is between supporting parents' rights and giving children their own right to request sex education as they develop.

**The Lord Speaker (Lord Fowler):** My Lords, I regret to say that the time allowed for this Question has elapsed. We move on to the fourth Oral Question.

## Covid-19: Vulnerable People *Question*

11.47 am

*Asked by Baroness Burt of Solihull*

To ask Her Majesty's Government when the £76 million funding to support vulnerable people during the COVID-19 pandemic, announced on 2 May, will be distributed.

*The Question was considered in a Virtual Proceeding via video call.*

**The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Barran) (Con):** My Lords, the £76 million government package of support to charities supporting vulnerable people, which is targeted at several different groups, will be administered by the MHCLG, the DfE, the Ministry of Justice and the Home Office. Departments are working hard to get the funds to where they are needed as soon as possible. Details on how domestic abuse charities can access the vital funds they need were set out by the Communities Secretary on 7 May, and the application information is clear that the department aims to announce successful grantees by the end of May.

**Baroness Burt of Solihull (LD):** The Minister will be aware that the £76 million is a reannouncement of part of the £750 million announced for charities on 8 April, nearly five weeks ago. Charities are reporting that very little of that money is getting through to the coalface—in other words, to them—and many are financially on their knees. Why did the Government take until last Thursday to announce that domestic violence charities must bid for £10 million of the already announced £76 million of the already announced £750 million, for housing? Why, according to the application form, must they contribute something from their own resources towards the additional costs they are facing when they are already stretched beyond their limits?

**Baroness Barran:** The noble Baroness is right that these charities perform an absolutely critical role. The Government and all departments are moving as fast as they possibly can to meet these needs and make sure that this funding gets to the right place as quickly as possible.

**Lord Duncan of Springbank (Con):** My Lords, I welcome the announced funding—I think it will do good—but I have one question. How do we promote the routes out of risk for those who are experiencing abuse? By what means can we encourage that promotion and how much of this funding will go towards ensuring that those who are most at risk have routes of escape?

**Baroness Barran:** My noble friend is quite right that we need to think about the long-term position of people who are experiencing abuse. In providing this funding, we will work with specialist charities, which are the real experts in this, to understand the perspective of victims and address their need for both immediate safety and long-term freedom from abuse.

**Baroness Prashar (CB):** Covid-19 is making the task of identifying victims of human trafficking even more difficult. Some victims may have gone underground and perhaps are in grave danger. Providing essential and practical support has become even more challenging. It has become very difficult because charities which normally provide practical support are under resource constraints. How are the Government ensuring that support and funds are reaching those charities in a timely manner and that every effort is being made by authorities to seek out such victims?

**Baroness Barran:** The noble Baroness touches on an important area. The lead here is the Home Office, which has been working through the modern slavery victim care contract to make sure that government-funded safe accommodation and ongoing support are made available to victims of modern slavery as quickly as possible.

**Lord Desai (Lab):** Will the Minister bear in mind that asylum seekers are among the most vulnerable groups in society? They currently receive only £37 per person per week, which is 72% below the poverty line. Will the Government do something for asylum seekers in these very difficult times?

**Baroness Barran:** The Government are very aware that particular groups, including asylum seekers, are especially vulnerable. We have a voluntary and community sector emergency partnership involving organisations such as the British Red Cross, and we are getting regular intelligence, feedback and advice on how to respond to those particular needs.

**Lord Roberts of Llandudno (LD):** I am sure that we all agree that the voluntary sector needs our immediate support, and we plead with the Government to do that, but we must avoid increasing the number of vulnerable people. One such increase is unemployment. Even last September, the Governor of the Bank of England said that a hard Brexit could mean half a million more unemployed people. However, it is worse than that: we face not a hard Brexit but an impossible Brexit, an impossible deal. We must do everything we can, including extending the transition period from the end of December, because we cannot have fruitful ongoing discussions under the threat of the virus. Will the Government look again and extend that transition period?

**Baroness Barran:** The Government are keeping all those issues under review. Their commitment to supporting people to stay in employment remains undiminished.

**Lord Mann (Non-Affl):** Voluntary sector workers with type 1 diabetes have been pressured to go back to work even where their doctor has advised otherwise. Is there some way in which this funding could be used to deal with what is an anomaly in current practice and policy?

**Baroness Barran:** I am unclear as to whether this fund would be applicable, but the Government's advice on going back to work is clear: people should go back to work only if it is safe to do so, and, clearly, an existing medical condition could impact on that. As the noble Lord knows, detailed guidance is being produced. I recommend that those in the situation that he describes refer to it.

**Baroness Bryan of Partick (Lab):** My Lords, it is a relief that the Government have recognised the urgent need for funding for domestic abuse charities. Like the noble Baroness, Lady Burt, I am concerned about their having to match some of the contributions. I know that the Minister understands this issue well, so can she assure the House that the Government now accept that those organisations are essential and will never again face the levels of uncertainty over their funding which they have experienced over the past 10 years?

**Baroness Barran:** The Government have been absolutely clear. Like me, the noble Baroness recognises what a huge issue domestic abuse is, not just for women but, critically, for children growing up in homes where fear and coercion are the norm.

**Baroness Smith of Newnham (LD):** My Lords, one of the strands of funding is through the Department for Education to support vulnerable children, but it has become clear through the discussion this morning that there will be new cases of domestic abuse. How does the Department for Education identify new cases of vulnerability if there is not regular sight of children going to school?

**Baroness Barran:** The noble Baroness raises a crucial point. A number of organisations, including the Department for Education and charities in this field, are finding new ways to make sure that they have regular contact, whether by phone or online or, where safe to do so, face to face, to support those children.

**Baroness Meacher (CB):** My Lords, asylum seekers waiting for asylum decisions are expected to live on £37.75 a week. Can the Minister assure the House that either a generous portion of the £76 million for vulnerable people can somehow find its way to these particularly deprived people or, better still, that asylum support rates will be lifted by £20 per week in line with universal credit?

**Baroness Barran:** It is up to individual departments to decide exactly how the funding for vulnerable people is distributed, but I acknowledge what the noble Baroness said. This is a particularly vulnerable group.

**The Lord Speaker (Lord Fowler):** My Lords, I regret that the time allowed for this Question has now elapsed. That concludes the Virtual Proceedings on Oral Questions. Virtual Proceedings will resume at 12.15 pm for the Private Notice Question on public transport.

11.58 am

*Virtual Proceeding suspended.*

12.15 pm

**The Senior Deputy Speaker (Lord McFall of Alcluith):** My Lords, Virtual Proceedings of the House of Lords will now resume. The Virtual Proceedings on the Private Notice Question will now commence.

## **Covid-19: Public Transport Safety** *Private Notice Question*

12.15 pm

*Asked by Lord Berkeley*

To ask Her Majesty's Government, following the announcement made by the Prime Minister on Sunday 10 May, what steps are being taken to ensure the safety of passengers who have to use public transport to travel to and from work.

*The Question was considered in a Virtual Proceeding via video call.*

**Lord Berkeley (Lab):** My Lords, in his statement to the country this Sunday, the Prime Minister said, "Get back to work if you cannot work from home." He also said, "Don't use public transport, use cars or bikes." I commend the Government for encouraging cycling and walking. However, many lower-paid essential workers travel long distances and do not have a car, so they have no choice but to use public transport. I recently received a paper from SOAS at the University of London, which said that security staff, construction workers, bus drivers and other essential workers are up to eight times more likely to die from the coronavirus compared with someone in a professional occupation. These essential workers fear that if they do not go to work using such so-called unsafe modes, they will lose their jobs. Passenger Focus has come up with some good ideas on this. Will the Government commit that those who cannot travel to work safely and be safe at work within the Health and Safety Executive guidelines will be able to retain any current benefit entitlements they may have at the moment?

**The Senior Deputy Speaker (Lord McFall of Alcluith):** The Minister will answer the Question and the noble Lord's supplementary question combined.

**The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con):** My Lords, passenger and transport worker safety is absolutely paramount. To help make journeys safer, my department has today published new guidance for both transport operators and passengers. If people must use public transport, two-metre social distancing and hygiene should be practised and a face covering is advised.

[BARONESS VERE OF NORBITON]

I turn now to some of the other points raised by the noble Lord, Lord Berkeley. We are of course very concerned about some of the characteristics that seem to be seen in those people who are the most susceptible to the coronavirus, and work is going on across government to investigate that further. For example, we have seen what appears to be a higher than average death rate among bus drivers. This is a tragic loss and we are working closely with bus operators to make sure that we do what we can to keep those workers safe.

**Lord McColl of Dulwich (Con):** My Lords, it has at long last been acknowledged that the obesity epidemic is a very dangerous situation, especially now with Covid-19. In fact, 75% of people with this infection are obese. Would it not therefore be wise to advise them not to use public transport because it is such a dangerous thing for them? If anyone is tempted to say that calling someone obese is judgmental, perhaps I may point out that it is simply an accurate diagnosis.

**Baroness Vere of Norbiton:** I thank my noble friend for his observations. The Government recognise that there is much to be done from a transport perspective to help the nation's health. That is why we have come up with a £2 billion boost for cycling and walking, which we believe are critical elements in helping people reduce their reliance on public transport. That is why we are encouraging people, if they are making journeys of three miles to five miles, or fewer, that they should consider walking or cycling. That is good for public transport and good for their health.

**Baroness Randerson (LD):** On Sunday, the Prime Minister said, "Go back to work", yet the Department for Transport did not publish its guidance to travel operators until this morning. I have read that guidance, and it is still very vague on key issues such as face coverings, screens and the handling of money. It is not prescriptive, but simply suggestions. That is not good. Why have the Government failed to provide the co-ordinated leadership needed by the bus industry throughout the UK?

**Baroness Vere of Norbiton:** I would challenge the noble Baroness in her assertion that the operator guidance is vague. It sets out the key elements that the operators must consider, but the important element is that each operator will be coming up with their own specific risk assessment which is suitable for their environment and their workforce, and, equally importantly, they will be consulting their workforce to ensure that the risk assessment is appropriate and that workers feel safe.

**Lord Whitty (Lab):** My Lords, the Minister acknowledges the importance of ensuring that transport workers are safe. However, any substantial return to work is bound to increase the vulnerability of transport workers and staff; she has cited the case of bus drivers. I regret to say that one of the London bus drivers who died was a friend and former neighbour of mine. Would it not have been more sensible to precede any general encouragement to return to work not with advice but very clear rules: on numbers, on social

distancing and, above all, on face masks for passengers and staff on public transport? If not, and if there is nobody to enforce those standards, we will see a continuing problem with many transport workers.

**Baroness Vere of Norbiton:** My Lords, the guidance for transport operators and passengers sets out clear expectations for two-metre social distancing. At some stages that will not be possible: on busier routes and at busier times, and at certain points on the journey. The Government also advise that people should use face masks or face coverings in enclosed spaces, particularly on public transport. I am not sure how much clearer the Government can be on that.

**Baroness Grey-Thompson (CB):** My Lords, what assurance can the Minister give to disabled passengers who require assistance—of course within the safety considerations for all—that the current situation will not be used to dial back "turn up and go" or prevent disabled people travelling to work?

**Baroness Vere of Norbiton:** I thank the noble Baroness for raising this really important issue. In the operator guidance, there are clear points for those with protected characteristics, be they disabled, elderly or pregnant. We have been very clear with the transport operators that there must be no dialling back on the ability for all passengers to get a safe and reliable service. Travel may be slightly problematic for everybody, and therefore people are advised to plan their journey ahead where they can, to buy their tickets in advance and, most of all, to be patient. I reassure the noble Baroness that services for disabled people will continue as they did previously.

**The Lord Bishop of St Albans:** My Lords, as well as issues of safety when using public transport, many people in rural areas are worried that the already infrequent services in the countryside are now at further risk. What are Her Majesty's Government doing to ensure that public transport will be maintained to support communities and the economy in rural areas?

**Baroness Vere of Norbiton:** Rural transport is absolutely key to being able to provide for more vulnerable groups who have no alternative but to use public transport so that they are able to access the services they need. The Government have already provided funding to support the services during the lockdown, and we are in discussions with the Treasury regarding supporting more services as they ramp up. As I am sure the right reverend Prelate will understand, those services will be suffering from a revenue loss, which the Government will seek to make good to ensure that rural services can be restored to what they were before.

**Lord Robathan (Con):** My Lords, as the former chairman of the APPG for cycling, I am thrilled that the Government are keen on people bicycling. However, without decent public transport, the economy cannot recover. Could my noble friend please tell me what discussions she has had with the Mayor of London? The reduction in Tube services has had a major effect on people being unable to travel, and people on the Underground are therefore much closer to each other than they should be.

**Baroness Vere of Norbiton:** I reassure my noble friend that we are in close contact with Transport for London. I speak to it probably every few days to assess exactly where it is on its restart plans—I have a call with it later on today. We are absolutely clear that the Mayor of London needs to ramp up services as quickly as possible and put in place protections such that transport workers and passengers feel safe.

**Lord Rosser (Lab):** First, while public transport is a devolved issue, railway services and bus routes cross the borders between UK nations; I think that a few stations in England are also managed by Transport for Wales. It is therefore vital that the different UK nations develop public transport, passenger and staff safety guidance together and in line with each other. Can the Government give an assurance that the guidance that has been announced has also been agreed with the Governments of the devolved nations? Secondly, I am not sure that the Minister answered my noble friend Lord Berkeley's question about existing benefits being maintained for bus drivers; for example, those who decline to continue to work because they feel that their safety is being compromised.

**Baroness Vere of Norbiton:** Each devolved nation is responsible for its own guidance. However, I reassure the noble Lord that we are of course in contact with the Administrations in the devolved nations to make sure that our guidance is appropriate. Where there have to be changes or where they are desired, local considerations can be taken into account but without confusing passengers. I will have to write to the noble Lord on benefits for bus drivers.

**The Senior Deputy Speaker:** My Lords, the time allowed for this Question has elapsed. The Virtual Proceedings will now adjourn until 1 pm for the debate on the Motion in the name of the noble Lord, Lord True.

12.28 pm

*Virtual Proceeding suspended.*

## Arrangement of Business

### *Announcement*

1 pm

*The announcement was made in a Virtual Proceeding via video call.*

**The Deputy Speaker (Lord Faulkner of Worcester) (Lab):** My Lords, the Virtual Proceedings on the Motion in the name of the noble Lord, Lord True, will now commence. The time limit for the debate is one and a half hours.

## Census (England and Wales)

### Order 2020

#### *Motion to Consider*

1.01 pm

*Moved by Lord True*

That the Virtual Proceedings do consider the draft Census (England and Wales) Order 2020.

*The Motion was considered in a Virtual Proceeding via video call.*

## The Minister of State, Cabinet Office (Lord True)

**(Con):** My Lords, in moving this Motion, I declare an interest as a member of the Society of Genealogists. In fact, last night I looked at the 1891 census online, which illustrates that a population census has been taken across the UK every 10 years since 1801, with the sole exception of 1941.

Subject to the approval of the House, this draft Order in Council provides for the 22nd census of England and Wales to take place on Sunday 21 March 2021. The draft order was laid before both Houses on 2 March 2020, under the provisions of the Census Act 1920. It prescribes the date of the census, the people to be counted, the people responsible for making a census return, and the information to be given in those census returns.

Under the terms of the Census Act 1920, delivery of the census in England and Wales is the statutory responsibility of the UK Statistics Authority and its executive arm, the Office for National Statistics. The draft order gives effect to the independent recommendations of the Office for National Statistics set out in the December 2018 White Paper, *Help Shape Our Future: The 2021 Census of Population and Housing in England and Wales*.

The ONS's recommendations for the 2021 census have been informed by an extensive programme of consultation, research and engagement. Comparability of data between censuses is important, so the majority of questions will remain the same as in 2011. New questions or response options are included only after research and consultation that provide compelling evidence for their inclusion. For 2021 there will be new questions on past service in the Armed Forces and new voluntary questions on sexual orientation and gender identity for those aged 16 and over.

The Census (Return Particulars and Removal of Penalties) Act 2019 enables two of the new questions, those on sexual orientation and gender identity, to be asked on a voluntary basis. As confirmed during the debates on that Act, the census questionnaires will clearly indicate which questions are voluntary, and the form of those questionnaires—both the online and paper versions—will be prescribed by law in the census regulations that will be made following this order. I express my thanks to noble Lords for their support for the Act during the debates in this House, and particularly to my noble friend Lord Young of Cookham for steering the legislation through the House.

This draft order is subject to a composite procedure. Under the terms of the Census Act 1920 the order is principally subject to the draft negative procedure, but some questions—those printed in italics in the draft order—may be included in the census only if they are approved by affirmative resolutions of both Houses. Unusually, questions subject to the affirmative procedure may also be amended by Parliament, if agreed to by both Houses. I express my thanks to the Secondary Legislation Scrutiny Committee, whose *9th Report* of this Session set out clearly the special procedure for this statutory instrument.

Noble Lords will be aware that this draft order was debated last week in the House of Commons, and that the Motion was approved by that House without amendment.

[LORD TRUE]

There was considerable focus in the Commons debate on tick-box response options that have not been recommended by the ONS; notably, Cornish national identity and Sikh ethnicity. As my honourable friend the Minister of State, Chloe Smith, was clear to emphasise, it is absolutely no reflection of the ONS's or the Government's recognition of or respect for any ethnicity, religion or national identity that it does not have a specific tick-box response option on the census. It is simply not possible to include a tick box on the census for every group that has asked for one: to do this would make the census forms, whether paper or online, long, cumbersome and confusing.

For the ethnicity question alone the ONS received 55 requests for new tick boxes and, as I am sure noble Lords will understand, it is necessary to prioritise what is included in the questionnaire. This the ONS has done through an extensive programme of consultation, research, engagement, testing and assessment. People will be able to record their ethnic group, religion and national identity however they wish in the 2021 census, including as Cornish, using the write-in boxes. An online search-as-you-type functionality will assist people in answering these and other census questions. There will continue to be a specific Sikh response option in the census question on religion. Despite being a voluntary question, the response rate on the religion question is very high—over 92%—and the ONS is confident that religion data from the census will provide high-quality data for public bodies to inform service provision and equalities monitoring.

The 2021 census aims to be the most inclusive ever. For the first time it will be predominantly online, making it easier for people to take part when and how they want. Paper questionnaires will, however, be available for those who need or prefer to complete the census this way. There will be a wide range of help, including a contact centre offering support through various channels and services to assist people with hearing or speaking impediments. There will also be a large-print version of the paper form, language support and translated materials, and information in Braille or British Sign Language for those who may not otherwise be able to complete the census. There will be national and local promotional campaigns to encourage and help people to complete the census. This will include work with community groups, by field staff on the doorstep, and through face-to-face assistance at completion events that will be arranged, where possible, in local settings such as libraries.

To be successful in its aims, the census relies on the willing support and participation of the public, on whose behalf the information is collected. Key to this is trust that people's personal data will not be disclosed in ways they do not wish it to be, whether deliberately or accidentally. It is made clear to respondents that their data is protected in law, and leaflets to accompany the census form set this out in more detail.

The ONS is working with the National Cyber Security Centre to ensure that processes and systems for collecting or handling census data are secure, and appropriate measures are in place to prevent unauthorised access. Census security will adhere to, and where possible exceed, the minimum set of cybersecurity standards.

The information collected during the census is held by the ONS for 100 years, and by law data can be used only by the ONS for statistical and research purposes. Personal census data cannot be used to make decisions about individuals.

It is clear from useful and informed discussions with noble Lords ahead of today's debate that there is a great deal of interest not just in the next census but in the future of the census, and in particular the question of whether this will be the last traditional census. The census is the most important source of statistics about the population available to us. It is currently the only data collection that provides accurate and reliable information about populations at a local area level. It provides the underlying information needed to inform a wide range of policy decisions, and it is used extensively to plan services and allocate funds to local areas, but it is only carried out every 10 years. Decision makers need information more frequently, to understand the changing nature of the population. The 2021 census is part of a £900 million programme of work by the ONS to transform the system of population and social statistics, making greater use of data already held by government for administrative purposes. This wider work programme will also inform whether, beyond 2021, the traditional census will remain the most appropriate way of collecting vital population data, or whether census statistics could be replicated in other, quicker ways using administrative data.

That is a debate for the future. In 2023, the National Statistician will make a recommendation on the future of the whole system of population and social statistics, including the census, based on the progress of this programme. I am sure that the House will take a great interest in that when the time comes.

The draft order before us today is concerned with the census in England and Wales. Noble Lords will be aware that the Scottish Parliament and Northern Ireland Assembly have approved census orders for Scotland and Northern Ireland respectively. Together, these three statutory instruments allow a census to take place across the UK at the same time next March. This draft order is the first of two statutory instruments needed for the census to take place. Subject to the approval of the Order in Council, the Government will bring forward census regulations for England. These will set out the final questions and govern much of the operation of the census. Separate regulations for the census in Wales will be laid before the Welsh Parliament by the Welsh Government. The regulations will describe the content and functionality of the online forms for this first predominantly online census and will also contain copies of the corresponding paper questionnaires.

The census is unique in the insights it provides into our nation and the data it provides to support policy-making. The proposals for the 2021 census set out in this draft order will provide the data needed to inform policy and planning decisions across our national and local public services and enable national and local government, community groups, charities and businesses to better serve communities and individuals across the country. I beg to move.

1.13 pm

**Baroness Kennedy of Cradley (Lab):** My Lords, in the time available I will limit my contribution to two areas. First, it is right that we move the census online. However, as the Minister recognised, a digital-first census will undoubtedly raise questions about data security. I thank the noble Lord for outlining the Government's plans, but will Parliament receive a report on the work the Government are doing to ensure that an individual's details remain confidential and secure? In promoting the digital-first census, how will the Government build trust in data security to ensure that the 75% online return target is reached? The digital-first approach should allow a more effective system for counting and surveying Britain's population. However, it is estimated that 10% of the UK's adult population is digitally excluded. What lessons have been learned from the rehearsal areas on how best to engage the digitally excluded and, therefore, what are the plans to reach out to these communities to ensure that they are included in the census?

Secondly, it is disappointing to many thousands of Sikhs that the Government have decided not to include a Sikh tick box in the ethnic group question. There is a clear demand for this from a large section of the Sikh community. It is ethnic, not faith, data that public bodies use to make decisions about the provision of public services, so accurate data on the make-up of our communities is vital.

The Scottish Parliament seems to have gone some way to address this issue. Last week, it agreed to include a prompt for Sikhs and Jewish people next to the "Other ethnic group" tick box. Will the Government look at this decision, which the Scottish Parliament has made possible, and bring the census order for England and Wales in line with that of Scotland?

1.15 pm

**Lord Rennard (LD):** My Lords, the current crisis is demonstrating the importance of having accurate information about our population and their needs in relation to the provision of health, education, housing and many other areas. It is hugely important; there are many issues about the future of the census in general, as well as the specific issues contained in these orders, that many of us would have liked to raise if we had not been constrained by a two-minute time limit.

It is very welcome that the 2021 census will be conducted mostly online. This should reduce costs considerably and weaken the arguments of those who think that finding out the facts about our population is too expensive. We could also gain more information, at a lower cost, if we were to combine what we learn from the census with what we obtain compiling electoral registers. We could then have a more complete idea of how many people eligible to vote live where, and constituency boundaries could be drawn based on more accurate information—especially if those boundary reviews were held every 10 years as opposed to every five years, as is presently legislated for. Perhaps the Minister will pass on this suggestion.

I welcome the fact that new voluntary questions about gender identity and sexual orientation will show officially the welcome scale of diversity that exists in our society. This will help to allow distinctive needs to be provided for.

Charities—and, more importantly, government agencies—will be better able to address the needs of veterans, now to be identified in the census, far too many of whom have difficulty in finding suitable housing after serving in our Armed Forces.

However, some issues of ethnic identity still require more consideration. The strong case for allowing Sikh identity to be properly indicated as an ethnicity is not something that I can address in two minutes. I would also have argued for Cornish ethnicity to be recognised in the same way.

1.17 pm

**Lord Wigley (PC):** My Lords, I want to say a few words on the identification of the number of Welsh speakers resident in England on census day.

I add my voice to those emphasising the importance of maintaining the integrity of the census continuum to enable future generations to assess how patterns have changed over recent decades. We should not delete or modify a continuum unless there is a very good reason.

Powers to deal with the census in Wales have been partly devolved, which I welcome, within the same constraints of continuity. However, aspects of the census in England have a direct relevance to the powers exercised by the Welsh Government. One of these relates to identifying the number of Welsh speakers. This is needed by the Welsh Government to assess the effectiveness of their educational policy and to plan their future cultural policies. The Welsh Government have a target of 1 million Welsh speakers by 2050, compared with just over 500,000 Welsh speakers in Wales in 2011 but a higher figure of almost 900,000 in the ONS annual population survey last year.

Much of the targeted increase will be attained through our educational process, but to evaluate the ongoing benefit of securing the language, we must be able to assess the retention of the language after leaving school. Tens of thousands of young Welsh people migrate from Wales to England each year. Many return to Wales later, as was my own personal experience. To evaluate our education policy, we need to know how many Welsh speakers there are in England. It is thought to be around 100,000 but we need accurate information.

This issue was raised by Hywel Williams MP in the Commons debate last week; the Minister undertook to consider the matter. Today, I add my voice in support of this. For the UK to be meaningful for its citizens, it has to operate on not just agenda priorities as seen in London; in that context, I express Celtic solidarity by supporting a Cornish tick box, and I support one for Sikhs.

A fuller assessment of the number of Welsh speakers offers an opportunity for the UK Government to respond to reasonable requests emanating from Wales. I hope that the Minister can give a positive response today.

1.20 pm

**Baroness Anelay of St Johns (Con):** My Lords, I shall raise the refusal by the ONS to include a tick-box in the census for those who identify as Cornish. The ONS seems to see this as a localised issue, ignoring the

[BARONESS ANELAY OF ST JOHNS]

many thousands of Cornish men and women living across the UK who want to register their nationality as Cornish. I do not have the advantage of being Cornish myself, but I am aware of the strong campaign to have a Cornish tick-box on the census. Until the start of the pandemic, I used to spend a month a year as a visitor to Cornwall and stayed in visitor accommodation.

The Cornish were recognised as a national minority in 2014, and the Government pledged that they would be afforded the same status under the Framework Convention for the Protection of National Minorities as other UK Celtic peoples: the Scots, the Welsh and the Irish. The inclusion of a tick-box for the Cornish on the census would achieve that.

What discussions have the Government had recently with the group leaders of Cornwall Council about the refusal of the ONS to include a Cornish tick-box? The ONS has said that there will be a write-in option to identify oneself as Cornish and that there will be a campaign to raise awareness of that. What steps will the Government take to ensure that any such campaign is national and not just focused on Cornwall, given that the Cornish diaspora is spread across the UK? It would not be a perfect solution, but it would be a step in the right direction towards delivering a census that could build a better, detailed snapshot of our society and help us to plan for the future delivery of services and for economic revival after Covid-19 has been defeated.

1.22 pm

**Lord Clark of Windermere (Lab):** My Lords, I am a great fan of the decennial censuses and have made use of many of them over the years. The censuses provided much crucial information to assist administrators and policymakers at national and local level for more than two centuries. In addition, they are invaluable tools for historians in providing a picture of communities and societies at a moment in time. When, after 100 years, the details of the participating individuals are revealed, they become essential sources of information for those tracing their family tree, which is a burgeoning interest.

The Office for National Statistics planned the 2021 census with great diligence and in doing so consulted widely, adding new questions and querying established ones. Others have raised questions on ethnicity, gender status and sexual orientation, so I shall not develop that.

With modern means of collecting information and the ability of IT to tap into wider sources worldwide, what was appropriate in years gone by is not so today. I recognise that and that changes have to be made, but there is value in having one major respected piece of work providing a picture of society every 10 years. That is very useful. Finally, may I press the Minister on the rumours that the 2021 census will be the last? Is that the case or is the jury out? Let us never forget that a continuum is essential.

1.24 pm

**Lord Balfe (Con):** My Lords, I first came into statistical life at the time of the 1970 census, when we had the job of devising a definition of a one-parent family. I realise that this is probably a bit of a surprise

question but, first, I would be very pleased if the Minister could write letting me know whether that definition has evolved and what it now is. Secondly, I would like to make it clear that I, too, hope that this will not be the last census. It does not cost that much and has provided a great historical snapshot of Britain through the ages.

I have one or two questions. First, is there any aim to hit people who are not online? A number of people in the community, particularly senior citizens, are not online and will not be able to fill in the census. Will they be able to register in advance? If not, and secondly, what will the follow-up be? Presumably the online responses will all go to one centre. Will there then be local follow-ups of people who have not completed it, and will this be done by addresses? I assume that it will be.

My next question is about past service in the Armed Forces. Having been in the Territorial Army almost 60 years ago, I wonder how far back this will go. Will it contain data about the Territorial Army and national service? I cannot understand why past service in the Armed Forces has gone into the thing.

Finally, on the voluntary questions, I point out the lesson that we should learn from Boaty McBoatface. There may well be people who decide that there are jokes to be made out of nationality or religion. Are any steps being taken to eliminate obvious false answers?

1.26 pm

**Lord Mackay of Clashfern (Con):** My Lords, the Census Act 1920 provided a framework for a census of questions on stated subjects, with an obligation to answer, subject to a penalty. It provided for the authority for a particular census to be an Order in Council, of which this is one, with supporting regulations, including a census form.

More recently, as has been mentioned, that Act was amended by statutes which provided for optional questions by providing for questions where failure to answer would not be subject to a penalty. This draft order provides for an obligation to answer three such questions, but that obligation is unenforceable. The draft regulations and the form will translate into clear language that answering these questions is optional. The correct result is reached by a circuitous route.

1.27 pm

**Lord Judge (CB):** My Lords, the noble and learned Lord, Lord Mackay, and I have been engaged throughout this process in trying to ensure that there is no compulsion to answer questions and that the arrangements to avoid compulsion to answer personal and private questions are secured in the legislation. The Government shared that objective, and there was a time when the noble Lord, Lord Young of Cookham, put the noble and learned Lord, Lord Mackay, and me together more or less to sort out what we wanted and to see whether we could achieve the best result.

On close analysis, as the noble and learned Lord, Lord Mackay, has said, this order taken on its own, by a combination of Articles 6(1) and 6(4), does not in fact achieve that objective. The reason that it fails to do so seems, on investigation, to be that there has been

a direct lift of the orders approved for the 2001 and 2011 censuses. However, like the noble and learned Lord, Lord Mackay, I am satisfied that the statute, the draft regulations and the census form itself will mean that in law the voluntary nature of the questions and answers to the questions about personal matters is established, and those completing the form can confidently decline to answer those personal questions without fear of any penalty or proceedings.

To add a footnote, if there is a census in 2031, will those responsible please make sure that the Order in Council does not have the slight problem raised by this one? I very much hope that the noble and learned Lord, Lord Mackay of Clashfern, will be here to answer for everybody.

1.29 pm

**Lord Mann (Non-Afl):** My Lords, what I am missing in this debate, and in the ministerial introduction, is contingency planning. It is as if the world will continue as before, and there are relevant questions about whether there will be a census in 2031. My question is: will a census be carried out properly in 2021? We see today's announcement of another four months of furloughing. How on earth will electoral registration be carried out in the current cycle—the annual cycle that we still require—starting with house visits in October, at the turn of the year and onwards? It seems to me that that contingency planning needs to be there.

I am an optimist on all matters, but contingency planning requires an element of pessimism about what can go wrong. It is a shame that blockchain technology has not already been incorporated at this stage; indeed, it is in my view a shame that we do not already have an identity card which would make contact tracing in the current crisis significantly easier and more far-reaching. If electoral registration drops dramatically this year, how will we manage to go into a census that people choose not to respond to electronically? How will those face-to-face visits be managed if we are still in the crisis—or indeed the aftermath of the crisis—that Covid-19 has created?

1.31 pm

**Baroness Coussins (CB):** My Lords, as the Minister has said, this census is intended to be the most inclusive ever. Question 18 asks:

“What is your main language?”

But people underreport their use of languages other than English, because the question of their main language is interpreted differently—as the language they know best, the one they use most frequently, or the one they feel most attached to emotionally. Feedback to the ONS described the question as confusing and unfit for purpose. One example of how the question can yield inaccurate data is that, in the last census, in the Manchester ward of Ardwick, while 2.2% of residents declared Urdu to be their main language, over 13% of schoolchildren in the same ward were registered as having Urdu as their first language.

Why does this matter, and what is the solution? It matters because, if linguistic diversity in the UK is underestimated or distorted, efficient and targeted use of multilingual resources in health, education and justice is undermined. Getting it right can also save costs.

Interpreters and translated information, although vital, will not be enough unless the data collection itself is realistic. All that this requires is one small amendment to the question itself so that it simply asks, “What are your main languages?”

The ONS is worried about the cost of processing more complex data, but the census must produce full and accurate data for the benefit of all our citizens, not just some of us. Will the Minister agree to speak urgently with government colleagues and with the ONS to secure this minor change to Question 18, which would make a major improvement to the quality and usefulness of the data?

1.33 pm

**Lord Young of Cookham (Con):** My Lords, as the Minister who took the Census Act through your Lordships' House last year—I am grateful to the Minister today for his kind words—I have a paternal interest in this order, which I hope will secure the same broad support that the Act received last year.

I have a number of issues for my noble friend. He suggested—and other noble Lords have referred to this—that this could be the last census of its type, as other, more timely sources of information become available. As he said, it is too soon to say whether this is indeed the last census, but can he say what is happening in other countries that like us have relied on censuses such as this and which, I understand, may be moving away from them?

Secondly, I understand that, before the census next March, there were—or are—to be some trials. Can the Minister say how those trials went, if they took place, and what lessons have been learned from them, particularly in respect of the new voluntary questions?

Thirdly, we all hope that, by next March, we will have put this pandemic behind us, but we do not know whether there will be a second wave, or whether social distancing will have been entirely phased out. While most people will complete the census online, there was concern during the passage of the Bill about, for example, the homeless and rough sleepers; forms were to be made available in shelters and night centres. What contingency arrangements are there in case, by any chance, life has not returned to normal? Has the pandemic in any way impeded the arrangements in the run-up to the census? Are there any circumstances in which it would be necessary to postpone the census, as has happened this year in other countries?

Finally, there was a loose end in our discussions last year, referred to by the noble and learned Lord, Lord Judge, and my noble and learned friend Lord Mackay. The noble and learned Lord, Lord Judge, was concerned that, while we had abolished the penalty for not answering questions, we had not abolished the underlying offence. I was delighted to hear from both noble and learned Lords that white smoke has now emerged and that that loose end has now been tied up.

1.35 pm

**Baroness Whitaker (Lab):** My Lords, I have just two questions for the Minister. They are in the context that our Gypsy, Traveller and Roma communities are acknowledged, not least by the Government, to be the

[BARONESS WHITAKER]

most disadvantaged in educational, health, socioeconomic and accommodation outcomes. To address the problems of minority-ethnic groups, it goes without saying—but I am going to say it—that we first need accurate and meaningful data.

I declare my interest as a holder of various unremunerated posts in service of the Gypsy, Traveller and Roma communities. In the order, the success of our efforts to include the Roma people is demonstrated, and I thank the census team for that. However, the order still runs Gypsies and Irish Travellers into one category. There are significant differences between these two communities in terms of all the outcomes I have referred to, so can the Minister tell me that the two categories will be split as soon as practicable, as reason and fact demand?

Secondly, what are the arrangements to visit Gypsy and Traveller sites? Public service representatives have often neglected to call at sites even when their help has been urgently needed, and I seek reassurance that census workers will speak with the travelling communities to arrange productive visits and allay any anxiety so as to obtain the data we need.

1.37 pm

**Lord Goddard of Stockport (LD):** My Lords, the proposed 2021 census will probably be the most important for a generation. It will begin to show the devastating effects of Covid-19 on our communities and individuals. It is imperative that the largest number of our citizens are included. For the first time, questions will be asked about gender identity and sexual orientation—and they will be voluntary, which is to be welcomed. The long-overdue information will allow the Government to inform policy, plan for a clear picture of LGBT rights and communities, and target resources to them.

In the other place last week, many speeches were made about inclusivity and the Sikh communities. Sikhs have been recognised as an ethnic group for over 40 years, since this House made that ruling in 1983. The case and the law have been overwhelmingly made; Sikhs should have a tick box under the ethnic identity question. The same argument applies to Cornish people. In the 2011 census, 83,966 people in Britain ticked the “other” box and wrote “Cornish” on the form. In Cornwall, that figure was 73,320—that is 14% of the population. Those citizens will not go away. The Minister must act if, as the phrase goes, we are all in this together.

Finally, the guidance says that the census will be predominantly online and will be the most inclusive ever. It is vital that paper copies are made for the enormous number of people who are not on the internet and do not have online facilities. The noble Baroness, Lady Kennedy, said that could be 10% of the population. If the Prime Minister can write to every household and basically tell them to stay in, surely the same option can be given for the census form.

1.39 pm

**Lord Singh of Wimbledon (CB):** My Lords, an ill-conceived campaign to confine Sikh teachings open to all to a single ethnicity is being led by an extremist fringe group, the Sikh Federation, which rejects key

Sikh teachings. Its un-Sikh-like argument is that being recorded under ethnicity will get us more resources than other religions. It also plays on the hurt felt by many of us over the 1984 genocide of Sikhs, saying that reducing the religion to an ethnic group will help us to get a Sikh state in India.

The Sikh Federation bases its arguments on a misunderstanding of the Mandla case in the early 1980s, in which I was an expert witness. The law then protected ethnicity, but not religion, against discrimination. The Law Lords ruled that as most Sikhs in the UK then were born in Punjab and had Punjabi ethnicity, Sikhs were also entitled to protection. The criteria of birth and origin would not be met today, as most Sikhs are born in the UK, nor is such a convoluted protection necessary. The Equality Act 2010 gives full protection to religion.

The politically motivated federation falsely claims mass support, with questionable statistics. The ethnicity argument was discussed at the large gurdwara in Hounslow, in front of ONS officials, and was firmly rejected, yet the federation includes Hounslow among its supporters. Many Sikhs and people of other faiths are appalled at the way in which some politicians, anxious for votes, are willing to trample on the religious sensitivities of others and accept as fact the absurdities of those who shout the loudest. I urge that we look to what the different religious groups actually do for the well-being of their followers and wider society.

1.42 pm

**Lord Naseby (Con):** My Lords, I pay particular tribute to all those involved with this census. I am pleased that veterans are to be included in a new question, and I hope that that is clarified to include national service. But the biggest change is the move to online. Perhaps 85% of the nation is online, but we have to remember that millions of people have come to this country from foreign countries in the last 10 years, many of whom, particularly in the older generation, do not speak English, or English is not their main language. Great care will need to be taken to ensure that there is a paper back-up for those who are not able to cope with the online form.

Secondly, in the context of our experience of the virus, I am particularly interested in the problems for communal establishments, especially our prisons and our care homes. If the department of health appears to have overlooked care homes at the early stages of this crisis, heaven alone knows what will happen with them in normal circumstances. I know a little about the prison world. Bedford prison is heavily overcrowded. The census cannot be done online in a place like that.

On ethnicity, I lived in India for a couple of years of my life and know the Sikh community well. I do not understand why they are not included under ethnicity; certainly their cause is far greater than that of the Roma, who are now included in that category.

Finally, I make a plea: this should not be the last census. We should listen to the queries raised by the noble Lords, Lord Mann and Lord Young.

1.44 pm

**Lord Dubs (Lab):** My Lords, in the 1980s, when I was in the House of Commons, I served on the Home Affairs Select Committee, which did an investigation

of the merits or demerits of including an ethnic question in the population census. At that time, there was quite a lot of objection from various groups to having such a question, but we took evidence abroad from a lot of people and came to the conclusion that it was desirable. Why? Because we felt that we needed to measure the disadvantage suffered by any minority and the discrimination against that minority. The best way to do that was to have a benchmark, so that every 10 years we could measure whether the policies to tackle disadvantage and discrimination were effective or not. Without that, we would not know whether the policies were working. That was the argument and it was accepted, and we have had ethnicity questions in our population census since, I think, 1991.

It is therefore a little puzzling as to why there should be such an argument about including an ethnicity question to cover Sikhs. I think it is right to do that, based on the same arguments that we used in the Select Committee all those years ago. I welcome that we will have questions on gender identity, LGBT and the Armed Forces.

I am a bit concerned that there is now talk of this being the last census. Unless we have a wonderful, effective way of covering the same information, which enables us to continue the stream of information from one census to the new system, I very much regret what we would lose by doing that. We ought to think very carefully before we lose the population census.

Lastly, there are questions on health. I appreciate the difficulty of this, but could we adapt those questions to take account of the pandemic that is now sweeping the country? We might learn more about how it happened if we include something on it in the population census.

*1.46 pm*

**Lord Harries of Pentregarth (CB):** My Lords, this census form is extensive and will provide valuable information for formulating social policies in the future. However, this extensive list poses a problem: there are a great number of questions, with a range of options, and some people will find the form very difficult to fill in. Therefore, I was very glad to learn from the Minister at the beginning of this debate that the Government intend to have a contact centre. I know that the internet will offer a great deal of help with the usual list of frequently asked questions, but my experience of FAQ lists is that they do not answer the questions that you actually want to ask.

That contact centre will be a vital ingredient in making the next census a success. It will need to be well staffed and the staff will need to be well trained. Linked to this is the fact that those who do not have English as their first language will probably need special help. I hope that it will be possible for people not only to get help answering the questions via telephone but to do so in a number of different languages. That centre will need to be well staffed with people who are well trained, with a range of languages available.

I will briefly cover two points. First, I strongly support the noble Lord, Lord Wigley. From the point of view of the Welsh Government and their educational programme, it is vital to know the number of Welsh speakers in England. Secondly, I also strongly support the noble Lord, Lord Singh. Like him, I believe that

Sikhism is a great and very distinguished world religion. I do not think there should be any blurring of that fact and I worry that putting this in the ethnic minority category will somehow diminish what Sikhism has to offer as a world religion.

*1.48 pm*

**Lord Bourne of Aberystwyth (Con):** My Lords, I thank my noble friend the Minister for introducing this order and for his characteristic clarity of exposition in doing so. Like others, I very much agree about the importance of the census and I hope that we will continue with a census for many years into the future.

I very much agree with the noble Lord, Lord Dubs, that we should consider flexing this present census to ask relevant questions in the light of the virus; these could include questions on health, transport and other matters. If we are not able to do that, we may want to do so in the future.

I very much agree with the noble Baroness, Lady Whitaker, about welcoming Roma as a distinct ethnic characteristic—that is very welcome. I also underline, as she did, the importance of census workers travelling to sites to ensure that people are able to fill in the forms at the relevant time. On that point, could I ask, as the noble Lord, Lord Mann, and my noble friend Lord Young of Cookham did, for some reassurance about census day next year, given the challenges that we face?

I lend support on the inclusion of an ethnic characteristic for Sikhism. That is a case well made out. I heard what the Minister said about the complexity of adding more groups to the form, but there is an unanswerable case on this, as there is in relation to Cornish ethnicity. I had the great privilege, as Minister, of visiting the nascent Cornish archive in Redruth to announce support for the language and of hearing just what strong support there is in Cornwall for this tick box. Indeed, it has had almost unanimous support from councillors on the county council as well as from all the main party groups.

Jains and Zoroastrians should also be added to the census questions. I would also welcome some reassurance on online provision and the difficulties that we may have post virus in ensuring that it works well.

*1.50 pm*

**The Earl of Erroll (CB):** My Lords, I want to emphasise the need for security around the database. The census is useful and is a fascinating tool for historical research. However, many of the questions, primarily numbers 31 to 42, have implications for people's tax position. The Government rightly declare that this data will not be used other than for census and population analysis purposes, but it may affect how people answer.

The danger is that a future Government may have a very different attitude to what they think they should know about their citizens and how they might use this information. They will say that it is for more efficient government, a usual form of words being that it is for anti-fraud purposes.

Once every 10 years is sometimes too infrequent for proper planning processes, particularly in a fast-changing world. It might be better to gather some of this information by analysis of other data sources—a lot

[THE EARL OF ERROLL]

of information is available online—but some of the basic census information will always be useful, particularly for genealogical research, and should continue to be gathered periodically, so we should not just stop the census.

1.52 pm

**Lord Wallace of Saltaire (LD):** My Lords, both here and in the Commons, there have been some powerful speeches on the inclusion of questions on Cornish identity and Sikh ethnicity, so I need do no more than express my sympathy and support for the cases that have been made. We are moving towards a country of complex and multiple identities, not easily represented by our two-party and first-past-the-post system—but that is an issue for a different debate. I mark in passing that a strong sense of Yorkshire identity is entirely absent from the questionnaire. We face a Conservative Government who resist any recognition of Yorkshire identity in how they approach devolution in Yorkshire, which is to city regions rather than to Yorkshire as a whole, as all our local authorities have stressed.

We are a much more complex society. As the noble Baroness, Lady Coussins, remarked, our local authorities often know this about languages and ethnic groups in much more detail than do our national Government. That leads me on to the relationship between local and national data. I am struck by how the Government have approached the pandemic by neglecting the skills and resources of our local authorities, going to outside private contractors for testing and other things rather than reinforcing the strengths of our local authorities.

The Minister said in opening that we should make greater use of data already held by government. A great deal of very useful data is held by our local authorities. As we consider the future of the census, we need to take further the question of how we feed in and out of different government agencies the data which they hold separately, and the safeguards that data mining and data analysis need therefore to have.

There is of course the difficult question, which we will come back to later, of why electoral registration is held separately from other forms of establishing where our citizens live and who they are. Every British citizen and long-term resident should be on the electoral register.

I welcome the statement in the Conservative manifesto last year that:

“We will improve the use of data, data science and evidence in the process of government.”

That is a highly desirable idea, although reading Dominic Cummings’s blog over the years and looking at the antics of what one has to call the Warner brothers, Ben and Marc—one of them in No. 10 and the other working for an outside company which has apparently some very privileged relationships with the Government—I think that we clearly need greater transparency as to what exactly is going on within government as we move through the digital transformation.

I thank the Minister for offering me the opportunity to talk to the Office for National Statistics on my own. However, it would be much more valuable to use the real expertise on the digital transformation that there

is on all Benches in the House, and invite us for a number of briefings on how the Government plan to expand and improve their use of data, how the future census may or may not fit in with that, and how they will build in the safeguards which we will need. To comment on what the noble Earl, Lord Erroll, said, the question of data transparency as well of data ownership is an important part of that. I note that in Sweden, for example, the degree of transparency on tax returns is a great deal higher than in Britain, which apparently has a markedly positive effect on not paying some people too much money.

The Minister also talked about the need to maintain the security and secrecy of people’s personal data. That is highly desirable—we certainly need to improve the safeguards on that—but citizens sometimes need to demonstrate to government their entitlement, presence and records. The Windrush scandal, for example, was entirely unnecessary. All those people had, within other agencies of government, records that they had been living in Britain for some time: their tax returns, national insurance records, and in many cases their driving licence. The Home Office did not attempt to look at the metadata to establish whether there were records for those people before it attempted to deport many of them. That is another major issue to which we need to return.

We certainly wish to look at the wider issues here. We were promised last year that the Government would publish a White Paper on their data strategy before the end of 2020. I understand that this has now slipped several months behind schedule because officials have been detached to deal first with the threat of a no-deal Brexit and now with the coronavirus pandemic. This offers opportunities in digital transformation for improving the quality of government policy but also risks individual privacy and liberty. Can the Minister assure us that the Government will do their utmost to carry Parliament and the public with them as they move forward, and that regular briefings for parliamentarians on what is planned and whether a further census should be held in 2031 should be part of building and maintaining public trust?

Beyond this, I simply add that the quality of the data the census provides will depend on how well it manages to record marginal communities and individuals: recent migrants, the homeless, and elderly people living alone. I hope that the Minister will also assure us that the Government will target resources on such groups, who are the least likely to know how to go online or voluntarily and patiently to fill in a long and complicated form on their own.

1.59 pm

**Baroness Hayter of Kentish Town (Lab):** My Lords, we welcome this draft instrument. It contains lots of positives, as we made clear when we debated the issues before, including the additional questions on military service, which is of course particularly pertinent in this week of commemorating VE Day, although of course before VJ Day. We are also aware of the millions who have served since then.

We are also pleased to see the voluntary questions on sexual orientation and gender identity, together with that on Roma people. Indeed, Roma people are

now the most disadvantaged in the country, so it is encouraging to see their inclusion as a crucial step forward in data collection and the resource allocation to their community. I look forward to the Minister's answers to the questions raised by my noble friend Lady Whitaker. However, the addition of that tick box in the ethnicity section brings us to the one contentious issue today: the lack of an equivalent tick box for Sikh people in addition to that in the religious option.

I have read the debate held on this issue in the Commons and listened carefully to the Minister's introduction today, and two questions remain unanswered. First, why exactly was that recommendation decided on by the ONS, given, as we have heard, the recognition by the House of Lords of Sikhs as an ethnic group back in 1983, the 83,000 writings received in the last census, and the feedback received from over 100 gurdwaras? This is not necessarily to say that the ONS got it wrong and I assume that it had good reasons. However, neither its report nor the White Paper have convinced either the federation or the MPs representing Sikh areas. In her response in the other place, the Minister failed to explain that, so perhaps the noble Lord, Lord True, can make a better fist of it today. It is vital for the confidence of the Sikh community in the outcome of the census.

Secondly, and vitally, if it is the case that 12% of Sikhs, which represents 50,000 or more people according to ONS modelling, could be missing from these datasets, and given that it is on the basis of the census that it is ethnic rather than religious data on which 40,000 public bodies decide on the allocation of resources and use it to assess their responsibilities under equalities legislation, as touched on by my noble friend Lord Dubs, how will the Government ensure that suitable corrections are made so that this large and vital community gets its fair share of appropriate services and is not discriminated against through the absence of proper data?

How do the Government plan to address the inequalities that we sadly see in Sikh communities while we lack accurate data? Do they recognise that the chronic statistical underreporting of communities such as the Sikh population could allow discrimination to go unnoticed? Indeed, will the Minister comment on the point raised about the Scottish Government's decision to add a prompt for Sikhs as well as for Jewish people to their own regulation?

We welcome the census because in this time of rapid social change we welcome the availability of up-to-date information. Indeed, as I warned the Minister earlier, I will shortly start campaigning, no doubt along with the noble Lords, Lord Balfe, Lord Naseby, Lord Bourne, the noble Earl, Lord Erroll, and my noble friends Lord Dubs and Lord Clark of Windermere, to ensure that we do not lose this vital source of rich, granular data in 2031. For the moment, however, we need all sections of the community to have faith in the census, and the Minister's answers to the debate today will be important.

2.03 pm

**Lord True:** My Lords, it is customary to say that we have had a wide-ranging and excellent debate, and of course that is true, particularly on this occasion. It has been a fascinating debate to me personally and I am

grateful to many noble Lords, starting with the noble Lord, Lord Clark, and others, including my noble friend Lord Young of Cookham and the Baroness, Lady Hayter of Kentish Town, for saying how important the institution of the census is over the long term in enabling an understanding of the familial and social development of communities and of the whole country. Both in the past and now in the present, it is an enormously valuable historical resource. As an historian, I freely acknowledge that. Indeed, I am sure that when the 1921 census comes to be published, one of the interesting things to look at will be the impact on the nation of the Spanish flu epidemic as well as that of the Great War between 1911 and 1921.

I said that in 2023 the National Statistician will publish recommendations based on views about the future of the census in light of the experience of the census that we are about to conduct, and indeed past experience along with other data and relevant material. Your Lordships will have ample opportunity, as will the other place, to consider those recommendations. The Government of the day will give them careful consideration, and I am sure will reflect on the unique nature and value of the census over time. As I said in my opening remarks, that really is a debate for another day, although I believe that all those who read this debate will note the sentiments that have been expressed by many who have spoken.

Questions were asked by the noble Lord, Lord Mann, and others about whether any contingency consideration is being given to the current pandemic that we are dealing with. Census day—21 March 2021, obviously—is still nearly a year away, and currently the Office for National Statistics is working to deliver the census as planned. Like any other part of the Government, the ONS will be guided by the scientific evidence and the evolving advice from medical experts. At the same time, therefore, we are considering the contingencies that may be needed if measures to contain the spread of Covid-19 remain in place or indeed again become necessary in the run-up to census day itself. That is a matter of which those who are involved are aware. The situation, as noble Lords will know, is evolving and we will be guided by medical advice as it emerges.

The noble Lord, Lord Wallace, made important remarks about data more generally, many of which I agreed with. He asked specifically about the national data strategy, the potential involvement of Parliament and parliamentarians in the evolution of that strategy, and the debate generally about the use of data—something that is obviously extraordinarily important to being an effective modern economy and society in the future. The position, as the noble Lord recognised, is that because of the coronavirus pandemic progress has been delayed, but I assure him that it remains the Government's intention to publish the national data strategy in 2020. I will endeavour to keep him and other noble Lords informed as to progress.

The question of identity has come up in this House and in the other place. I underline the abounding respect and admiration that this Government—and, indeed, I believe the whole nation—have for the Sikh people and the Sikh religion, faith and values. The Sikh community is an embedded and enormously valued

[LORD TRUE]

part of the British nation. Even today, we have heard conflicting views on whether the ONS has made the right call in respect of the questions in the census. The noble Baroness, Lady Hayter, and others spoke strongly in one direction, while the noble Lord, Lord Singh of Wimbledon, and indeed the noble and right reverend Lord, Lord Harries of Pentregarth, spoke in the opposite direction.

The ONS has to reach a balance, and the tick-box options set out in the order have been informed by its very extensive programme of research, consultation and engagement, which has gone on for over three years. As I said in my opening statement, more than 55 requests were made for tick boxes under the ethnic group question alone. There is already a Sikh tick box for the religion question, and the ONS concluded that the needs for data on Sikh communities can be met without the addition of a Sikh ethnic tick box.

The 2011 census and subsequent research show that the religion and ethnic group questions capture similar Sikh populations. The number of people using the write-in option, which will exist in this census, to record Sikh as their ethnic group has been referred to. In 2011 the ONS promoted the ability to use that write-in option, and 83,000 people used it to write in their ethnicity as Sikh—but 92% of those also identified their religion as Sikh, and more than 423,000 people in England and Wales identified their religion as Sikh in 2011.

Qualitative research that the ONS commissioned on the acceptability, clarity and quality of the tick boxes showed that the inclusion of a Sikh ethnic tick box without other religions also having an ethnic tick box or tick boxes was viewed as unacceptable, particularly among younger, second-generation participants. The ONS has offered to work with members of the Sikh population to encourage wider participation in the census and to raise awareness of the option of writing in their identity in the ethnic group question. I hope Members of the House will help the ONS in this effort.

A question was asked about the Welsh language; the noble Lord, Lord Wigley, and others referred to this. I understand the point he made that it is important for the Welsh Government to understand the extent of the Welsh language, not only in Wales but outside Wales. Obviously, the draft census order provides for a question on the Welsh language to be asked in Wales, but anyone in England who wishes to record their main language as Welsh in the 2021 census will be able to do so using, again, the write-in option in the language question. Testing by the ONS convinced it that the inclusion of that question generally might lead to confusion among the larger number of respondents about why they were being asked it. When it comes to conducting the census, I am sure that those in the ONS and working on its behalf will pay heed to the points made by the noble Lord, Lord Wigley, and others.

My noble friend Lady Anelay of St Johns and others raised Cornish identity. Again, the Government recognise the distinct culture and heritage of Cornwall. We understand how important that is to the people of Cornwall, who are rightly proud of their Cornish history. The reality is that everyone who wants to identify as

Cornish in the census will be able to do so using the new search-as-you-type facility online or the write-in option. In its consultations informing the contents of the 2021 census, the ONS found that the need for data on Cornish populations is localised and—in the context of the many requests to have questions included in the census—not strong enough to justify the inclusion of a Cornish national identity box nationwide.

I assure noble Lords who have spoken—I myself have had representations from elected representatives in Cornwall—that the ONS is committed to working with Cornish MPs, Cornwall Council and others to meet their data needs through data gathered via the write-in option. It will promote this option in both national and local census campaigns. After this census, the ONS will for the first time produce an analytical report on the population who identify as Cornish and how their health, housing, work and education differ from those of people who do not identify as Cornish. I hope noble Lords will welcome that assurance.

The social condition of various parts of the population is extremely important and relates and translates across to the question asked by many noble Lords about accessibility and support, including for those who are homeless. The ONS will offer a range of support to help people who complete the census, whether online or on paper. As I said at the outset, paper forms will be available in large print. Language support will be provided for those who need it. There will also be an option to complete the questionnaire by telephone. I referred to the fact that additional help to fill in the census online or on paper will be available at community events in community centres, libraries and places of worship. I was grateful for the remarks of the noble and right reverend Lord, Lord Harries, on that.

In addition, the assisted digital service will be provided by the Good Things Foundation to provide support for those who are offline or need additional digital help. We are well aware of the importance of reaching those who are not digitally enabled; they are in fact, paradoxically, among the most important parts of the population which the ONS needs to reach in the census. It is a great responsibility to do that. That is why the ONS aims to recruit up to 40,000 field staff to support this kind of engagement. They will have a particular focus of resources on the known hard-to-count groups and areas. I assure the noble Baroness, Lady Whitaker, that, given the inclusion of the Roma question, there will be a great effort to reach all Traveller people. I will provide her with a written answer on the other question that she asked.

To return to the homeless, those who are homeless are particularly vulnerable and hard to reach. That is obvious. We have seen in the Covid crisis the Government's efforts to reach that important and much underprivileged part of the population. In preparing for the census, the ONS is working to ensure that all those who are homeless, particularly those who are sleeping rough, have every opportunity to take part. Census forms will be available at day centres and night shelters over a series of days. The ONS is working closely with homelessness charities to ensure that there is help and support for those who are homeless to participate in the census.

As in 2011, special arrangements are being made to make sure that all those living in communal establishments are recorded in the census. My noble friend Lord Balfe referred to some of these, including those living in hospitals, residential care homes, student halls, prison establishments and military camps. This is an important duty laid on the ONS, and I am sure that it will rise to it.

My noble and learned friend Lord Mackay of Clashfern, the noble and learned Lord, Lord Judge, and my noble friend Lord Young of Cookham referred to the voluntary nature of questions on the census. I am grateful for the welcome that has been given again by noble Lords, the noble Lord, Lord Rennard, among them, for the inclusion of questions on sexual orientation and gender identity. These will be voluntary. I am very grateful for the discussions the Government have had with the noble and learned Lord, Lord Judge, and my noble and learned friend Lord Mackay of Clashfern, and for their advice to enable us to better underline the fact that these questions are voluntary.

I note what the noble and learned Lord, Lord Judge, said about the 2031 census. I am sure that, in that time, something will be done to improve any deficiencies in the drafting, but I repeat what I said in my opening remarks: the regulations that will come before the House and provide opportunity for further debate will prescribe the census form. They will make it absolutely clear that these questions are voluntary. I am grateful to noble Lords for raising that important point.

The noble Lord, Lord Young of Cookham, asked a number of questions, some of which I can answer and some of which I will have to respond to in due course. He asked what efforts have been made to test some of the provisions for the census. There has been a census rehearsal. It was held last autumn in four local authority areas: Carlisle, Ceredigion, Hackney and Tower Hamlets. These areas were chosen to reflect urban, rural and mixed areas with their varying internet coverage and places where there are Welsh speakers, students and residents from a variety of backgrounds and ethnicities. Although participation was obviously voluntary, the rehearsal was a large-scale test of the census operational systems and processes. They included the online questionnaire, the field force function, digital assistance and public contact centre. The rehearsal has provided valuable insight into how the questions have been answered, and how the help and guidance is used. As I said, it covered most of the questions and areas raised in this debate.

The ONS is planning to publish a report on the rehearsal later this summer. It will incorporate the lessons from that and from the other work it has been taking on to test the census questions in its report this summer. The household response in the 2019 rehearsal was similar to that in the 2009 rehearsal, although direct comparisons are not possible because they were held in different areas. The 2011 census went on to reach 94% of the population, so this gives some confidence that the Government and the ONS will be able to reach large numbers of people in the census.

As many noble Lords stressed throughout the debate, starting with the noble Baroness, Lady Kennedy, it is vital, of course, that the information gathered in the

census is confidential. I can assure noble Lords that the highest priority is given to that. It is fundamental to trust in the 2021 census. There are strict legal safeguards: unlawful disclosure of confidential census data by the statistics authority and its employees, including the ONS, is a criminal offence with a sanction of up to two years in prison. The same applies to the Registrar-General in Scotland. We are consulting on cybersecurity, and the National Cyber Security Centre is being carefully and continually engaged in the process.

I thank all those who have contributed to the debate. It is essential that everyone is counted in the 2021 census to provide service providers and policymakers with the information they need to help target support and resources where they are most needed, and as efficiently and effectively as possible. I am very grateful to noble Lords for their contributions and I thank everyone who has taken part in the debate.

*Motion agreed.*

**The Deputy Speaker (Baroness Garden of Frognal) (LD):** My Lords, the Virtual Proceedings on this Motion are now complete. The Virtual Proceedings will now adjourn until 2.45 pm for the Motions in the name of the noble Lord, Lord Bethell.

2.23 pm

*Virtual Proceeding suspended.*

### **Arrangement of Business** *Announcement*

2.45 pm

*The announcement was made in a Virtual Proceeding via video call.*

**The Deputy Speaker (Baroness Garden of Frognal) (LD):** My Lords the Virtual Proceedings on the Motions in the name of the noble Lord, Lord Bethell, will now commence. The time limit is one and a half hours. At the end of the speech from the noble Lord, Lord Bethell, I will hand over the Chair to the noble Lord, Lord Palmer of Childs Hill.

### **Health Protection (Coronavirus, Restrictions) (England) Regulations 2020** *Motion to Consider*

2.45 pm

*Moved by Lord Bethell*

That the Virtual Proceedings do consider the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.

*Relevant document: 11th Report from the Secondary Legislation Scrutiny Committee*

*The Motion was considered in a Virtual Proceeding via video call.*

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con):** My Lords, I will outline what the regulations we are considering do, then set out the policies and processes underlying their development, their implementation and finally their monitoring and review. However, first, I will recap the Prime Minister's announcement.

Informed by scientific evidence and advice, on 10 May, the Prime Minister announced that there will be further changes to the regulations. These will come into effect on Wednesday 13 May. Your Lordships will hear the details of the Statement later today, but in summary there are further regulation clarifications. First, it is permitted for a hotel or other accommodation to provide services to a worker in a critical sector whose need for accommodation is connected to their work. Secondly, additional reasonable excuses to leave or be outside the home will now include visiting a shop that is otherwise closed to collect goods or visiting a local waste or recycling centre.

In addition, there are changes affecting businesses and venues. First, the regulations expand the list of reasonable excuses to leave or be outside the home to include outdoor recreation, including but not limited to exercise, as is currently the case. Secondly, there is an amendment to allow people to spend time outdoors alone, with members of their household or with one member of another household. Thirdly, there are amendments to enable the reopening of garden centres and outdoor sports courts.

The regulations to effect these changes will be for Parliament to approve and I hope that we can use the excellent facilities of this virtual Chamber to do so more speedily. I also add that, unfortunately, our original Explanatory Memorandum contained two typographical errors which, regrettably, we did not spot until after publication. First, it said that the first review would take place on 15 April, not 16 April. Secondly, it said that Parliament would need to approve the instrument within 20 days, when in fact it should have read 28 days.

On 26 March 2020, the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 came into force. These regulations were then followed by the regulations made on 20 April, which came into force on 22 April. These regulations mandated three key measures to protect the NHS: first, requiring people to stay at home as far as possible, with only limited exceptions; secondly, closing certain businesses and venues; thirdly, stopping gatherings in public of more than two people, with very limited exceptions.

These regulations are similar to those introduced by other countries, and we have worked closely with the devolved Administrations—to which I pay tribute—in developing and reviewing these measures. This country has been, and still is, engaged in a national effort to beat coronavirus, delivering a strategy designed to ensure that our NHS is protected, with capacity always exceeding the demand for ICU beds for coronavirus patients. Flattening the peak, drawing down the rate of transmission of the disease and the number of infections, alongside the work to significantly expand NHS capacity, has helped to protect our NHS and to save lives. I wish to put on record our continued

thanks to the NHS, to care workers and to key workers around the country for the phenomenal work that they are doing, caring for people and keeping the United Kingdom going.

The regulations that we debate today have played a crucial role in the success we are seeing in reducing the infection and transmission levels. They place significant demands on individuals and society, with impacts on businesses, the economy and daily life. I understand the sacrifices that people are making at this time, their frustrations and their anxieties, but these regulations are necessary, because the single most important step that we can all take towards beating this disease is to reduce the spread by following these regulations, thereby protecting ourselves and others.

Before we made these regulations, the number of patients in intensive care was estimated to be doubling every three or four days. The Scientific Advisory Group for Emergencies—SAGE—assessed that, at the beginning of the epidemic, the R number was between 2.7 and 3. Each person with the disease gave it to nearly three other people. This type of exponential growth would have overwhelmed the NHS had it not been contained, but then our regulations took effect. The footfall data showed a significant fall of activity; UK daily footfall fell by 80% compared to last year. These regulations came in tandem with a vast and co-ordinated effort, with schools closing and becoming virtual and massive increases in testing and NHS critical care capacity.

The latest assessment by SAGE is that, across the UK, R has reduced to between 0.5 and 0.9, meaning that the number of infected people is falling. On 4 May, 27% of critical care beds in the UK were occupied by Covid-19 patients, compared to 51% on 10 April. The number of patients in hospital in the UK with Covid-19 is under 13,000 as of 4 May, 35% below the peak of 12 April. The measures have been well enforced and, importantly, well received by the public. Between 27 March and 27 April, 8,877 fixed penalty notices have been recorded as issued in England. This is less than 5% of the number of motoring offences issued in England and Wales over a similar period. In mid-March, 62% of people were extremely worried about the threat of Covid-19. It is now 43%, while 85% of people think that the stay-at-home rules should stay in place.

However, I acknowledge the great sacrifice that these regulations have required everyone to make. Whether you are separated from your loved ones, unable to go to a funeral, face restrictions in your religious observance or simply have not been able to meet your friends for weeks, everyone has made a contribution. These are exceptional measures, brought forward to reflect exceptional challenges. They were made by the Secretary of State on 26 March and 21 April respectively and, rightly, following the return of the House after the Easter Recess, are brought before the House today for the scrutiny and debate that they require under emergency procedure approved by Parliament for such measures. The regulations are lawfully made under the power of the Public Health (Control of Disease) Act 1984 and comply with all the Government's obligations in relation to human rights. Above all, they help to save lives. That is why Parliament

has given Ministers these powers. The House will be aware that there are applications for judicial reviews and other legal actions in the offing. I will of course not comment on those.

We do not use these powers lightly or without good reason. We are acutely aware of the burden that they place on society and the challenge that we face in achieving the right balance between protecting the public's health and safeguarding individual liberties, and between saving the NHS and saving our economy. I believe that we have achieved that balance.

The reasons for my confidence are threefold. First, these regulations set out that a review of these restrictions and requirements must take place at least every 21 days to ensure that each restriction or requirement continues to be necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in England. We completed the first review, as required, on 16 April 2020; the most recent was completed on 7 May.

Secondly, the regulations reflect the strategy that we have agreed across the UK, which is led by the best scientific evidence available along with consideration of the economic, operational, social and policy implications.

Thirdly, recognising the potential for harm to public health and the economy if measures were relaxed too soon, we have developed robust criteria to guide policy considerations on when it would be desirable for measures to be eased. These considerations are fivefold: whether the NHS can provide critical care across the UK; whether there is a sustained and consistent fall in the daily death rate; whether infection rates decrease to an acceptable level; whether supplies of PPE and testing meet future demand; and whether the evidence is clear that changes will not risk a second peak.

Ministers conduct the review guided by officials and experts, ensuring that the measures continue to be both proportionate and necessary. However, it would be naive to imagine that there have not been snags that public servants across the UK have had to work day and night to untangle. The JCHR and others have expressed concerns about the variations in enforcement and the approach to it adopted by different police forces. As your Lordships will be aware, guidance was issued to police forces; that has continued to be clarified and updated. It is important that the police operate within the law, as set out in these regulations. That guidance is treated as such: guidance.

In the first review, it was agreed that no changes would be made to the existing restrictions. However, a small number of minor amendments were required to clarify the regulations and ease their operation. They relate to enforcement of the measures and affected businesses and venues.

The changes announced by the Prime Minister earlier this week may well lead to further revisions of these regulations. Your Lordships need not feel, therefore, that this House's role in scrutinising the Government and holding us to account has, because of the manner in which these regulations were made, become somewhat diminished—far from it. These debates influence the choices made in policy development.

I look forward to a high-quality and informative debate this afternoon. We will take your Lordships' contributions on board. I beg to move.

2.59 pm

**Lord Hunt of Kings Heath (Lab):** My Lords, I thank the Minister for his introduction to these statutory instruments. The Prime Minister's Statement will be debated later, so I will focus on these regulations. As the Minister said, they give considerable power to Ministers to make significant demands on us: to stay at home as far as possible, closing many businesses and stopping gatherings of more than two people in public. As Liberty points out, although the regulations expire in six months, Parliament has to approve them only once, yet Ministers are required to review them every three weeks. Ministers can change the guidance and, through a ministerial direction, can terminate a requirement or restriction contained in these instruments. The Minister said that the regulations get the balance right, but Ministers are given huge authority. Liberty suggests that, as a minimum, the regulations should be remade under the Civil Contingencies Act, as opposed to the Public Health Act. This would enable regular parliamentary scrutiny. Will the Minister look at this again?

The other point which I want to raise, which the Minister touched on, is the use of police powers. Overall, the police have responded magnificently to the incredible challenge they have been given. However, there has been confusion, not least over the extent to which people are permitted to exercise and gather outside. As Liberty says, the combination of sweeping powers, haste in drafting legislation and mixed communication strategies is in part to blame for some of the police confusion. This is likely to grow, given the Prime Minister's Statement and fears among doctors and police chiefs that the new message to stay alert rather than to stay at home may confuse the public and make it harder to enforce the restrictions.

Liberty recommends that any guidance published to supplement the regulations should distinguish between what is law and what is best practice advice to the public. The Lords Scrutiny Committee made similar points and worried about the confusion between the law and the guidelines. It is keen to ensure that the police are aware of the scope of these regulations, as distinct from the guidance. Given the road map laid out by the Government for lifting the restrictions, we are likely to see changes to the guidelines on a regular basis. I hope that the Minister can assure me that all will be done to make clear to the police just what the law is in the regulations that we are asked to approve today.

3.02 pm

**Lord Scriven (LD):** My Lords, these regulations are about the management of public health, not how to uphold public order. It is, therefore, a great pity that, due to the way that the Government have introduced them, the debate has become mainly about public order. Confusion was initially due to the words and grand statements of Ministers which were, at times, at odds with the actual provisions of the statutory instrument. On exercise, Ministers said, "Once a day,

[LORD SCRIVEN]  
close to home". Yet the SI does not restrict individuals to that. We had police stopping people unnecessarily and Derbyshire police using drones to shame people walking legally. There were issues around shopping, with Ministers talking about what "essential items" were. Yet the SI does not define essential or non-essential items; it states the law on where you can buy them. We had trolley spying by some police forces and the famous Easter egg debate. None of these was to do with public health issues around Covid-19. The police college had to send out guidance to cut through ministerial soundbites and state what was actually law within the SI. We are taking note of them again but tomorrow, as the Minister said, some of the provisions will change, due to them being out of date and as the new, graduated, measures to release lockdown start.

However, confusion has started again as we debate, not the science of public health, but the words and confusions of Ministers on public order issues. For example, public health advice indicates that you have a low transmission risk if you meet one other person outside your household outdoors and stay two metres apart. Yet the debate is now about the difference between meeting in a park or in your garden. The public health message is again getting lost: it makes no difference to public health, or the transmission of the virus, whether you meet one person outside, at a distance of two metres, in a garden or a park. Are we going to have police tiptoeing over people's garden fences to see whether they are meeting one other person outside their household?

These SIs, and the new ones tomorrow, will be an important part of public health measures and the management of Covid-19. Will the Minister and the Government keep to that, and not give us soundbites that focus on people in parks or gardens, or on Easter eggs? We need to see these as helping to reduce Covid-19 and enhancing public health and not as a matter of public order where the debate moves away from people feeling safe and knowing to do the right things which the SIs say by law they have to.

3.05 pm

**Lord Wei (Con):** My Lords, I want to sort of start my comments by congratulating the Government and the police on showing incredible restraint in acting under huge pressure in what has been an incredibly difficult period. The amendments to these regulations are welcome because they start to allow people to get more exercise and get the economy going. It is easy for us out here to sort of criticise, but I congratulate the Minister on what he and his team have been doing under huge pressure.

The Prime Minister has talked about the importance of common sense, and we now need to start thinking about these regulations and our whole approach to the response to Covid, using common sense, and involving other parties in this. I would be keen to hear from the Minister how we can start to involve the public in the way that these regulations evolve moving forward. For example, there is data at a local level about how many people are infected with Covid. Instead of using law and regulations all the time to shape behaviour, which can be a crude instrument, are there ways almost to

gamify and allow citizens to understand the situation in their local area, understand what might be causing it locally and start to adapt their behaviour according to where they are, in the country or in a city such as London?

Secondly, understandably, we have had to bring in these regulations, but they are a huge infringement on civil liberties. So far we have had to take into account the needs of the NHS and public health in shaping these regulations, but do we also need to think about the enforceability of these regulations and laws? For example, on the new change that will allow people to meet one other person from outside the household, do we believe that the police have the resources to check every time they see people in the park whether an additional member has joined that household or whether they are part of the same family? Could we not start to work together with experts in this House, in the police and in the legal system, to shape laws based on natural law and common-law principles that are more tailored and risk-based? For example, we do not seem to have the resources to shut down large gatherings when they appear, so how will we be able to focus on policing individual families?

Moving forward, we will need to have a much wider debate to shape these laws, rather than the Government generating and issuing them and noble Lords in this House commenting around the edges. It feels as though we need to move forward and create these regulations together.

3.08 pm

**Baroness Wilcox of Newport (Lab):** My Lords, we understand that the regulations require a review every three weeks. However, it is of the utmost importance that this review should include a range of engagements and practical, meaningful discussions with the opposition parties, trade unions, and, not least, the First Ministers of the devolved Governments. Mark Drakeford said recently that he does not think there has been "sufficient" communication. He said that it has been three weeks since he wrote to Michael Gove asking for a "regular pattern of engagement" between devolved Administrations and the UK Government. He said:

"We didn't have, in my mind, that reliable rhythm of contact ... Where we had it, it was good. But as I said before it was in fits and starts"—

and he did not think that that was sufficient. Does the Minister agree that three weeks is far too long for one Government to receive a communication from another? Therefore, in the light of these comments, will he assure the House that he will engage with the Government so that Mr Drakeford's request for a regular pattern of engagement with UK Ministers becomes the norm and not the exception?

What are we doing in Wales to protect the population from the pandemic? Mark Drakeford announced on Saturday that the Welsh Labour Government would extend the stay-at-home regulations for a further three weeks, albeit with some modest adjustments, becoming the first UK leader to do that formally. Wales currently has six regional drive-through testing centres and eight mobile testing units operating across the country. Together with the ongoing rollout of an online portal for booking tests and the planned introduction of new home testing

kits, that will help significantly to increase daily testing in Wales. The message remains the same: stay home, protect the NHS and save lives. The Health Minister gave a further public update on the outbreak in Wales earlier today.

Another vital area for the Government to consider is local government. Councils, with their knowledge of their local communities, are ideally placed, with the skills, knowledge and experience on the ground to help the Government achieve their ambition to ramp up the level of testing and contact tracing necessary to defeat this disease. I did not hear the Prime Minister mention in his update anything specific about their important role in this public health crisis.

The LGA has said that

“the sharing of information is essential if we are to succeed in driving down the numbers of new people being infected once the lockdown is gradually lifted and access people who will not be reached by the new NHS app.”

Key sources of data are needed by councils, such as access to testing results across all sites, hospitalisation records for those with Covid-19, death certifications in which the disease is identified, and many more indicators, so that councils can identify hotspots, map where the virus is prevalent and plan for action. Can the Minister find out how much detailed liaison work is happening with local government on these matters and if not, why not?

3.11 pm

**Lord Alton of Liverpool (CB):** My Lords, the justification for not providing Parliament with a draft of these regulations, as is usual, has been

“the serious and imminent threat to public health”.

Notwithstanding that, the noble Lord, Lord Hunt of Kings Heath, is right to say that our duty is to ask awkward questions and to scrutinise. I will use my three short minutes to do that.

Confusingly, while these regulations impose restrictions and fines for members of the public breaking the lockdown, a Cabinet Minister has said of Covid-19, “let it run hot”. Our Minister, who replies for the whole Government, says that it was not his department that said this, but which of these strategies—carefully cautious or “let it rip”—is the Government’s position? When will he publish the scientific evidence behind the use of that phrase?

The Care Quality Commission is to investigate whether hospitals, some here in the north of England, might have broken the law by sending patients with Covid-19 back to care homes, where more than a quarter of Covid deaths have occurred. Managers and staff were not told that the patients being discharged were infected, triggering new fatal outbreaks among other residents. Will the Minister confirm that, in doing this, the law was indeed broken? When do the Government anticipate that the CQC will publish its report? Will the findings be presented to Parliament?

Will the Minister confirm that levels of coronavirus infection are probably at least five times higher among hospital and care home staff than in the wider population—I declare an interest in that one of my sons is an A&E doctor working in a hospital with Covid patients—and that coronavirus outbreaks in care homes are now leaking back into the community and driving

the epidemic? Sir Ian Diamond, the head of the Office for National Statistics, says that the R number, referred to earlier by the noble Lord,

“is driven by the epidemic in care homes”.

Will these regulations be used to stop carers visiting multiple care facilities? If so, what thought is being given to the care needs of residents and ensuring that staff who are infected are properly isolated?

I have written to the Minister about the importance of giving public health officers and local councils greater control over tackling the outbreak in their communities. Sir David King, the former Chief Scientific Adviser, says this will be the only way to contain new peaks. Does the Minister agree? I also hope that the Minister agrees that the need for a national care service, locally administered but with central oversight, on a par with the National Health Service and with more than Cinderella status, is now self-evident and long overdue.

3.14 pm

**Baroness McIntosh of Pickering (Con):** My Lords, I declare my interest with the Dispensing Doctors’ Association. These emergency measures were brought in at comparatively short notice, so I welcome the chance to review them, and congratulate the Government on what they have achieved in a very short time.

As my noble friend the Minister pointed out at the outset, the success of the regulations will depend on the clarity of the message and the collaboration and co-operation of the public. My concern is that the level of trust shown by the public may fall as time goes on and they become less patient. We should also note that the latest guidance, which is being issued and emerging this week, is perhaps more clouded and less clear.

There are inconsistencies in the guidance; for example, people are urged to go to work but may not have access to public transport, or have been advised not to use public transport but alternatives are simply not feasible. Those with children may have no childcare available, making it difficult for them to leave home and return to work.

Will my noble friend consider the difficulties of policing? Will the Government consider talking about physical distance rather than social distance, so that people really pay attention to the two-metre rule?

I understand that the sunset provision is not due to come in until 10 February 2022. Will my noble friend confirm that? As others have done, I urge him to really focus on the clarification required to differentiate between the regulations before us today, which are legally binding instruments, and the guidance, which is not, to ensure that the police have the very best understanding of the scope and that the regulations do not become a charter for neighbours to grass on their neighbours.

My noble friend is familiar with my interest in Regulation 61 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. This is particularly appropriate in rural areas. It allows NHS England to commission a dispensing doctor’s surgery to provide services to all—that is, not just its own registered dispensing patients—where a pharmacy is temporarily closed. This decision can

[BARONESS McINTOSH OF PICKERING]

be national or regional, but so far it has not been used in either circumstance. Why not? Having urged us all to avoid all but essential travel, will the Government consider keeping this under constant review and ask NHS England, both nationally and regionally, why this regulation, which permits dispensing doctors to dispense these medicines, is not being used to facilitate the lives of patients and allow dispensing doctors to do their work?

3.19 pm

**Baroness Hamwee (LD):** My Lords, the Minister has explained that the legislation is about to be superseded. The rule of law requires law, brought to both Houses of Parliament as soon as possible. There is enough confusion about what is intended without confusion on the part of citizens and the police as to whether what we are told to do or not do has the force of law, because a breach may carry a fine and, let us not forget, a criminal record.

I keep coming back to what is a “reasonable excuse”, which, as I understand it, is still the overarching criterion. Enforcement has to work with guidance; it is not enough for the Prime Minister to say, as he did yesterday, “everybody understands what we are trying to do together.”—[*Official Report*, Commons, 11/5/20; col. 30.]

The Secretary of State this morning seemed still unable to answer the question posed on Sunday: can I meet both my parents, all of us keeping well apart, physically distanced, in my back garden, accessed directly? If not, why not?

If I were an employer, I would ask—so I will ask the Minister—“If I ask or tell staff to return to work, could I be opening myself up to legal claims because of how I organise the work? If I do not tell them to return—I could do, but I am cautious—will they still get their furlough payments? If some return but others are too anxious to do so, does one group receive those payments but the other does not, and how do I handle that?”

We seem to be in a position of no substantive change—indeed, the Minister in his introduction reverted to the “stay home” mantra—but with added muddle. “Staying alert” to me is the language of not ignoring dodgy packages on the Tube, not being alert to something you cannot see. Are the Government taking advice from behavioural scientists and psychologists in both policy and communications? The noble Lord, Lord Wei, might agree.

I think all speakers so far have called for consistency and clarity. Do we need clear, and clearly *intra vires*, law? Yes, and so does the Secretary of State, who must terminate regulations that are not necessary or proportionate. He, and we, must be able to make that assessment. Did we need another slogan? Not in my view.

3.21 pm

**Baroness Wheatcroft (Non-Afl):** My Lords, we were not equipped to cope with the pandemic when Covid-19 hit. Despite the shortcomings identified in 2016 and the inevitability of such a viral attack, we had pitifully few intensive care beds and a dearth of PPE, so the lockdown was necessary to enable the NHS to gear up.

People have largely played by the rules, but the damage inflicted on people’s mental health and on the economy has been huge and should not be prolonged. The Government cannot continue prescribing people’s lifestyles as these regulations do. They must move towards trusting people’s common sense, not just talking about it. It is very clear who is most vulnerable to the virus. It is surely right to assume that a wish for self-preservation will deter those most at risk from assuming an unnecessary level of risk, but society as a whole must cope with living with the risk of Covid. We are accumulating debts, both public and private, which will affect the lives of generations. To prolong the economic misery is to make the treatment worse than the disease.

Lord Sumption has said:

“We have resorted to law, which requires exact definition, and banished common sense, which requires judgment.”

Sadly, as other noble Lords have said, exact definition is missing from much of the regulations, and it is very hard for people to apply judgment when regulations are trying to limit their behaviour. Now is the time to allow the public to exercise their judgment. If people judge it important to meet both their parents simultaneously, is it really the role of government to tell them they cannot? If young people want to go to the pub, is it really the role of government to tell them they cannot? The noble Lord, Lord Wei, suggested that perhaps the public could be told more about how the virus was behaving in their area. I agree that that would help them form their judgment.

Families must be able to resume family life. The hospitality and tourism industries must be allowed to reopen their doors. If that does not happen soon, for many of them it never will. Social distancing is a concept now well understood. The Government should trust the people to be sensible and socially distance themselves. They should concentrate their efforts on supporting our health service and care workers. This virus has highlighted the low priority given to social care for many years. Could the Minister say whether he believes that the regulations governing care homes are sufficient to ensure that they are not used as dumping grounds by the NHS?

3.24 pm

**Baroness Altmann (Con):** My Lords, I absolutely recognise the difficult balancing act for the Government in grappling with the trade-off between public health protection and individual liberty—between the economy and the resources to support our population in the future, and the national health. I would like to highlight two vital elements that are part of these regulations and the ministerial thinking that has been clearly outlined by my noble friend.

I turn first to liberty and health. The regulations state explicitly that “vulnerable person” includes “any person aged 70 or older”.

It is not clear that there is medical or statistical evidence to support the implication that anyone over the age of 70 is more vulnerable to Covid-19 than other age groups. We have done so much to improve the lives of older people, extending working life and life expectancy, so that those aged over 70 are now fitter and healthier

than many younger people. While I congratulate the Government on their decision not to relax the lockdown rules in any way that discriminates against older people, these regulations contain that implication.

The latest ONS data undermines the arguments made by some that age is a predictor of fatalities from this virus. The most recent information shows that the proportion of people aged over 70 who have died with Covid-19 is 81.5%, but the annual death rate for the over-70s in the UK is normally 82% of all deaths. This does not support age alone being a relevant factor. Of course, older people are at any time more likely to pass away than younger people, so I wonder if the Government will reconsider the position of the over-70s that is indicated in these regulations and remove any age discrimination from our reaction to this virus. We must differentiate between elderly people who are at extreme risk, particularly if they have previous medical conditions, and the rest of the population.

That leads to my second point. I listened carefully to my noble friend who introduced these measures. His words each time were that they protected the NHS and ensured that it had spare capacity. However, I am deeply concerned that, as other noble Lords have mentioned, this extraordinary focus on NHS capacity, which has now reached a significant high, has resulted in discharging people who are the most vulnerable to this illness back into the community or into care settings, putting others who are also vulnerable—and the staff—at risk too. I hope that my noble friend can confirm that the department will consider the importance of upholding our national values, which reject age or any other form of discrimination, and increase the parity of esteem between the NHS and social care, which is so important for the management of this illness.

3.27 pm

**Lord Campbell-Savours (Lab):** My issue with these regulations is the policy on masks. Under the heading “Restrictions on movement”, Regulation 6 states that “no person may leave the place where they are living without reasonable excuse”.

I propose that when the Government next review these regulations, they should add the following words: “Where a person leaves the place where they are living with reasonable excuse, as set out in Regulation 6(2)(a) to (2)(m), that person shall wear a mask or face covering of such design as to reduce the transfer of the virus.” It is now nine weeks since I first raised this issue in the House on 9 March. I then argued that the public should ignore the advice on masks and follow the practice of health professionals, who in the real world can be seen daily on television wearing them. The wearing of masks should be mandatory.

Yesterday’s guidance on masks adds little to the existing arrangements. In recent weeks, a Mr Phillip Collet recently returned from a visit to Thailand, where, interestingly, the total deaths number 56 in a population of 69 million, against the UK’s total deaths of 31,000 in a population of 66 million. Almost the entire population of Thailand wears face masks. Based on research, Mr Collet argued that the Hunan in China infection rate requires further study. That study found that, on a bus, one person infected nine people.

No person wearing a mask was infected. Half the people infected were four metres away from that single source. He went on to say that the study on *Prevention and Control of Covid-19* by Dr Wenhong Zhang should be considered. He argues that masks with valves can be dangerous and appeals for the scientific advisory committee to consider the Wenhong and other Chinese studies.

The argument is simple. Has Mr Collet got a case? Are officials in the department listening to him? Why have the countries he cites been the most successful worldwide in dealing with the virus? Is the real reason why HMG resist mandatory arrangements the fact that they have failed to organise, invite and promote the development of a domestic manufacturing capacity and instead are relying on cheap sources in China, which is now supplying the world and is overwhelmed? Can we also have an authoritative response by Ministers to Phillip Collet’s observations? The issues around masks are not going to go away.

3.30 pm

**Baroness Finlay of Llandaff (CB):** My Lords, I declare an interest as chair of the National Mental Capacity Forum. I want to highlight the tension between public health measures and protection of an individual’s rights, as defined through the Mental Capacity Act.

Those with learning difficulties, dementia and brain injury through disease or trauma often also have conditions that make them vulnerable to Covid, yet society has come to realise that the vulnerable are valuable—they enrich our lives. It has been difficult to explain to them why, and which, restrictions were needed, and it is now even less clear which parts of the guidance are statutory requirements. Is there now a need for a personalised app that tailors legally-apt guidance to the risk factors of a person and those in their household?

Going forward, people with capacity impairments will need more support to adapt to the lessening of the restrictions that were imposed for public health measures. The lockdown routines, creatively structured to keep people mentally and physically well, will change again as “isolation” becomes a nuanced word. Simply saying “use common sense” will not be enough. It will be hard work supporting those who are vulnerable as they adapt to widening and changing physical freedoms. Tasks such as keeping a 2-metre distance must be learned, using bank cards instead of cash makes people more vulnerable to fraud and exploitation, keeping a face mask on is difficult, and some have lost physical strength through decreased activity. The very vulnerable, and those with physical care needs, have carers coming and going. The plan of test, trace and isolate will keep them safe only if testing is rapidly and easily available, for both the person and those who care.

Will public health plans require that all testing facilities are local to the person and get results out rapidly? Which national external quality assurance systems are commissioned labs required to adhere to? Are false positives from RNA contamination, and false negatives from specimen decay in transit or from error-prone gene tests, being detected through audits? Unless those supporting the vulnerable are maintained virus-free, our second wave may be worse than the first.

3.33 pm

**Lord Blencathra (Con):** My Lords, I pay tribute to the SLSC for its typically thorough report, which identified errors in the original regulations. But with the changes announced by the Government over the last two days, I look forward to new revised regulations, which I hope will correct one glaring anomaly in the regulations of 26 March.

Regulation 6(2), relating to restrictions on movement, states that a reasonable excuse to leave home is

“the need ... to obtain basic necessities, including food”.

Leaving aside the word “need”, which is quite subjective, the term “basic necessities” has led to some police officers boasting that they were patrolling shopping aisles to make sure that consumers were purchasing what the police considered were “basic necessities.” I believe that that behaviour was quickly stamped on, but the law in this regulation still says “basic necessities”.

Schedule 2, Part 3 lists the shops that may stay open. These include supermarkets, petrol stations and hardware shops, among others. The Government have confirmed that consumers can purchase anything at all in these shops which they stock, much of which is not a basic necessity. Supermarkets selling homewares, toys, video games, clothing and compost are perfectly within the law. The term “basic necessities” is confusing and unnecessary. Regulation 6(2)(a) should therefore be changed to say: “to obtain any supplies, including food”, et cetera, “from the businesses listed in Part 3 of Schedule 2”.

Schedule 2 should also have a general provision which states that any shop or retail premises can open provided that it can maintain social distancing. If the supermarkets can limit numbers and space out customers, why not permit, say, Army & Navy Stores, Debenhams or any other retailer to open if they can set up safe systems?

Finally, I commend the statement in the Government’s plan, *Our Plan to Rebuild*, announced yesterday, that “the Government will continue to recognise that not everybody’s ... risk is the same; the level of threat posed by the virus varies across the population”,

and that the Government expect

“to steadily make the risk-assessment more nuanced ... some ... may be able to take more risk ... The Government will need to consider both risk to self, and risk of transmitting to others.”

Therefore, I hope that the new regulations will make it clear that everyone over 70 is not automatically vulnerable. The same goes for those of us with “underlying health conditions.” These cover a huge range of conditions, and not all of them have equal risk. We must let people over 70 or others in perceived risk categories get out, so long as they do not pose a risk to others. If they endanger themselves, that is their decision, so long as they do not endanger anyone else. I hope that my noble friend the Minister will take those points on board.

**The Deputy Speaker (Lord Palmer of Childs Hill) (LD):** Please could we all try to keep to the timings.

3.36 pm

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I am pleased to be able to speak in this debate on the regulations before us today. I intend in the short time I have to focus on two issues only.

Over 32,000 people have died in hospital from being infected with Covid-19. It is horrifying that the United Kingdom has one of the worst records in the world and the worst record in Europe. This pandemic will require serious questions to be asked about the Government’s handling of the crisis. However, that is the future, not for now.

Specifically, I am pleased to see amendments to the regulations with respect to attending burial grounds and gardens of remembrance to pay respects to family members and friends. There have been some welcome changes to the regulations and clarifications to guidance, as there were some instances of wrong or poor interpretation of the regulations, which was making the process of saying goodbye to a loved one even more difficult and distressing than it has been in these difficult and unprecedented times. We had situations where guidance or the regulations were interpreted, as I said before, harshly or even incorrectly. I was pleased that approaches I made to Ministers had some effect, and sensible clarifications in advice, guidance and actual regulations, made here and elsewhere, will make a difference. I appreciate the way in which the points I raised with Ministers were listened to and acted upon.

The second point I want to raise is the treatment of homeless people. The vast majority of homeless people are off the streets, but there are isolated cases where things have not gone well. I cannot see the point of prosecuting homeless people for leaving the place where they live. Court papers say, “living at no fixed address”. That seems completely ridiculous. I hope that the CPS will consider the stupidity of prosecuting such cases. Homeless people, like the rest of us, need to be protected, and criminalising them in this way does nothing to help them or the wider population. It just brings further problems, and it is a waste of public money, which could be better spent on getting a homeless person additional help and support. Can the Minister, when responding to the debate, bring the concerns I have expressed here to the attention of the Justice Secretary and the Crown Prosecution Service?

3.39 pm

**Baroness Jones of Moulsecoomb (GP):** My Lords, even I will admit that these regulations were urgent and necessary, but it is a democratic and constitutional outrage that they were implemented on 26 March and are finally being debated in this House only on Tuesday 12 May. The regulations mark the greatest loss of liberty ever imposed in Britain, yet they were slipped in as emergency secondary legislation the day after Parliament closed early for a month-long recess. Parliament had just passed the Coronavirus Act and we were told to go early to recess, as it was job done. Yet it turns out that the real measures had absolutely nothing to do with that Act. Why did we break up a week early for Easter, rather than sit to give proper scrutiny to such drastic legislation? It was wrong to do it like that; it reminded me all too well of the illegal prorogation of Parliament last year.

The Government say that they are adjusting their guidance to loosen the restrictions but they must make amendments to the regulations reflecting this. For example, last week the police were threatening sunbathers in parks with a fine; this week, they will not be.

Were the police wrong about the law last week or are they wrong this week? The law has not changed, so the circumstances in which people can be fined have not changed either. With so much confusion among police officers and police forces, anyone who is fined should be encouraged to challenge a fine through the courts to ensure that it has been issued lawfully and not based on a police officer's mistaken understanding of the facts or the law. Even so, too many people will be paying fines which have been wrongly issued. Can the Minister tell me, first, what the Government are doing to protect against this?

Secondly, can the Minister explain how the Government are addressing the widespread confusion among police, prosecutors and the judiciary, which has led to people being wrongly convicted under these regulations and the Coronavirus Act? Thirdly, can he provide an update on the Crown Prosecution Service's review of convictions under the legislation? I understand that it is even going to look at guilty pleas. Finally, can he explain the appointment of an anti-terror spook in the role of deciding how to lift lockdown restrictions, instead of the four Chief Medical Officers who were tasked with it before? When did this become a terrorism issue rather than a health issue?

3.42 pm

**Lord Rosser (Lab):** It is our hard-pressed police who have been left with the unenviable job of enforcing and interpreting these rushed regulations and guidelines, which did not receive proper parliamentary scrutiny prior to being introduced. Inevitably, there have been differences in the interpretation and application of these regulations, which have statutory force, and the guidelines, which do not. It is clear that senior police officers already feel that the confusion and lack of clarity is making their job of policing by consent increasingly difficult, if not impossible.

The situation will have been made worse by the Statement to Parliament yesterday from the Prime Minister, amending or changing the interpretation of these regulations and associated guidelines. The Statement was not exactly a model of clarity. The Prime Minister stated yesterday that

“from Wednesday there will be no limits on the frequency of outdoor exercise people can take”

and:

“You can drive as far as you like to reach an outdoor space.”—  
[*Official Report*, Commons, 11/5/20; cols. 25-6.]

But the Prime Minister later stated:

“Yes, staying alert for the vast majority of people still means staying at home as much as possible.”

Can the Minister explain how, under these regulations and associated guidelines, staying at home as much as possible for the vast majority of people is consistent with there being no limits on either the frequency of outdoor exercise that people can take or how far they can drive to reach an outdoor space? How can the police be expected to reconcile those obviously conflicting statements in enforcing and interpreting these regulations and any associated guidelines?

The regulations actually preclude anyone from leaving the place where they live without reasonable excuse and set out examples of reasonable excuses. Will the intended amendments to the regulations also reflect

the changes or modifications to the definitions of reasonable excuse that the Prime Minister announced yesterday, to which I have referred, or do the Government deem those changes to still come within the terms of the existing statutory definitions of reasonable excuses in the regulations and, if so, which definition or definitions?

Finally, were the changes to the regulations and guidelines announced by the Prime Minister yesterday the subject of any consultation beforehand with chief constables and elected and accountable police and crime commissioners? What are the powers of an elected and accountable police and crime commissioner to determine how, in practice, the changes announced by the Prime Minister yesterday should be applied to the constituents who elected them by the police force for which they are the PCC?

3.45 pm

**Baroness Barker (LD):** My Lords, in the Covid emergency legislation and these regulations, the Government have taken unto themselves enormous powers which remove from citizens many basic legal rights. Having done so, the Government should be under an obligation to subject their decision-making to scrutiny which is reasonable and timely. The fact that we are discussing today regulations already implemented in March is yet more evidence that the decisions made unilaterally by the House authorities to restrict House business and the ability of Members to take part are hugely damaging to democracy and preventing transparency.

The Minister, Jo Churchill, introducing the regulations in another place on 9 March, said:

“Tackling covid-19 requires a robust, integrated and proportionate response”.—[*Official Report*, Commons Delegated Legislation Committee, 9/3/20; col. 1.]

Today it is our duty to test whether the Government have done that so far.

What we have today is a set of regulations based on assumptions that the greatest threat to public health would arise from individual people ignoring advice to observe lockdown and defying advice on physical distancing. With some exceptions, the public have observed the public health advice pretty well. Where groups of people have not followed advice, local government, particularly mayors, has stepped in to restore compliance.

Ironically, we have seen instead that the biggest threat to life since the pandemic began has been in care homes, where it is said that there have been more than 10,000 deaths. That is not the fault of local government or local resilience hubs, which know and understand the needs of care providers and vulnerable groups in their area; it is a direct consequence of central government's failure to prioritise testing in care homes and testing of people being discharged from hospitals into care homes. Seven weeks in, local government and care providers are still being sent detailed guidance which is constantly changing, and they have to grapple with three different systems for ordering PPE, none of which works properly. Unsurprisingly, the death rate among staff in care homes is much greater than that in hospitals.

In this morning's Question about care homes, the Minister said:

“I reassure the House that deaths in care homes have always been part of the official figures.”

[BARONESS BARKER]

I ask him to write to me setting out the exact basis for his statement, because the Government's advice of 28 February on Covid in care homes stated that it was very unlikely that people receiving care in a care home or a care setting would become infected. Can he explain why in daily press conferences in March and April Ministers specifically used the number of deaths from Covid in hospitals? Has he listened to the BBC Radio 4 programme, "More or Less" which has cited frequent use of different statistics at different times by Ministers and government spokespeople in response to questions on these issues?

Since the beginning of the pandemic, decision-making has been based on two assumptions: first, that the main and lasting impact of the virus would be on the NHS and, secondly, that central government, and not local government, are always best placed to lead every initiative. As some of us have been saying since March, those assumptions may have been temporarily correct for the initial medical emergency, but they are the wrong basis on which to prevent further major outbreaks. The key to managing the virus while a vaccine is developed is to work in partnership with regional and local government, businesses and charities to design, implement and monitor effective public health systems.

The regulations that we are discussing today have been overtaken by events. However, as the country prepares to exit lockdown, it is more necessary than ever that we have regulations which make clear the legal basis on which government decisions and actions have been taken, and which make a distinction between the law and good practice.

Yesterday, the Government released what they called *Our Plan to Rebuild*, the Covid recovery strategy. It is not a plan; it is a set of assertions and aspirations not particularly well communicated. Page 33 announces 14 supporting programmes. On closer inspection, there are at most 10 programmes, all of them centrally determined. Other Governments within the UK and local government are simply the recipients of more responsibilities. Some of those are extremely complex, such as rebuilding a social care system which is broken, but there is little detail about how it will be funded. What we have is yet another example of central government issuing demands and announcing initiatives, such as the GoodSAM app, when they have not thought through how they will work in practice. It is more like a plan for central government to get the glory while local government gets the blame.

The Government's mantra is that they are following the science, but the job of government is more than that. It is the job of government to listen to scientific advice, consult relevant authorities and develop clearly understood legislation that will work. The public want to know what they can do safely to expedite the end of lockdown.

Will the Minister assure the House that no new criminal offence for individual citizens will be created as a result of this plan until the law and regulations have been voted upon by both Houses? There is an urgent need for clear legislation regarding key elements of yesterday's announcements so that public health officials, local authorities, the police, schools, workers, employers and businesses understand their legal

obligations and rights. Will the Minister undertake to bring the regulations, with the accompanying evidence base, to the House at the earliest opportunity? Will the Government allow sufficient time and information for Members of the House to understand how those regulations will be implemented?

When the emergency Covid legislation was passed, Ministers stressed that the government powers in that legislation would be turned on and off as necessary rather than being permanent. At that time, we asked for an updated table of measures in force at any one time so that people having to implement the laws knew under which legislation their actions would be authorised. Can the Minister say when that will happen? It is becoming a matter of urgency.

The Government have had unprecedented support from opposition parties and the population of the United Kingdom. For that to continue, they have to provide timely and accurate information that is trusted by those who hear it. I am afraid that this week, that has not been the case. By not doing so the Government have damaged their ability to take the swift action they have said they needed to take all along. The more the Government move into issuing statements based on soundbites rather than scientific evidence, the more difficult it becomes for politicians on all sides to support them in what they do. I hope that the Minister will take lessons from these regulations and that when the Government bring forward the next lot, they will have listened to the powerful messages given to them from right across the House this afternoon.

3.53 pm

**Baroness Thornton (Lab):** My Lords, I thank the Minister for his introduction and I thank all noble Lords for the many questions they have raised, which needed to be asked. We all wish these regulations were not necessary, but we also accept that they are. I think the counsel of the noble Baroness, Lady Wheatcroft, is dangerous and potentially fatal and I hope the Government will not heed it. This virus is still among us. It is not defeated, and we need to be cautious and, most of all, clear.

Before getting to the substance of these regulations and the future, it is important to remember that they represent the biggest peacetime restrictions that this country has ever seen and demand full parliamentary monitoring and scrutiny. Parliament put them through at speed, and I wonder whether the Minister agrees that a couple of hours of debate weeks after they were introduced cannot in future be sufficient to provide the level of examination and scrutiny that such sweeping laws require. The Prime Minister's announcement, the publication of the new strategy, the subsequent debates and discussion and the statement made last night on the BBC by my right honourable friend the leader of the Labour Party, Sir Keir Starmer, all point to the need for greater clarity and significantly better communication. The main point concerns the need to come back to Parliament with yet more amendments to these regulations. Does the Minister anticipate that we will see further revisions to the regulations, and if so, when?

I would like the Minister to address some of the problems caused by the mixed messaging and to try to rectify the somewhat shambolic government

communications over the past few days. For example, why have the Government called for people to return to work before the schools are open and not to go to work on public transport? To these Benches, that suggests a serious lack of understanding of ordinary people's working lives. For the Prime Minister to say that he is sure employers will understand that some of their workforce will have childcare difficulties makes me wonder which planet he and his Ministers inhabit.

Will the Government bring forward further regulations, or even legislation, to provide protection for employees who are faced with the dilemma of employers demanding that they return to work when their children cannot go to school? Furthermore, is a grandparent allowed to look after one child but not two? Who exactly should return to work—as the Prime Minister said, “The next morning”—and how should employers keep their employees safe? The guidance on funerals also needs further clarification. It was championed by my noble friend Lord Kennedy but I feel that there is still considerable variety across the country, with some councils taking awful decisions and causing serious distress to families. Can the Minister ensure that the guidance issued is being followed? My noble friends Lord Kennedy, Lord Campbell-Savours, Lord Hunt and Lady Wilcox asked many questions, which I hope the Minister can answer.

These regulations allow officers to arrest and fine people for breaking the lockdown but, as many noble Lords have said, we know that they have been misinterpreted in some cases, with wrongful cases identified through social media and press reporting. Indeed, the Home Affairs Committee in the Commons voiced

“concern that police were enforcing government advice rather than the letter of the law”,

which is less strict. Parliament's Joint Committee on Human Rights previously warned that the police may be punishing people “without any legal basis”, causing confusion over the extent of the law. Can the Minister confirm that all criminal charges made under the Act will be duly reviewed to ensure that they are appropriate and compliant? Given the pace at which the new regulations had to be implemented, it is not surprising that there have been early problems and errors, hence the need for a second set of amending regulations.

We all know the damage that this virus is doing to our society and we all know that these measures are needed to limit that damage, but we should not forget their impact. The physical and mental toll is huge, yet virtually everyone has been adhering to these rules in a way that is testament to the resolve and determination of the British people. Like the Minister, I congratulate everyone on their discipline, their thoughtfulness and the protection that they have afforded our NHS.

We acknowledge that this is terribly difficult. We do not want these measures to be in place for a day longer than is absolutely necessary, which is why they must be accompanied by openness, accountability and scrutiny at a greater level than we would ordinarily see. I note that the Chairman of the Secondary Legislation Scrutiny Committee considered a significant number of statutory instruments that make provision, either directly or indirectly, to deal with the coronavirus pandemic. He said:

“Some of these instruments temporarily impose significant and far-reaching restrictions on citizens and businesses, and the Committee noticed the use of a wide variety of different sunset dates and provisions.”

That is absolutely true. We face a very confusing legislative and regulatory framework.

I am also concerned about the monitoring of the Care Act and the other measures in the emergency legislation that we passed just before lockdown. When will we have the opportunity to discuss them in the House?

The three-weekly review of the regulations means that the Secretary of State is legally required to terminate any regulations that are not necessary or proportionate to control the transmission of the virus. Will a statement providing a helpful examination of that requirement follow the review, and will an Oral Statement follow each subsequent review? Can the Minister assure the House that relaxation of the measures and what will happen in the future will be discussed with opposition parties, employers, trade unions and, of course, the public?

That leads me to my next point. The current rules, sweeping as they are, are too numerous. As the Minister said, the next phase will contain a longer list of reasonable excuses to leave home; it is even more important that those rules be clear and consistent. The rules need to be harmonised with the advice, guidelines and all forms of official communication, as most noble Lords said. We do not want people to infer legal authority where there is none or to act outside the law. That is vital to preserve the rule of law. We know that the lockdown was a blunt tool—effective nevertheless—that will change by definition as restrictions ease. There will be a measure of nuance, distinction and variation that requires careful explanation and policing.

In conclusion, we on these Benches do not oppose the regulations, of course, but, given that they represent the most severe restrictions imposed on British liberty in modern history, it is critical that they be subject to continual comprehensive and transparent scrutiny.

4.05 pm

**Lord Bethell:** My Lords, this has been an important debate about what many noble Lords have rightly called important regulations that affect everyone in this country. I thank very much all noble Lords who contributed. Before I address specific issues raised by individual Members, I reiterate the Government's commitment to working in partnership with opposition parties and Parliament in developing the policies that find expression in the legislation we debate in this House.

This afternoon's debate has been a classic of its kind: an opportunity for the Government to hear, through parliamentarians, the concerns of a wide range of society, as demonstrated by the excellent contributions to the debate. The delay mentioned by many noble Lords is no one's preference and it is not for me to comment on it, but I reassure the House that the Government's commitment to accountability is undiminished. I remind the House that we will have a debate in September on the Coronavirus Act and that there will be a report on the measures in two weeks' time.

[LORD BETHELL]

I reassure the noble Lord, Lord Hunt, that the Government are listening to parliamentarians and to the public. I reassure the noble Baroness, Lady Wilcox, that there is daily engagement with the devolved Administrations that is characterised in particular by the very close collaboration of the four CMOs. We listen very carefully to front-line workers and their representatives, remembering that those front-line workers bear the heaviest burden in combating this terrible disease. They are the people who deserve our protection. I reassure the noble Baroness, Lady Thornton, that guidance for employees and their roles in the workplace was published yesterday. I would be happy to send a link if that would be helpful.

We listen to the scientific and other evidence that defines the set of policy options we must choose between. I will take a moment to reassure the noble Lord, Lord Alton, that no one in this Government has ever called for us to “run it hot” and that our priority has always been to save lives. Our choices are influenced by what the country can afford to do, as well as what we can afford not to do. Our challenge therefore is to reconcile what the weight of evidence points to as the right choice, alongside people’s appetite for that choice and the resources that we can bring to bear to implement it.

I reassure the noble Baroness, Lady Barker, that science remains at the centre of decision-making and transparency remains our watchword. My office will forward a link to her office of the table outlining the implementation measures under the Coronavirus Act, which was published on 7 May.

I completely recognise the very good points made by the noble Lords, Lord Hunt and Lord Scriven, and others, that the regulations issued by the Government are complex and sometimes feel overwhelming. Dozens of guidelines are issued by Public Health England to cover every aspect of public, business and civic life. It is a huge publication exercise and the goalposts have quite necessarily moved this way and that as we have sought to be flexible to adapt regulations to changing circumstances and to the advance of science.

On each occasion that we have issued new guidance, there have been, as the noble Lord, Lord Kennedy of Southwark, rightly pointed out, questions and requests for clarification from the public. However, I reassure noble Lords that the public have been hugely supportive. They massively endorse the lockdown regulations, and their understanding of complex guidelines has quickly settled down into common-sense interpretation.

It is worth noting that the number of police interventions has not been large, as suggested by the noble Baroness, Lady Jones. In fact, it has been tiny, with just 8,000 fines in total. That is reassuring considering the massive impact of these guidelines on people’s lives. In response to the noble Lords, Lord Scriven and Lord Rosser, I commend the police, who have applied the guidance on what the new laws will entail with remarkable common sense, professionalism and restraint.

The excellent advice that we get from our advisers is world class and has guided the choices that we have made. I reassure the noble Baroness, Lady Hamwee, that we work very closely with the Behavioural

Insights Team. I pay special tribute to the team and its director, David Halpern. They have brought humanity and communication skills to the otherwise clinical epidemiological advice of the scientists.

In response to the noble Lord, Lord Campbell-Savours, a face covering is not the same as a surgical mask or a respirator, which should both be reserved for those who need them most. However, we are encouraging the public to wear face coverings in enclosed spaces where social distancing is not possible.

I reassure the noble Baroness, Lady Finlay, that the most vulnerable have always been at the forefront of the Government’s thinking. We have provided guidance for those implementing the regulations on quarantine, which require that, where a person lacks the relevant mental capacity, the local health protection team should liaise closely with their relatives or other persons in making a decision.

I reassure the noble Lord, Lord Alton, and my noble friend Lord Wei that we are working closely with local authorities, the directors of public health and environmental health officers. That reliance on local services will only increase as our testing and tracing operations are rolled out in the community and our dependence on local knowledge is made all the more important.

However, we have to take account of what people in the UK can be expected to put up with. My noble friend Lady Wheatcroft raised very searching questions about these regulations and their impact on the economy and on personal freedoms. We recognise those concerns. I say in response that I never thought that in my life I would be standing at a digital Dispatch Box defending such draconian and expensive measures. None the less, I reject her analysis. We cannot protect the NHS and the people who are vulnerable to this disease if we do not implement the common-sense measures in these regulations, and the public, by and large, agree. That is why we have decided to protect the NHS and, in doing so, save lives.

I assure my noble friend Lord Blencathra that it is the disease and not the Government that is prejudiced against older people. I reassure my noble friend Lady Altmann that the guidance does not class individuals over 70 as clinically extremely vulnerable, and therefore they are not treated differently from the rest of the population on the basis of their age.

We now need to make careful preparations to return very gradually to a normal life, one day repealing these regulations. I assure my noble friend Lady McIntosh of Pickering that the regulations are due to expire six months after they come into force.

This is neither easy to describe nor simple to carry out. Emerging from the lockdown requires constant and careful watch over a wide range of evidence, followed by expert evaluation of that evidence, then a precise calculation of what legislation and other changes will be needed to bring about the successful outcome. I am sure there will be many occasions over the coming weeks—and, in all likelihood, months—when we can debate these matters further. For now, I assure your Lordships that we have heard today’s contributions and will reflect on them as we develop the policies.

I end by paying tribute to the resilience, patience and fortitude that the people of the UK have demonstrated every day for the last few months in helping combat this outbreak. That investment has been worth it. We have averted a catastrophe and flattened the curve. Because of this, the NHS and other front-line staff have been able to save lives. That sacrifice has been worth it. As a Government, we will play our part by making sure that the burden is no more onerous than it absolutely needs to be. These regulations ensure that.

*Motion agreed.*

### **Health Protection (Coronavirus, Restrictions) (England) (Amendment) Regulations 2020**

*Motion to Consider*

4.11 pm

*Moved by Lord Bethell*

That the Virtual Proceedings do consider the Health Protection (Coronavirus, Restrictions) (England) (Amendment) Regulations 2020.

*Relevant document: 13th Report from the Secondary Legislation Scrutiny Committee*

*Motion agreed.*

**The Deputy Speaker (Lord Palmer of Childs Hill):** My Lords, the Virtual Proceedings will now adjourn until a convenient point after 4.30 pm for the Motion in the name of the noble Lord, Lord Boswell of Aynho. The noble Baroness, Lady Henig, will be chairing the proceedings.

4.11 pm

*Virtual Proceeding suspended.*

### **Arrangement of Business**

*Announcement*

4.36 pm

*The announcement was made in a Virtual Proceeding via video call.*

**The Deputy Speaker (Baroness Henig) (Lab):** My Lords, the Virtual Proceedings on the debate in the name of the noble Lord, Lord Boswell of Aynho, will now commence. I shall preside over the first and last part of this debate, which is time-limited to three hours.

### **Beyond Brexit (European Union Committee Report)**

*Motion to Consider*

4.36 pm

*Moved by Lord Boswell of Aynho*

That the Virtual Proceedings do consider the Report from the European Union Committee *Beyond Brexit: How to Win Friends and Influence People* (35th Report, Session 2017–19, HL Paper 322).

*The Motion was considered in a Virtual Proceeding via video call.*

**Lord Boswell of Aynho (Non-Affl):** My Lords, it is more than a year since this report was published, since when the world has changed beyond recognition. The pandemic has compelled us to reset financial and social policies and has driven reappraisal of our nation's place among and beyond its immediate neighbours.

Even before it struck, we had in some sense resolved our national political crisis about Brexit. Just as our committee was reporting in March last year, Britain was forced to extend the departure date; this was followed by a change of Prime Minister, involved recasting the withdrawal agreement, and then saw the election of a Government with a clear majority and a mandate to get Brexit done. This report, which focuses on how the UK can maximise its influence with the EU post Brexit, is now being debated after we have formally left the EU but while the terms of our future relationship are still to be settled.

I retain in all this, I hope, some sense of proportion, yet there have been other domestic changes that set the context for this debate. It marks a coda personally, as I have retired from the chair of the EU Committee after more than seven years; and I am very grateful to the new chair, the noble Earl, Lord Kinnoull—if I may say, an admirable choice by this House—for his courtesy in inviting me to take the lead on this, my last bow. At the same time, I would like to thank members of the committee across the House for their dedication to, and expertise in, objective scrutiny, matched by the contribution of our excellent committee staff and, of course, our many diplomatic, official, academic and policy interlocutors. I would like in particular to thank the Senior Deputy Speaker, the noble Lord, Lord McFall, both for his careful work in reviewing our committee structures in the changed situation and for the contribution he made by convening the Interparliamentary Forum on Brexit, which has helped to develop mutual sympathy and understanding with the devolved legislatures. Finally, I welcome the presence of the Minister and of the many noble Lords who will contribute.

On re-reading the report, I have been struck by the sheer complexity of the process of disengagement set out in the withdrawal instruments and summarised in our Appendix 2. Not least among these are the most sensitive issues concerning Northern Ireland, where there were significant modifications in the revised protocol agreed after our report, but where there is still no agreement on how it will be implemented, partly because of the pandemic.

The report focuses on three main areas: first, the formal mechanisms for UK-EU engagement set out in the withdrawal agreement, notably the joint committee and the specialised committees that report to it; secondly, less formal mechanisms for engagement, including the UK's potential participation in the work of EU agencies and programmes, the role of the UK Mission to the EU, now known as UKMis, and other UK offices and organisations in Brussels; and thirdly, the matter of interparliamentary engagement, which the noble Earl, Lord Kinnoull, will also touch on.

Whatever view one might take of any extension to the transition period, the pandemic coupled with the Government's oft-stated distaste for any extension have compressed the timetable, and we now have fewer

[LORD BOSWELL OF AYNHO]

than 50 days before the June summit deadline. There is a need to clarify the arrangements applicable until the end of this calendar year, and their relationship with those that will follow, which the Government have indicated will depend on the structure of any future relationship. To date, the public have seen remarkably little effect from our formal withdrawal, and the pandemic has left little bandwidth in government to focus on the issues. These include governance and management of the remaining period of transition and, crucially the shape of any future relationship as it affects both trade and institutions. It would be very helpful if the Minister could today give us an appraisal of progress made in the talks, in spite of deadlines and the physical difficulties of communication, both in respect of trade and wider issues, with perhaps also an indication about how UKMis is working and ensuring that the collective UK voice and interests are represented in Brussels.

An important chapter in the report deals with the role of parliamentarians themselves. Over 50 years ago, long before I entered Parliament, I first visited the then EEC in Brussels. I was described at the time, rather generously, as “un expert anglais”, and I have been in and out of various European institutions and settings frequently ever since. Of course, parliamentarians are rarely inclined to take a unified position—it is through their divergence of view and diversity of experience that they make their distinctive contribution—but we all need to remain alert to all the opportunities for influence, networking and even simple personal friendships that will remain open to us.

This is no time to burn bridges or haul up the drawbridge. While for now we all understand that social distancing is important, conscious political self-isolation will never be a long-term goal. We must look to all aspects of our international relationships, both in Europe and wider afield. The pandemic reminds us that just as no man is an island, so our island nation, now rebranded as “Global Britain”, is built and thrives on constructive economic and political relationships.

As is typical in the immediate aftermath of a divorce, relations with the EU are frankly tense and difficult at the moment, and may stay that way for some time to come. But geography means that we will always be neighbours, with centuries of complex shared history. At some stage—the sooner the better—the current tensions and disagreements will dissipate and a new relationship will need to be forged. Both sides will need to work hard to rebuild it. The onus is on our Parliament to play its part, and I am confident that this House, not least through the skill and dedication of its continuing EU Committee, will continue to do so. In that spirit, and conscious that many other noble Lords wish to contribute, I beg to move.

4.45 pm

**Lord Foulkes of Cumnock (Lab Co-op):** My Lords, given the time limit, I will deal with just one issue in the report: the role of the devolved nations in the transition process.

It was about two decades ago, when I was Minister of State for Scotland, that I used to meet frequently with Scottish Ministers, on issues such as free personal care and the Barnett formula. We did not always agree,

of course—as my noble friend Lord McConnell will no doubt confirm—but we had discussions, on a day-to-day, week-to-week basis. Where are the Secretary of State for Scotland, Alister Jack, and his deputy, Douglas Ross, now? Why are they not discussing this? Of course the UK relationship with the EU is central, but there needs to be an acknowledgement that the devolved nations are also impacted and should be involved in discussions regularly. As we have seen, their lack of involvement in the coronavirus pandemic has resulted in confusion over the messages, whether it is “Stay at Home” or “Stay Alert”, and, even more importantly, around the practical measures being implemented in all the four countries.

As the UK takes the lead on UK-EU relations, will the Minister today spell out exactly how, in practical terms, the Scotland, Wales and Northern Ireland Governments will be involved? A continuation of the sporadic arm’s-length involvement will result in confusion, delay and bitterness. If the Minister agrees with me, as I think he does, that we favour the continuation of our United Kingdom, he and this Government are certainly going the wrong way about it.

4.47 pm

**Baroness Northover (LD):** My Lords, I thank the noble Lord, Lord Boswell, for all he has done to lead the European Union Committee with such skill and dedication. However, I note that aiming to “win friends and influence people” does not seem to be the UK’s strategy in its current negotiations with the EU. We hear that the Government almost seem to want them to fail, with lasting damage on both sides.

Leaving the EU with no deal, or an inadequate deal, is the next major crisis we may face. We could not stop a pandemic hitting the United Kingdom; we can stop the damage that would result from crashing out of transition on 31 December. At the height of this pandemic, surely the Government must extend the transition period.

As this report indicated, so long ago now, we need to relearn how to work constructively with our neighbours, with whom we share the closest approach to global challenges. With Trump in the White House and China increasingly dominant, the EU must play a major global role. As Sir Ivan Rogers pointed out, we will need to do more than ever before to make our new relationship work. That will need engagement from the very top.

We have another global crisis threatening us: climate change. A vaccine will not take that away. The Government have said that they wish to work with the EU on issues such as this. We used to maximise our influence by leading in the EU; now, we need to ensure that we are at least involved. That will be a difficult, but essential, task.

This report laid out some of the ways in which we can stay informed and engaged. I hope that it does not fall on deaf ears.

4.49 pm

**The Earl of Kinnoull (Non-Afl):** My Lords, while there is not time for the usual courtesies, I must begin by thanking my predecessor as chair, the noble Lord, Lord Boswell of Aynho, for his long service to the committee and his excellent and hugely informative opening speech; it was a fitting swan-song.

I shall focus only on the institutional structure for the future EU relationship, and in particular its parliamentary dimension. Our relationship with the EU—its 27 member states and 450 million citizens—will be complex, and a relationship of such complexity will need structure. Within that structure, the parliamentary dimension will be vital: to support dialogue, to build relationships and to promote transparency.

There are many precedents on which we could draw in designing such a body: for instance, the British-Irish Parliamentary Assembly or the Council of Europe Parliamentary Assembly. There are also precedents on the EU side. Indeed, the EU's March draft agreement included a clause setting up a parliamentary partnership assembly, made up of representatives of this Parliament and the European Parliament. While I do not agree with every word of the EU's proposal, I welcome it as a starting point.

When questioned by my committee on 5 May, Michael Gove agreed that

“engagement, discussion and dialogue between parliamentarians is always a good thing”,

but insisted that it was not for the Government to

“prescribe exactly how Parliament chooses to operate.”

The Government have placed the onus on Parliament to respond to the EU's initiative. I understand the constitutional propriety of that position, but how, given the large Commons majority, is Parliament to act unless the Government take the lead?

As chair of your Lordships' committee charged with considering EU matters, I believe very strongly that we need to establish a structured interparliamentary dialogue as part of the future relationship. Indeed, the committee supports that. My question to the Minister is: how exactly do the Government expect Parliament to signal its support for an interparliamentary body? Will a report from my committee be sufficient? Or a joint enterprise with the Committee on the Future Relationship with the European Union in the House of Commons? I am happy to do whatever it takes to try to break this logjam and I ask the Minister for his help.

4.51 pm

**The Lord Bishop of Durham:** My Lords, we must consider this report in light of the global pandemic. Decisions about our future relationship with the EU must be informed by Covid-19, recognising our international interdependence rather than being driven by ideology. Our European neighbours remain our friends and allies. This must continue for the sake of all, and especially for vulnerable children.

Concluding talks by the deadline under present circumstances will be very challenging. I am particularly concerned about the impact on refugee children and our continued co-operation with European nations through the Dublin Regulation. Can the Minister outline the Government's plans to ensure separated asylum-seeking children in Europe continue to be reunited with family members in the UK, whatever happens to negotiations?

I am anxious too about the impact on vulnerable children who are already here. The success of the EU settled status scheme may be compromised by the pandemic. Local authorities have a duty to apply for

their looked-after children. However, the Children's Society found that just one in 10 of local authorities' looked-after children has been awarded status. Considering Covid-19, what assessment have Her Majesty's Government made of the feasibility that all looked-after children will have applied to the EUSS by June 2021?

We must consider whether we can achieve a new, fruitful, negotiated relationship with the EU by December under current constraints. Will the Government set out criteria against which Parliament can evaluate the progress of negotiations? Do the Government accept that any trade deal must be negotiated by October at the latest if it is to be ratified before the deadline? At this time, when businesses are facing significant economic uncertainty, we must be mindful that these negotiations are an additional source of concern.

4.53 pm

**Lord Cormack (Con):** My Lords, I begin by paying tribute to my noble friend Lord Boswell of Aynho. He gave an exemplary, statesmanlike speech today. Two minutes does not give anyone a proper chance to develop an argument. I wish to make a plea and a point.

The plea is to my noble friend Lord True, who will respond to this debate. I beg him not to be as dogmatic and dismissive as he was in what I believe was the last debate on this general subject in the Chamber on 16 March. In that debate, I suggested that Covid was transforming the political and economic landscape and that to insist on ending the transition period on 31 December was neither necessary nor wise. I believe that everything that has happened in the weeks since that debate has underlined the good sense of that attitude.

The point I wish to make is this: I urge colleagues in all parts of the House to be alert to the dangers we face and the fact that our negotiations with the EU are not at the top of the agenda, either here in the UK or in the EU. We in the United Kingdom have troubles enough at the moment without risking, let alone choosing, the no-deal conclusion to the transition period.

4.55 pm

**Lord Liddle (Lab):** My Lords, I agree with everything the noble Lord, Lord Cormack, said, and in particular I underline his tribute to the noble Lord, Lord Boswell. I was a member of the European Union Select Committee for much of the time the noble Lord, Lord Boswell, was chairman. His was a very wise chairmanship; I learned a lot from him, and I am very grateful to him.

I want to make one simple point in these brief remarks. If we are to have influence in the world, it is very important—this is a key point, which the report stresses—that we build strong co-operation with other nations through institutions. Institutions matter to outcomes in foreign affairs. They create frameworks for regular meetings, they bring officials together, they facilitate instinctive mutual understanding of where other countries stand, and they make common positions easier to forge. I find it very depressing that the Government, in their drastic hardening of Brexit policy, have turned their back on institutional co-operation. They have rejected the possibility of a mechanism for

[LORD LITTLE]

co-operation in foreign affairs, refusing to talk about it. They have rejected an overarching framework for our relationship with the EU through an association agreement.

Gone completely is Mrs May's notion of a deep and special partnership with the EU. It has been consigned to the dustbin of history. I am sorry to be harsh, and I hope that the Minister will tell me that I am wrong, but I do not think so.

4.58 pm

**Lord Wallace of Saltaire (LD):** My Lords, I hope that the Minister can give us some evidence that the Government are concerned to win friends in Europe now that we have left the EU. February's white paper on the future relationship with the EU left out the references to last October's political declaration agreeing to an

“overarching institutional framework ... for ambitious, close and lasting cooperation”

in foreign policy and defence, cybersecurity, civil protection and health security. I note the unwise omission, in February, of co-operation in health security. Now, the protection of national sovereignty overrides questions of national interests and how we might promote national interests through co-operation.

The declared intention is to turn away from Europe. The Prime Minister told Parliament on 3 February that:

“We are free to reinvigorate our ties with old allies”,—[*Official Report, Commons, 3/2/20; col. 25.*]

as if EU membership had cut us off from other partners. We are leaving behind our oldest ally in the EU, Portugal, and we are leaving France, with which we now share a significant military deployment in Saharan Africa which the Government have told Parliament little about so far. We are putting political and economic relations with the United States first and foremost, even though we differ from Washington on an increasing number of important global issues.

This Government have no foreign policy. Beneath the empty phrase “global Britain” are buried illusions about a buccaneering Britain in a free-trading world, released from the shackles of a declining Europe. The current Foreign Secretary has made no attempt to build friendly bilateral relations with our European neighbours, nor has the Prime Minister. But the long history of British foreign policy has been centred on conflict and co-operation with our European neighbours. Now, 120 years after the Marquess of Salisbury stepped down as Conservative Prime Minister, splendid isolation is back.

5.01 pm

**Baroness D'Souza (CB):** My Lords, in the last few weeks, Ministers in both Houses have repeatedly been asked a series of straightforward questions about the ongoing EU-UK negotiations. They most often include: transparency, specifically of draft legal texts; the establishment of proper inter-parliamentary channels between the UK and the European Parliament; the role of Covid-19 in hampering the progress of negotiations, and the wisdom of delaying the end date of 31 December in the interests of reaching a mutually satisfactory free

trade agreement; and adherence to the European Convention on Human Rights and the rulings of the European Court. Apart from the last issue, the three other questions have been met with obfuscation, half-answers and non-answers. The Government's aim, constantly reiterated, is to finalise departure by the end of this year by any means and at any cost.

The distance between the time available to reach a satisfactory FTA and the need to abide by the legal requirement to allow Parliament to scrutinise draft agreements is absurdly short, so much so that it appears that, despite the UK Government's statement to the contrary, a no-deal agreement on World Trade Organization terms is anticipated. That would be a disaster. The Government's own model and that of independent experts predict that leaving without a trade deal would cost between 6% and 9% of GDP—approximately £2,500 per UK citizen. The cost to the Treasury would be in the region of £60 billion, which is one and half times our spending on defence.

May I ask the Minister three simple and direct questions? Will Parliament be allowed full access to the details of current negotiations, including draft legal texts, and when? If there is no agreement in sight by the end of July 2020, will the Government be content to reach December without an FTA? Finally, have the Government, following Operation Yellowhammer, updated arrangements in the event of a no-deal final exit from the EU?

5.03 pm

**Lord Caine (Con):** My Lords, I wish to make two brief points relating to Northern Ireland and Ireland.

Northern Ireland has, of course, been central to the Brexit negotiations since the referendum in 2016, and as an adviser at the Northern Ireland Office I was involved in many discussions on those matters. Yet during my time I became dismayed at how much the European Commission seemed to view Northern Ireland almost exclusively through the green-tinged lenses of the Irish Government and nationalist politicians. Indeed, at a meeting I attended with Monsieur Barnier in June 2018, I found myself calmly having to explain to him what was actually meant by the consent provisions in the Belfast agreement and why they did not turn Northern Ireland into a hybrid state. It was I, regret to say, a meeting that might have turned even the noble Lords, Lord Hannay and Lord Kerr, into rabid Brexiters.

I do not wish to denigrate the excellent efforts of our officials in Brussels, but whenever there was a difference of nuance between us and the Irish on Northern Ireland or the agreement, the Commission invariably tended towards the Irish view. Outside the EU, attention therefore needs to be given to how the UK Government, as the sovereign Government in Northern Ireland, can communicate their position much more effectively with the European Commission.

Secondly, as we move beyond Brexit, our relationship with our nearest neighbour, Ireland, becomes more important than ever. Our bilateral relationship has improved massively in recent years, which I warmly welcome, and it needs to be strengthened further. Strand 3 of the Belfast agreement contains institutions—the British-Irish Intergovernmental Conference and

the British-Irish Council—designed to promote closer co-operation, although the BIIGC tends to focus more on Northern Ireland. We need to look at how these institutions can be developed or at whether new and bespoke ones are needed. I have an open mind on that, but as we move beyond Brexit, it needs to happen.

5.05 pm

**Lord Wood of Anfield (Lab):** My thanks to the noble Lord, Lord Boswell, for this debate. I will ask the Minister five quick questions about the yawning gap between the EU's and the UK's negotiating positions on the future relationship. First, the political declaration agreed sets out the basis for the future relationship, but while the European Commission's position on the negotiations in February adopts the same structure as the political declaration, the UK's negotiating objectives are markedly different. Can the Minister explain why the political declaration framework was so quickly surrendered?

Secondly, can the Minister confirm whether Gibraltar is included in the territorial scope of the agreement automatically, or will it require, as the Commission believes, the prior agreement of Spain to be included?

Thirdly, the EU sees the future EU/UK relationship being encapsulated in an association agreement, which the political declaration also mentions favourably. Is that the UK's aim as well?

Fourthly, the political declaration agreed to forge an economic partnership that will be underpinned

“by provisions ensuring a level playing field for open and fair competition”.

Does that remain the UK Government's explicit objective, as they signed up to in the political declaration?

Fifthly, on state aid, the UK wants its own regime of subsidy control, but everyone accepts that state aid rules will continue to apply to firms in Northern Ireland after transition, as well as to UK mainland firms with employment activities inside Northern Ireland. Will the Minister acknowledge that the UK's so-called regime of subsidy control will be available and apply to only some UK companies, and far from all?

Finally, we are, as we all know, in the midst of a global crisis of proportions unimaginable just a few weeks ago. With such chasms between the parties on the future relationship discussions, so much attention rightly focused elsewhere and so much catastrophic disruption of our lives already baked into the next 12 months, how can it be anything other than reckless to proceed on the existing timescale for concluding a transition deal?

5.07 pm

**Lord Hannay of Chiswick (CB):** My Lords, when I saw the title of the report that we are debating, which has been so excellently introduced by my noble friend Lord Boswell, I wondered whether our esteemed EU Select Committee was pulling our collective leg. Then I saw the date of the report—March last year—and realised that it was addressed to a different Government in a different Parliament and, shamefully, not debated when it should have been ahead of our leaving the EU this January.

The negotiations on our new partnership—I use the word to which we committed ourselves in the political declaration, not the Government's reductive terminology of a free trade agreement—have begun, but so far they seem to be more a dialogue of the deaf than a prelude to a partnership. The Government seem to be applying social distancing to that political declaration, which provided an agreed framework.

Of the bones of contention so far identified, that of the level playing field is, in a way, bizarre, because we agreed in the political declaration to the following wording:

“Given the Union and the United Kingdom's geographic proximity and economic interdependence, the future relationship must ensure open and fair competition, encompassing robust commitments to ensure a level playing field.”

Do the Government recognise that statement as one to which we subscribed?

Then, there is the Government's determination to avoid an overall agreement out of a desire, apparently, to guard against the withdrawal of concessions in a different sector from the one in dispute. I fear that is futile and doomed to failure. Why? Because under the Swiss deal the EU has done exactly that, when it found that the Swiss were moving away from free movement and the EU withdrew access to Erasmus and research co-operation.

Thirdly, there is the implementation of the Irish protocol to the withdrawal agreement. Does anyone believe that checks and controls can be avoided? Obviously, there will be light ones, but none at all?

I fear that the verdict has to be that we are winning few friends and influencing few people. Why do we not just exempt the rest of the EU from the possible quarantine arrangements if they come here by aeroplane?

5.09 pm

**Baroness Wheatcroft (Non-Affl):** My Lords, I thank the noble Lord, Lord Boswell, for this excellent report. Reading it provides a clear reminder of how intertwined the UK is with the EU. After more than 40 years of membership, that is not surprising, but the report is also a reminder of how many issues have to be settled if our final split from the 27 is to be relatively smooth.

The political declaration refers to three overarching areas where agreement is necessary: the economic partnership, the security partnership and the institutional arrangements. Achieving agreement on all that by the end of this year was never going to be easy but Covid-19 has rendered it virtually impossible. Governments have had to give their full attention to a single priority—tackling the virus—but even if the current fragmentary negotiations could produce a consensus, business simply will not be able to cope with the radical changes that final departure must bring.

The UK is no longer a member of the EU—that is not up for debate—but we need to remain in lockstep for a little while longer. Business cannot cope with sorting out the effects of the virus while simultaneously preparing for a new, but as yet unknown, relationship with the EU. The transition period must be extended, as many noble Lords have said; the sooner that happens, the better for business. The Government have said that

[BARONESS WHEATCROFT]

they will not ask for an extension, in part because business needs the certainty of the December deadline. That is simply nonsense. There is no certainty in a departure into the unknown. The EU 27 share the pressures that a December rupture would create. An extension is in their interests too. If we wish to remain friends with the EU, let alone retain influence in it, a request for an extension must happen immediately. In the light of the changes wrought by Covid, why do the Government refuse to contemplate an extension?

5.11 pm

**Lord Duncan of Springbank (Con):** My Lords, as a former MEP, I should consider a two-minute speech a luxury.

I will focus on a single point that the report does not cover in detail: climate change. The UK has been an active—indeed, a leading—participant in the EU's endeavours to address climate change. With the postponement of the COP 26 gathering in Glasgow for another year, we have an opportunity to reconcile and resolve our relationship with the EU. There are certain elements on which we can do good, and there are certain areas where, by sharing, we can help all countries in the EU. We are in the middle of a crisis in terms of the pandemic, but perhaps the greater challenge going forward is how to interweave our ambitions to address the wider challenges of climate change.

I am specifically concerned about our relationship with the Emissions Trading Scheme. I would welcome some detail on that, perhaps not at this moment but in the future. I believe that we have an opportunity at COP 26 in Glasgow to demonstrate leadership, but we should do so together with the EU. Together, we can achieve more, particularly on climate change.

5.13 pm

**Baroness Smith of Newnham (LD):** My Lords, like other noble Lords, I thank the noble Lord, Lord Boswell, for his chairmanship of your Lordships' EU Select Committee. Through his personality and role, he was able to demonstrate how one can win friends and influence people. The role of individuals, as well as that of Parliaments, is important in co-operation and building relationships.

In its excellent report, the committee noted that the UK

“will need to adapt quickly, working harder and more strategically to make use of all available tools to maximise its voice in Brussels and beyond. This in turn requires a long-term commitment, of energy, time and financial and human resources.”

Does the Minister believe that Her Majesty's Government are delivering on those requirements, particularly in the context of the Covid-19 crisis?

The Government's report clearly says that “changes have been made in Brussels.”

Can the Minister explain the nature of those changes? What advice have the Government sought on the best mission for a third country to have in Brussels? For example, have the Government taken advice from our friends in Iceland or Norway, who have extensive experience of being third countries?

Finally, do the Government accept that, to be influential, we need to go beyond the sterile debates that we have had so far—perhaps also beyond Pontignano and Königswinter? They do not contribute, on their own, to civil society. Will the Government commit to supporting exchange mechanisms and the continuation of schemes such as Erasmus?

5.15 pm

**Lord Kirkhope of Harrogate (Con):** My Lords, as others have suggested, a lot of water has flowed under the bridge since this report was published. Indeed, that large amount of water is—metaphorically speaking—now sitting behind a dam wall while we all wait to see whether the wall will hold or the dam will burst at the end of this year.

As a former MEP, I am conscious of the critical situation that exists between the UK and the EU. It is clear to most people that it is vital that we reach agreements covering many things, including the environment, trade, agriculture and fisheries and security. The last is of particular interest to me, as it is where I was involved for many years in my work in the European Union. It is vital to ensure a strong level of co-operation between member states to protect their citizens.

The Government seem confident that in these and other areas we can achieve good outcomes quickly. In security there can be no maybe. We cannot afford to leave any vacuum, especially if the virus crisis produces more opportunities for those who might do us harm.

No number of treaties, protocols, understandings and agreements can suffice alone. To ensure good and harmonious relationships with our European neighbours in future, we must really want that from our hearts as well as our heads. Many young people especially look to a future in which Europeans can continue to enjoy each other's company and benefit from shared interests and aspirations.

In the next few weeks and months, we need to display not only negotiating skills but a high level of positivism, good nature, diplomacy and pragmatism. I really hope that our leaders will deliver on that.

5.17 pm

**Lord Judd (Lab):** My Lords, I join those who have paid tribute to the noble Lord, Lord Boswell, for this very helpful—indeed, excellent—report. I take this opportunity to say how much we should all appreciate his dedicated work on the European scene for so long.

The work of the European committees becomes more important than ever. It is vital. I am totally convinced that Governments will be judged in history by their effectiveness in playing a dynamic part in international co-operation. The first reality of life—of humanity itself—is that we are, demonstrably, totally interdependent. We must therefore face the fact that the major issues that affect us—Covid-19, climate change, security, Ireland, migration or economic stability—cannot be successfully handled but on an international, co-operative basis.

I am concerned: where is the evidence that the Government understand this and have made it central to their whole approach to governance? For example, what is the evidence of what the Government are

doing with European allies to combat the ugly and sinister jingoistic nationalism that is now, unfortunately, raising its head again in Europe, the United States and elsewhere in the world?

It is on international co-operation and effectiveness—not least with our European allies, although we are no longer part of the European Union—that our future depends. Anything less is to betray our people.

5.19 pm

**Lord Broers (CB):** My Lords, I compliment the European Union Committee and my noble friend Lord Boswell on this report. I agree with all that it says, but I suggest that it should have said more, especially about the continued participation of the UK in the new European education, science and innovation programmes. These programmes include Erasmus, which was mentioned by the noble Baroness, Lady Smith, and Horizon Europe and those of the European Research Council and the European Research Infrastructure Consortium. In this report the words “Erasmus” and “Horizon” appear only in footnotes and in a diagram, although reference is made to the European Union Committee’s comprehensive report published in February 2019 on Erasmus and Horizon. Overall, however, this report does not give them the prominence they deserve.

Our future competitiveness as a modern nation will depend to a huge extent on the skills of our citizens in all spheres of endeavour, and our economic survival will rely on the application of modern advances in engineering and science. It seems we have successfully negotiated our continuance in Horizon 2020 through to its conclusion in 2021, but the situation with Horizon Europe remains unclear. That programme has a budget of €100 billion and even more important than the money will be our involvement in the partnerships that it would provide. Modern advances in science, and especially in innovation, can be made only through collaboration. It is an inherently global activity and success is strongly influenced by proximity, so a large fraction of our collaborations have been with our European neighbours. Our engineers and scientists know each other. There is a lot of mutual admiration and successful collaboration. Let us make sure that that continues. Many pages of the report are devoted to the specialist committees and their importance, but I could not find any committee devoted specifically to our collaboration on education, science and engineering whose members are engineers and scientists. Will the Minister assure us that the Government are committed to doing all they can to preserve as many of our educational and scientific collaborations with Europe as possible?

5.21 pm

**Lord Moynihan (Con):** My Lords, I too welcome the European Union Committee’s report, which makes a series of excellent recommendations. The one area of particular importance to me is the necessity for ongoing co-operation between the UK and the many European entities which impact sport and recreation throughout this country and the European Union. Sport contributes £37 billion to our economy and employs 581,000

people, of whom 31,000 are European nationals. We must now take advantage of new methods of exerting influence on the EU after the transition period. We will need to build close relationships with the EU committees which impact sport and recreation at all levels and, where relevant, use the UK’s diplomatic representation to the EU to exert influence where necessary—and it will be necessary, not least in dealing with the fallout from the Bosman, Cotonou and Kolpak rulings. We must finalise and then monitor and retain reciprocal arrangements which enable skilled workers, for example in seasonal sports such as skiing, to pursue employment.

Sport is also a major soft power tool for promoting our products and services and, indeed, our reputation within the European Union. We need ongoing relationships to make it easy for fans and visitors from the EU to travel to and from the UK. UK sports bodies currently benefit from European Union funding as well as UK funding. They build knowledge and share good practice with their European colleagues. I urge the Government to look at ways of retaining relationships with the relevant institutions and committees and to seek continued dialogue and involvement with European Union programmes which benefit sport and recreation to our mutual advantage. We are inextricably linked to the world of sport and recreation in Europe, not least with the tripartite agreement with Ireland and France on which the future of horseracing in this country will depend. We must win friends and influence people to ensure a win-win relationship in the future.

5.24 pm

**Lord Campbell of Pittenweem (LD):** My Lords, the unwillingness of the Government—indeed, their refusal—to countenance any extension beyond 31 December is irresponsible, not least because it leaves open the possible catastrophic outcome of no deal whatever. I ask myself: what is the Prime Minister afraid of? He now has a majority of 80 in the House of Commons, and the remainers, many of whom have already spoken in this debate, are silenced.

After the virus crisis, we shall need friends and influence in Europe, but most of all we now need the best possible trade deal that can be achieved. It is no use looking to President Trump, as people frequently do. Current American unemployment and Joe Biden’s lead in the polls will mean that Mr Trump, once again, will be focusing on “America first”, and indeed, you might say, “second” and “third” as well.

The Prime Minister has a long and undistinguished record of changing his mind for his own interests. He should change his mind on this occasion for the public interest.

5.25 pm

**Lord Ricketts (CB):** My Lords, it was great to again have the wisdom of the noble Lord, Lord Boswell, at the opening of this debate. I want to focus on the crucial area of justice and security co-operation with the EU. That has a direct impact on the safety and security of the British people, yet we have heard very little about what is happening in the negotiations on that.

[LORD RICKETTS]

No off-the-peg, oven-ready security arrangement with the EU is available. Different countries have different levels of access. Norway and Iceland come closest, but they are in the Schengen area. Even if Britain could get a deal as good as that of Norway and Iceland, it would provide only what a British government document in 2018 called

“a limited patchwork of cooperation”,  
with

“a serious shortfall in capability”.

Therefore, logically we need an even closer security relationship than that of Norway and Iceland. It cannot be the government objective that we should leave the EU and become less safe, yet the February Command Paper devoted only four rather brief pages to this vital area.

What are the prospects of negotiating an unprecedented level of security co-operation with the EU in the coming weeks? The answer is that we simply do not know. Michael Gove told the EU Committee last week that he hoped for an agreement, largely, I think, on the basis that we have been a considerable provider of security information to the EU. However, that seems to depend on the EU being willing to abandon its own red lines.

This is not an area where EU leaders can simply cut us a political deal. These are legal instruments with specific obligations. Given the importance of this area for national security, can the Minister give us some indication of when the Government will break their radio silence about the negotiations on justice and security, and what contingency plans are they making in case there is no future relationship agreement and we fall off a security cliff edge seven months from now?

5.27 pm

**Lord Howard of Rising (Con):** My Lords, the committee’s wish to remain friendly with the EU is laudable but it is difficult to see how this noble aim can be achieved when EU negotiators treat the UK as though it is a colony and not a sovereign nation, and the EU persists in making unreasonable demands.

Britain still being under the jurisdiction of the European Court of Justice until 31 December might contribute to that attitude. This jurisdiction is overlooked by those suggesting extending trade negotiations. It is an important point. Ultimate legal authority is the essence of sovereignty, and the British people, who have consistently voted to leave the European Union, would resent any extension of ECJ jurisdiction.

What would also make any extension horribly catastrophic is the recent refusal by the German courts to accept the authority of the European Court of Justice. The knock-on effect of this will be that strict limits on quantitative easing will be imposed by the European Central Bank. Instead of printing money, billions of euros will have to be found. An extension beyond 31 December would keep Britain under the European Court of Justice, meaning that we would be obliged to contribute unlimited funds to EU bailout schemes, with no say on either the amount or the timing. Getting into such a situation would create friction and impede any sort of friendly relations.

5.30 pm

**Lord Morris of Aberavon (Lab):** My Lords, my first point is the issue of cost if the Government change their mind, inevitable as it seems, about leaving the EU in December for the transition period. We have been told that this is a matter not of ideology but of practicality. However, it is a political necessity as the Government’s credibility is at stake.

Mr Gove told the Commons Committee on 27 April that it would cost billions of pounds if we sought an extension. I have no doubt that if the past negotiating stance of the EU were repeated, it would demand its pound of flesh; it has a big black hole to fill in its future budgets. But what would “billions of pounds” mean if we sought an extension of up to one or two years? Have we asked the EU? All negotiations will be virtual. As I understand it, no physical presence is envisaged. Coronavirus has changed the whole atmosphere and political situation in Europe. It will not be easy to hold negotiations in the next year. I would like to know something more than what Mr Gove says. Merely trumpeting the phrase “billions of pounds” is not good enough.

My second point arises from what the noble Lord, Lord Foulkes, said about the devolved Governments. Paragraph 96 of the report speaks of an “enhanced role” for the devolved Governments. What does this mean? Are they anything more than warm words to keep the devolved Governments quiet? The committee argued firmly that they should be involved at summit, ministerial and technical level, as envisaged in the political declaration. The Government in Cardiff would be interested, as would all the other devolved Administrations, in an explanation of what is envisaged by the Government by “enhanced role”.

5.32 pm

**Baroness Randerson (LD):** My Lords, the Government’s behaviour in the current talks is the antithesis of the approach recommended in the report. Just because the virus has eclipsed Brexit as an issue in the news does not mean that the problem has gone away. EU diplomats were very studied in their understatement when they summed up the negotiations as “disappointing”, but beneath that there is a realistic assessment that the UK Government are deliberately wasting time. Phil Hogan, the EU Trade Commissioner, stated that the UK Government believe that they can hide the Brexit economic fallout by blaming the virus for everything, and he is undoubtedly right.

A no-deal Brexit was always going to be an economic disaster, but as we face the deepest recession for 300 years, according to the Bank of England, it would be reckless in the extreme. As the *Times* put it yesterday, it would be “unhinged”. Already the Government have been forced to backtrack, for instance, on the attempt to go it alone on PPE. We need our international neighbours now more than ever. In the worst crisis for three-quarters of a century, the Prime Minister needs to realise that the best leaders are those who can adapt to circumstances. He needs the strength of character to acknowledge that it is wrong to cling to the idea of getting negotiations done by the end of this year. If the UK is to win friends and maintain our influence internationally, he must seek a two-year extension.

5.34 pm

**The Earl of Sandwich (CB):** My Lords, I agree. The VE Day anniversary reminded us yet again how closely knit our history is with that of our European neighbours. We all lost family members in the last war; we must strain every sinew to ensure that we continue to build a peaceful Europe from now on. Europe is looking to us for some real leadership in the negotiations and today's debate provides a new occasion for Europe to meet all its old friends in this virtual Chamber. The battles have ended; Euroscepticism in our Parliament is, I believe, becoming out of date.

As others have said, we must revive the political declaration during this transition year to retain the very best elements of our relationship. Look at what has happened during the pandemic and how we have compared our results daily with those of our European friends. We have not come out particularly well in the comparison, but we needed to situate ourselves within Europe, not in some land mass out in the Atlantic. I congratulate the Government on weathering the pandemic and on apparently entering the EU negotiations with good will.

There has not been a lot of progress but we are at least fielding a strong team and we must get on with it. Does the Minister remember the violence of the cod war? Does he think, for example, that we are making enough effort to find an agreement in fisheries? From now on, our EU committees will also have an enormous job in the scrutiny of treaties. The recent *Parliament and Brexit* report from UCL and many others states plainly that Parliament is not yet adequate to the task of scrutinising the increasing number of treaties. This is primarily a matter for this House—I declare an interest as a member of the new treaties sub-committee—but the Government must also show some restraint; indeed, their close co-operation with both Houses will be the best way to achieve this scrutiny. I hope we can live up to the legacy of the noble Lord, Lord Boswell.

5.36 pm

**Lord Balfe (Con):** My Lords, I begin by thanking the noble Lord, Lord Boswell, for his report. I am sorry that we did not debate it a good time ago but, at last, we are here. I also congratulate him on his distinguished chairing of the European Union Committee. The report is called *How to Win Friends and Influence People*. I want to concentrate on that, because the present governing party has made a complete mess of winning friends and influencing people. The only member of the Parliamentary Assembly of the Council of Europe taking part in this debate is the noble Lord, Lord Foulkes. I assure him that I am not implicating the Labour Party.

We send 36 people to Strasbourg; about half are British Conservatives. I am afraid that the way they behave there is—shall we say?—not designed to increase the influence of Great Britain. In particular, I mention the chairman of the Conservative group, Ian Liddell-Grainger, who, at the beginning of this year, together with Sir Roger Gale, invited the Alternative for Germany—the AfD—to join the Conservative group. In Strasbourg today, at a time when we are looking to influence Governments all around Europe, we have the British Conservatives allied with the AfD, the Holocaust deniers

and the racists. What will we say to the Conservative Friends of Israel and the Jewish community? We have rightly condemned the Labour Party in the past; I am pleased about what Keir Starmer is now doing. But really, if the Minister has any influence, he must realise that this does us absolutely no good. It is time for the Conservative whip and the Conservative leadership to intervene, stop pretending that this does not matter, and get us out of this alliance with near fascists.

5.38 pm

**Lord McConnell of Glenscorrodale (Lab):** My Lords, I too thank the noble Lord, Lord Boswell, for his introduction to this debate and for the way in which, while chairing the European Union Committee of your Lordships' House, he consistently sought to include the interests of the devolved nations of the United Kingdom in its deliberations and in the recommendations of its reports. That is as true of this report as it has been of previous reports.

I would like in particular to address recommendations 17, 20, 21, 37, 41 and 42. All stress the importance of engaging properly with the devolved Governments and Parliaments of the United Kingdom. Since 1999 and the creation of devolution in the UK, there has been strong engagement—consistent with the previous engagement with the Welsh and Scottish Offices—in UK delegations, in prior discussions and in ongoing technical work around EU legislation. That should continue after Brexit, as it did in the early years of devolution, when we were fully engaged in delegations, fully engaged in UK decision-making and fully engaged at the technical level too.

Also in relation to the Parliaments, I notice the recommendation that specific consideration be given to Members of the devolved Parliaments participating in any parliamentary Assembly. I think that the Parliaments in Holyrood, Cardiff and Belfast should automatically be part of the delegation, alongside the House of Lords and the House of Commons. That would be a positive step towards repairing some of the damage done to inter-UK relations over the past decade.

5.40 pm

**Lord Purvis of Tweed (LD):** My Lords, in our recent debate on economic forecasts, led by the Minister, we had three minutes in which to speak. At the time, the noble Baroness, Lady Noakes, said from the Conservative Benches:

“This is not accountability. This is a sham. The sooner we return to normal proceedings, without the excessive time-limiting that has been introduced, the better.”—[*Official Report*, 5/5/20; col. 382.]

I agree with her, and in the limited time available, I want to address trade.

It does not protect our interests, or persuade others to align with them, to set aside pragmatic co-operation of the kind described by the former chairman in his speech. The Government have set this aside, and instead our future EU and global trading relationship are highlighted by glib self-deception. In January, at the UK-Africa Investment Summit, the Prime Minister told the bemused African delegates that after Brexit,

[LORD PURVIS OF TWEED]

chicken from Northern Ireland would be enjoyed in Angola and Ugandan beef would be on UK lunch tables. Portugal, Belgium, Italy and Spain all already export meat to Angola and Ugandan beef cannot be imported into the UK because of health standards.

For the US discussions in March, the Prime Minister said that we would be trading salmon for Stetsons while ignoring the recent restrictions on processed fish imports announced by the American Administration. These are the glib elements and no doubt have some comic effect, but they are illustrative and speak to a greater truth. Moreover, they are noticed by the EU and by the rest of the world. The self-deception is that such new trading outside the European Union, reflecting growth of less than 0.1% of UK GDP over a 15-year period, is believed to offset, according to the OBR, a 4.7% reduction in productivity because of disruption to our main trading bloc.

After the economic forecasting debate, the Minister did not answer or write to me about to my four simple questions, so I will try again. What is the Government's core assumption about the impact on UK trade from January 2020 of their current EU policy, taking into context all new agreements made? Without honesty and openness, we will never protect our interests or align others to them—nor by replacing pragmatism with a politics in which one is influenced only by other acolytes. That is not a future that will benefit our country.

5.43 pm

**Viscount Brookeborough (CB):** My Lords, I also thank the noble Lord, Lord Boswell. The title of the report includes *How to Win Friends and Influence People*. Influencing people is made more probable by making better friends. That is because international co-operation is all about making friends between people and nations. Living on the border with the Republic of Ireland, we are aware of the importance of cross-border relations and friendships at every level. These links have been damaged by the Troubles, the lack of devolved government, and now Brexit at the government level. On VE Day 75 years ago, respect and friendship for this country were unsurpassed. Where has that skill in creating friendships gone? What of diplomacy?

We were slow to join the EU, and in joining it we lost many friends, especially in the Commonwealth, creating trade barriers and restricting immigration. The UK then became one of the most enthusiastic about EU expansion, allowing entry to countries such as Greece without it having fulfilled the financial criteria required. We were leaders in inviting the central European states to join. After all that, we are now the first to fight our way out of the EU. At present, we have angered our greatest friend, the US, through our dealings with Huawei.

During my 20 years of serving on various EU committees, I was always impressed by the friendship and welcome shown to us in Brussels and other European capitals. Our committees and their reports were always held in the highest esteem, mainly due to the leadership of chairmen such as the noble Lord, Lord Boswell, and the noble Earl, Lord Kinnoull. In contrast, it seemed it was not quite the same in the Commons. Perhaps the

other place did not place as much importance on the work of the EU. One eminent former MP described appointment to those committees as rather like being put in the sin bin.

It is not always a matter of what we do, but of how we do it, and that means winning friends and keeping them. I ask the Minister: how are the Government going to improve our working relationships, both within the EU and, most importantly, worldwide?

5.45 pm

**Baroness Falkner of Margravine (Non-Aff):** My Lords, I too was a member of the committee under the chairmanship of the noble Lord, Lord Boswell. It is no understatement to say that his outstanding tenure was undoubtedly during the most eventful period in the committee's history, and he led us through it most ably.

Given that this report has been overtaken by events, I want to concentrate on the Government's negotiations and aims, as set out in their February 2020 Command Paper. It sets out five areas where the Joint Committee and dispute resolution systems will not apply. These are mainly areas where the EU is, as we know, particularly concerned about a "level playing field". I can see the need for the United Kingdom to have regulatory autonomy, particularly as the Covid-related economic shock will lead to EU states adapting differentially to technological change and automation, which will impact directly on some of those areas where the EU wants a level playing field. The Government is therefore right in principle, but I urge them to retain a form of joint dialogue in a structured format, as we will need to have some common approaches to these problems, particularly our competition policy and our policy on those countries that have been blatantly shown to play by a different rule book.

Finally, I turn to financial services, where the report tells us, the equivalence assessments are separate from the FTA and expected to be completed in June 2020. Will the Minister confirm that that timetable still holds, and, if not, when they are likely to be concluded? As he will appreciate, they are terribly important for our financial services sector as we approach the end of transition.

5.47 pm

**Lord Bowness (Con):** My Lords, I too congratulate the noble Lord, Lord Boswell, and indeed his successor, the noble Earl, Lord Kinnoull, on the work of the European Union Committee, and in particular this report. I agree with its recommendations. However, I think it would be a little more fruitful if we had actually been discussing a report on the withdrawal agreement and political declaration negotiated by the present Prime Minister.

My questions to my noble friend the Minister arise out of the changes which were made in that withdrawal agreement and what has happened subsequent to the election. What do the Government actually believe is the status of the withdrawal agreement and the political declaration negotiated, with much fanfare, by the present Prime Minister? What has happened to the close relationships that were envisaged in the opening paragraphs of that political declaration? What has

happened to the matters referred to by the noble Lord, Lord Ricketts, of police and criminal justice co-operation and police and judicial co-operation? These are all now being replaced by our own new legislation. We are told that what we are aiming for by the end of December is a simple free trade agreement, but a simple free trade agreement will not, in my view, cover any of those issues. Indeed, the question is whether it will cover services.

I hope my noble friend the Minister will, on this occasion, answer my next question. Why, in the light of the current circumstances, and the likely economic fallout from coronavirus, do we not accept that circumstances have changed and seek the extension that, in my view, all reasonable people want? This is not trying to reverse Brexit; this is trying to make things better for the United Kingdom. I regret to say that, as we go forward, I have no confidence in the way that the Government are dealing with this issue.

5.50 pm

**Lord Lea of Crondall (Non-Aff):** My Lords, first, is it not becoming a likely consequence of the Government's present policy that they will be responsible for breaking up the United Kingdom?

Secondly, is it not a fact that the noble Lord, Lord Howard of Rising, could not be more wrong in characterising the EU as not negotiating in good faith? Is it not the case that Monsieur Barnier put his finger on it when he pointed out that it is we and not they who have moved the goalposts with regard to the content of the political declaration, which we presumably signed in good faith?

Thirdly, has not 2020 demonstrated two or three major points? The first is that we cannot rely on the United States any more than we can rely on China, and it is palpable nonsense that we think it is an advantage to go in the direction of saying that Britain gives the lead rather than that Britain is helping by comparing ourselves with best practice in the European area? Ought we not to stay within the European Economic Area, compatible with leaving the EU?

5.52 pm

**The Duke of Montrose (Con):** My Lords, I also congratulate my noble friend Lord Boswell on securing this debate. We urgently need to complete the structures of our new relationship with the EU and a vital focus needs to be what kind of friendship and influence we are seeking. We have just celebrated VE Day. As a boy, I believed all the belligerent rhetoric of that war and revelled in the news of the destruction of our enemies. But VE Day is a reminder that, actually, at a time of great peril, Britain gave its all for Europe out of a friendship that wanted the best for others as well as for ourselves.

Later, it was a revelation for me to travel across France in 1946 with my family and see the devastation of the cities. In Paris, we caught the moment where, for the first night since the liberation, Notre Dame was fully floodlit. On that journey, I met people from other countries who had suffered intolerably, learning something of their hopes and intentions. I became aware of the gigantic leap of faith that was required as the likes of Adenauer, Schuman and De Gasperi began

to draw together people who had regarded each other as enemies in a process that culminated in the Treaty of Rome.

For a number of years I was involved in a programme of reconciliation in Europe and elsewhere which gave me much more appreciation of the divide that had to be bridged. The coronavirus presents an equal challenge for us and our neighbours. I back the theme of other noble Lords, that Britain should try to ensure that Europe as a whole is working towards greater inclusion of the developing world. We still need to recognise that much of our original wealth came from these regions and they rightfully expect the creation of a just economic order.

5.54 pm

**Baroness Ritchie of Downpatrick (Non-Aff):** My Lords, I welcome the report and the references to the need for the EU and the UK to establish effective channels of communication and co-operation, plus the need to respect the Good Friday agreement in order not to weaken the confidence of unionist and nationalist communities in the political process. Unfortunately, I am afraid to say that the UK Government are not engaging properly with the EU, and with the pragmatic intent that the noble Lord, Lord Kirkhope, talked about, to resolve issues and to ensure, in the particular area where I live, the full implementation of the Ireland-Northern Ireland protocol.

Let me give two examples to show how the Government have not negotiated properly, with true intent. First, there is the issue of the transition: to obtain that good, effective deal, the transition period needs to be extended by two years, during this period of the pandemic. Secondly, the UK has refused to allow the EU to have a technical office in Belfast for the implementation of the protocol, to allow proper procedures to be put in place to deal with those customs arrangements at the ports and to provide unfettered access for business. Because of the shortness of time, I ask the Minister to address both those issues and to work with colleagues to ensure that that respect, pragmatism and level of co-operation return to the negotiations, to achieve an effective deal.

5.56 pm

**Lord Bruce of Bennachie (LD):** My Lords, I do not believe that any rational person should want anything but a friendly, influential relationship with our neighbours. However, we have a Government who are ideologically committed to a hard Brexit, pushing for UK exceptionalism just as nationalists everywhere do.

We are now engulfed with Covid-19 matters. This can be neither a cover nor a scapegoat for a destructive version of Brexit. The EU has produced a negotiating proposal of 440 pages, but we have no idea what our Government's response is. We now need practical steps for future engagement.

The agreed Northern Ireland protocol requires customs declarations for exports to Northern Ireland from the rest of the UK. Having denied this—the Prime Minister in particular—will the Government now acknowledge it and provide help and support to Northern Ireland businesses to help them handle the extra bureaucracy this will require?

[LORD BRUCE OF BENNACHIE]

The crunch of Brexit may be on the island of Ireland, but the rest of the UK is looking for positive answers on many other areas. For example, it has been mentioned that there is scope for continuing engagement in Horizon and Erasmus, involving contribution and access to funding. However, researchers and students want to know now what the Government propose. Will the Minister be able to tell us?

Our financial services have lost passporting rights, but they want optimal equivalence and a long-term understanding of how our financial services can still engage with EU customers. Can the Government give us any guidance on that? Professional and business services providers want to know if their qualifications will be recognised. A Joint Committee along the lines recommended by the committee has been established, but it is by no means clear how active or engaged it will be, or whether it will continue or transform after agreement is reached—assuming agreement is reached.

We need constructive relations between our Parliament, the European Parliament and the national Parliaments of the EU. Will the Government support the establishment of a parliamentary joint committee, as recommended by the EU Committee? The EU has said that it is prepared to include the UK in future meetings of COSAC. Do the Government support that? Please can we have some answers?

5.58 pm

**Lord Kerr of Kinlochard (CB):** The poet said that it is good to see ourselves as others see us. We should perhaps consider why we are now so mistrusted across the Channel. In my two minutes, I will give two reasons.

First, the perception is increasingly that we are not implementing the Irish deal. It is seven months on, with only seven months to go, yet there has been no consultation, no draft legislation, no staff recruitment, no procurement of IT or construction of infrastructure and apparently, as the noble Baroness, Lady Ritchie, noted, no office for the 27 in Belfast—although the Chinese have one.

Our friends well remember Mr Johnson in denial that his deal entails a two-way EU trade frontier in the Irish Sea, even though it is spelt out in his treaty. They now suspect that he plans to persist in prevarication, forcing them back to the inner-Irish border and blaming Brussels for what that would do to the Good Friday agreement. Our good faith is being called into question.

Secondly, we have rejected the 27's proposals for a new relationship based on the joint declaration. We will not let the Commission show the 27 our counterproposals—odd tactics if we are looking to win friends and get some influence. We have repudiated the level playing field concept that we had agreed in the joint declaration and encouraged the perception that we would be happy to have no deal.

As the noble Baroness, Lady Randerson, pointed out, the increasing perception across the channel is that, under the cover of the virus-led recession, we aim to conceal the self-harm done by our new and narrowly autarchic definition of sovereignty. Our old friends suspect that that is why we reject an extension of the transition period; the virus cover works only if the

crash-out is quick. The 27 know that the virus means there cannot be a comprehensive free trade agreement by December, as the noble Baroness, Lady Wheatcroft, pointed out. They cannot believe that Mr Johnson does not know it, so they question our good faith.

We are increasingly seen as irresponsible and untrustworthy. We are not behaving as did all the Governments for whom I was proud to work. It is very sad and, worse than sad, shaming.

6.01 pm

**Lord Empey (UUP):** My Lords, the report talks about winning friends and influencing people. I believe one of the key requirements for that is a strong and growing diplomatic push by the United Kingdom throughout the world. From 2017-18, even after the EU referendum, the United Kingdom started to cut back the resources it was putting into our Diplomatic Service. In fact, the Foreign Office was one of the few departments getting hit really hard by the budgets. Can the Minister assure the House that adequate efforts will be made to build up our diplomatic capability, once the best in the world? We are now confronted with the fact that we need it even more, but I believe it has been starved of resources.

Many Members have already mentioned the position in Ireland. I never thought I would see a Conservative and Unionist Government agree to a border in the Irish Sea. To try to pretend that our position in the rest of the United Kingdom is not altered by the contents of the protocol is misleading—it makes a huge change—but by using and adapting the existing structures of the Good Friday agreement, as my noble friend Lord Caine said earlier in the debate, we have at our disposal a mechanism by which we can find a way of resolving these matters without damaging the union. Whatever the United Kingdom does, it must ensure that its international diplomatic capability is reinforced, not cut back.

6.03 pm

**Baroness Noakes (Con):** My Lords, I was a member of the EU Committee when this report was published and pay tribute, as other noble Lords have, to the leadership of the noble Lord, Lord Boswell, when he chaired the committee. The report was published last year against the backdrop of the previous Prime Minister struggling and failing to get Parliament to approve her withdrawal agreement. Parliament was working against us leaving the EU.

Last December the British people gave the Government a very clear mandate to get Brexit done. We now have a strong Prime Minister and a Parliament, at least in the other place, committed to delivering the will of the people. Inevitably, some of the committee's recommendations have not stood the test of time.

We have now left the EU. The Government are working at speed on the long-term relationship with the EU, including a free trade agreement. They are committed to bringing this to a conclusion by the end of the year, and I was glad to hear my noble friend Lord True confirm last week that the Government have no intention of extending the transition period. There is clearly no time to spare in these negotiations.

This is the new context for parliamentary scrutiny. Parliament must of course still undertake its constitutional role of holding the Government to account, but in this new timescale it cannot realistically expect to be involved in the detailed negotiations of our long-term relationship with the EU. To that extent I regard the EU Committee's proposals—for example, on its desired involvement in the workings of the joint committee—as time-expired. Let us focus on holding the Government to account on what they achieve in practice, rather than on the detailed steps for getting there.

6.05 pm

**Lord Berkeley (Lab):** My Lords, I too congratulate the noble Lord, Lord Boswell, and his committee on this excellent report. It has taken a long time for it to see the light of debate. The report emphasises the important role of discussions and working together, both informally and formally, in what one can achieve when one is trying to ensure that our relationships with the rest of Europe remain as they should do. Years ago, I was on the European committee and, more recently, I have rejoined the goods committee, so this is of great interest to me as we go forward.

It was particularly interesting to see Michael Gove's one-page statement, dated 28 April, about the progress of negotiations. It was good to see that trade and goods justified a couple of lines. Fisheries will be extremely difficult. Transport, aviation and road haulage were mentioned, along with passenger transport, but where was rail? Rail was not mentioned at all. Apparently, there is no interest in what the manufacturers might want in terms of services, safety and standards for passengers and freight. There has never been any mention of associate membership of the EU Agency for Railways, even though similar agencies for maritime and air have been accepted in part by the Government. Can the Minister explain this omission? Some time ago, I heard that the reason for omitting rail was because the European Union Agency for Railways mentioned Europe in the title.

We have to ask ourselves what the Government want, for what purpose and for whose benefit. Is it just dogma or is it wasting time? We have a long way to go before we can justify spending £60 billion on no deal while at the same time spending between £40 billion and £80 billion on the coronavirus this year. Is it all necessary?

6.07 pm

**Lord Oates (LD):** My Lords, I regret the derisively short time available to address the important points in the report. This is a consequence of decisions made by the Lords Commission that have allowed technology to dictate function, arbitrarily curtailed the length of time for debates and created perverse speaking incentives, resulting in absurdly short speaking times on critical issues. Far from protecting the reputation of the House of Lords, these decisions make a mockery of our constitutional duty to hold the Executive to account and must be revisited. Our scrutiny role is needed now more than ever.

In the short time that I have, I want to focus on the position of Northern Ireland. In their response to the Select Committee's report, the Government state that they will ensure that the views of business in Northern Ireland

“are represented in discussions and will inform the implementation of the protocol.”

However, when the Select Committee visited Northern Ireland recently, it found that, far from that being the case, businesses were deeply frustrated at the UK Government's lack of engagement with their concerns. These concerns include a lack of knowledge of how the protocol will work, a lack of time to prepare for it to become operational, a default position that goods passing from GB to NI will be deemed at risk of passing to the single market, and the lack of clarity over unfettered access for NI goods to GB. People told the committee that the requirements for GB-NI movements were far beyond what seems plausible as a business model.

It is time for the Government to stop indulging in ideological obsessions and start listening to businesses and providing answers to their increasingly urgent questions—particularly at this time of great pressure on them from the Covid economic crisis.

6.09 pm

**Viscount Waverley (CB):** This is an important report and requires comprehensive consideration. Fostering relationships and working for certainty is key to the UK's future in this complex, uncertain world. As applicable to beyond the EU as within, engagement, trust-building, negotiation and agreement are key. I remain for ever hopeful that conditions can be met to reset a number of relationships.

The sum of four strands makes up relevant relationships: government, both central and local, parliamentary, the private sector, and civil society, including culture exchange and soft power. Central government's role must be to uphold standards and exercise its mind on such matters as national security, but also, importantly, to co-ordinate the other components. After all, it does not have a monopoly on relations.

I will run with the theme from the noble Earl, Lord Kinnoull. The report underlines the essential need for parliamentary scrutiny and engagement. Enhanced inter-parliamentary dialogue could serve a real purpose. However, the UK's APPG movement requires an urgent overhaul. Its role, and that of the IPU and CPA, should be properly funded and not be as a single focus group, so as to become effective in advising government. Chairs and officers should be selected for their approach to being even-handed, but will the Government take parliamentarians seriously or do they believe themselves to be a centralised cabal?

In my time as chairman of the APPGs for the five states in central Asia, I endeavoured to make the groups meaningful by signing co-operation agreements with opposite numbers to underline their importance to the broadest range of priorities, from security, the environment, climate, trade, human rights and others, including parliamentary exchanges. That process could become a model.

6.11 pm

**Lord Cavendish of Furness (Con):** My Lords, notwithstanding time constraints, I must also thank the noble Lord, Lord Boswell, for his opening speech and for his outstanding chairmanship of the committee that authored this report. I should very much like to

[LORD CAVENDISH OF FURNESS]

discuss many aspects of the report, especially the need to enhance diplomatic representation, as discussed in paragraph 79, and the importance of rebuilding bridges, but, in the light of the continuing calls for an extension to the transition period, I feel bound to give my reasons for asking the Government to resist such calls unambiguously.

An extension would not be in the best interests of this country. First, it would blight new trade negotiations and prevent deals already under negotiation coming into force. Secondly, negotiations for the EU's new multiannual financial settlement start in 2021. It is expected to include a vast fiscal stimulus package and accompanying legislative programmes to shore up an already ailing eurozone. Having left the EU, we would be likely to find ourselves burdened with massive financial liabilities and bound by laws over which we have no say in shaping. Such laws are hardly likely to be framed to serve our interests.

Thirdly, and regardless of what the noble Lord, Lord Lea, thinks, the EU is seeking to impose conditions on us that are less favourable than those other countries enjoy. If this impasse leads to a breakdown in talks in the coming days, the failure will not be of our making. Offering an extension would be an act of irresponsible self-harm. When we put this tragic pestilence behind us, let us reject the protectionism that rewards the rich and harms the poor. History, even recent history, shows that free trade enriches and liberates all people and all countries. Let us embrace it now.

6.14 pm

**Baroness Bowles of Berkhamsted (LD):** My Lords, beyond the time when we must follow EU rules, engagement and influence remain important. That is common sense wherever we have large trading relationships, but there is nowhere in the world more open and organised for receiving input than the EU. Beyond committees and agencies, Brussels is awash with consultations, conferences and evidence sessions. Good speakers are sought from around the world, and a well-presented case can be very influential. It is serious work. My record was speaking at six such sessions in one day, and making several speeches in a week was common. Getting the tone and content right is of paramount importance, and claiming that we are best in the world is not it. "World's best" is often claimed in this House. We do not always believe it, even if we want to, but I have also heard it in Brussels from Ministers and officials in multinational settings, listening in horror as it jeopardised relationships and carefully crafted compromises. I am glad UKRep is getting bigger, but I query whether it is enough and hope that those appointed are recognised, not passed over, when returning to London.

Co-ordination with industry is also welcome. We do not have the government and industry solidarity on policy that some countries display, and I doubt we ever will, but collective strategic activity is very effective. Others have long done it and at a larger scale.

Finally, one effectiveness factor that should not be underestimated is transparency to Parliament and the public. There is nothing as persuasive to any argument as their endorsements genuinely obtained.

6.16 pm

**Baroness Bennett of Manor Castle (GP):** Many noble Lords have referred to the fact that the subtitle of the report is *How to Win Friends and Influence People*. How the world looks at us and how it treats us is important to our prosperity and well-being as is the opinion of potential international students, business people looking to do business with our companies, and diplomats. The noble Lord, Lord Kerr of Kinlochard, said we are increasingly seen as untrustworthy and our good faith is being called into question. That has global impacts. Two relevant recent studies about how we are being regarded around the world are the Good Country Index and the Reputation Index. The Good Country Index is based on the objective criteria of environmental impact and impacts on the well-being of people around the world, and the Reputation Index is a large-scale panel of G8 citizens. Interestingly, we are about the same on both of them: 15th and 13th. If we think about what might have impacted on that, history over decades, even centuries, will have had an impact. The military adventurism in Iraq and Afghanistan and our hideous colonial history of abuse and exploitation will have echoed through the decades and centuries. Currently, it is reasonable to say that our international aid, the maintenance of our GDP level and stepping in to chair COP 26 will have had a positive impact. How we deal with the Covid-19 pandemic will also have an impact. Does the Minister agree that how we handle the Brexit transition will affect the world's view of us for decades to come? There is already irritation that we are forcing our European neighbours to focus on the Brexit transition when they would rather put the resources, time and energy into dealing with the Covid-19 pandemic. There is real and growing fear of a crash out and its huge economic and social impact.

The noble Lord, Lord Kirkhope, used the metaphor of water pent up behind a dam, and that might also be used for the amount of work related to Brexit stacking up in your Lordships' House, but if we think about that metaphor, Europe and the world are now in the middle of a giant earthquake with Covid-19. If we then are to inflict the flood of Brexit crisis and chaos on them, they will not thank us and it will affect their view of us for decades, even centuries, to come.

6.19 pm

**Viscount Trenchard (Con):** My Lords, I am grateful to the noble Lord, Lord Boswell, for introducing this debate, even if his committee's interesting report was published 14 months ago. Much has changed since then. We have a new Prime Minister who has successfully negotiated a new withdrawal agreement, and the country has left the EU, at last delivering on the decision of the British people and fulfilling the promise made by the Government led by David Cameron.

Nevertheless, much of the report remains valid, and the committee has served your Lordships' House well. The report deals extensively with the need to deploy whatever influence we can on our erstwhile EU partners during the implementation period. It recognises that our direct influence on the framing of EU laws and regulations has diminished because we are no longer in the room with the EU institutions. Does the Minister agree that the report should perhaps have

recognised that this loss of influence at the EU level will be compensated for by the increase in influence at the global level where we will, just as soon as the implementation period is over, be in the room in our own right as a sovereign independent nation?

In many areas, rules and regulations are increasingly set at the global level, and we now have an opportunity to play our part in ensuring that the development of the global trading system continues to be based on rules-based competitive free trade and mutual recognition of equivalence of regulatory outcomes. We can be a strong advocate for the adoption of proportionate regulation which gives less weight to the precautionary principle and encourages innovation. In this endeavour, our natural allies will be the United States and Japan, as well as our Commonwealth partners, including Australia, New Zealand, Canada and Singapore and the other members of the CPTPP, and I trust the Minister will confirm that we will seek early accession to it.

6.21 pm

**The Earl of Clancarty (CB):** My Lords, if a week is a long time in politics, then 14 months must be an aeon. From today's vantage point, this report feels almost optimistic. Between then and now, others have, as the noble Baroness, Lady Kennedy of The Shaws, memorably phrased it in March, captured the castle. If it is ironic that the best way to win friends and influence people is to have stayed in the EU, there is a double irony that even early last year it felt that we had a desire to maintain real contact with Europe. Sadly, much of the whole point of Brexit for Brexiteers is to sever many of those ties of communication and co-operation.

We had another taste of what may come on Sunday evening, when the Prime Minister talked—inappropriately, I felt—of developing a world-beating system for Covid testing, when Covid is a prime example of how we need to co-operate as a continent and, indeed, as a world in discovering the best ways to beat the virus. The irony of that, of course, is that the UK's ability to be a major part of Covid research will be threatened if we lose access to Horizon Europe, the successor to Horizon 2020.

This excellent report correctly identifies EU and other European agencies as means of exerting influence, although the benefit of co-operation—friendship, if you will—is the key in scientific research, in education and culturally. Those of us who believe in such continuing co-operation need to keep pressing the Government on these matters, so I ask the Government whether they are still actively seeking for the UK to remain a meaningful—that is, participating—member of the Horizon programme and Erasmus. It will be a tragedy if it is left only up to individuals and individual institutions to maintain such contacts as they can without the recourse to any of the facilitating structures that other European countries will continue to have.

6.23 pm

**Lord Howell of Guildford (Con):** My Lords, I am the first to acknowledge the excellent work of our EU committees and their reports, under both my noble friend Lord Boswell and the noble Earl, Lord Kinnoull.

However, in the case of this report and as we come to the end of this debate—it is not really a debate at all, but a series of statements—I have to register my profound disappointment. The strong commitment in the report for scrutiny both during the transformation period and in the future is admirable, but my disappointment can be summed up in a single sentence. Neither the Committee on the Future Relationship with the European Union nor this report takes any account whatever of the fast-changing events and trends on the other side of the channel, within the EU and its institutions.

Everyone acknowledges that Brexit will profoundly reshape the EU, and many European leaders and thinkers accept that the EU needs fundamental reform, having been created in the pre-digital age. Many also see that these changes are going on fast anyway, regardless of whether officials in Brussels recognise them. Treating the EU as an unchanging monolith, as a hierarchy, will take our future relations straight into a brick wall. This is over and above the major effects on the EU of the current pandemic crisis, which themselves will have considerable long-term impact on the whole EU structure and the relations between member states and the central authorities.

These enormous forces of change in Europe long predate this crisis and will continue long after it has subsided. My question to the Minister is: when are we really going to address them?

6.25 pm

**Baroness Ludford (LD):** My Lords, I, too, pay tribute to the long and distinguished leadership of the noble Lord, Lord Boswell. His committee made a very useful report a year ago, but the regrettable delay in us being able to debate its sensible proposals for governance, transparency, influence and scrutiny has meant that in the meantime the situation has been transformed—for the worse; it has become more complex, unpredictable and dangerous.

Just over 18 months ago, the then Prime Minister Theresa May agreed with the EU a political declaration on the future relationship that envisaged

“an ambitious, broad, deep and flexible partnership across trade and economic cooperation ... law enforcement and criminal justice, foreign policy, security and defence and wider areas of cooperation.”

The October 2019 version agreed by Prime Minister Johnson stated the same aim, in fact, apart from adding “with a comprehensive and balanced Free Trade Agreement at its core”.

However, the broad objective was in fact still there, including the explicit reference to it being a possible association agreement. Yet somehow, in the last seven months, the objective of the Johnson Government has shrunk to no more than a Canada-type free-trade agreement, apparently shorn even of that breadth of economic co-operation and with a series of individual agreements, as tweeted by Mr David Frost, instead of the umbrella of a broad and flexible partnership and its accompanying governance arrangements.

We look forward to these drafts being published, in the same way in which the EU published its 440-page draft text two months ago. However, whereas the EU referred in its draft to a new economic partnership,

[BARONESS LUDFORD]

that very notion appears to have been eradicated from the thinking of the present Government. They have resiled from what they sensibly signed up to just last October, preferring a messy set of 10 or maybe more separate agreements. This is at a huge cost. A month ago, the Office for Budget Responsibility said that a typical FTA would cost a potential 5.2% of GDP over 15 years through trade friction, restrictions on migration and red tape. Higher trade barriers would cause imports and exports to be 15% lower after 10 years, and UK productivity, already not exactly stellar, would also be lower. As my noble friend Lord Purvis of Tweed pointed out, the Government refuse to publish their own economic assessment of the Canada-style deal that they want with the EU, but they have done one on the claimed advantages of the US trade deal that they want—a measly maximum 0.16% of GDP.

Mr Gove told the Commons Brexit committee that he saw economic opportunities for people wishing to work as customs agents by filling in forms to allow trade with the EU. The private sector estimates a need for 50,000 of them; that is one example of the Government's idea of a silver lining, I suppose. What an extraordinary ambition it is for a Government to embrace—to have less than before, to erect trade barriers where none had existed and to create jobs only in the red-tape industry, all in the name of sovereignty.

Noble Lords such as the noble Lord, Lord Hannay, have spoken in this debate about level playing-field issues in the economic sphere, but, like the noble Lord, Lord Ricketts, I want to dwell on those concerning justice and security. In last October's political declaration, it was agreed that

“the scale and scope of future security arrangements should achieve an appropriate balance between rights and obligations—the closer and deeper the partnership the stronger the accompanying obligations. It should reflect the commitments the United Kingdom is willing to make that respect the integrity of the Union's legal order, such as with regard to alignment of rules and the mechanisms for disputes and enforcement ... It should also be underpinned by long-standing commitments to the fundamental rights of individuals, including continued adherence and giving effect to the ECHR, and adequate protection of personal data”.

Elsewhere in the political declaration, it was said that:

“In view of the importance of data flows and exchanges across the future relationship, the Parties are committed to ensuring a high level of personal data protection to facilitate such flows between them.”

However, the Government now seem to want the flows and exchanges without the commitments. It has been reported that they are seeking full access to the Europol database and the Schengen Information System, but in his evidence last week to the European Union Committee, Mr Gove gave as one reason for resisting EU regulatory standards that the UK could lose “freedom of manoeuvre” for data sharing across government departments to deal with Covid. That does not sound very promising in respect of securing an EU data adequacy decision.

In the same session, Mr Gove said, rather peevishly perhaps:

“I think that everything could be agreed—it all depends on the EU. For example, it would be within the EU's gift to give us access to the Schengen Information System, but it insists that we submit to the European Court of Justice's jurisdiction.”

Mr Gove absolutely knows that the EU is an organisation based on comprehensive arrangements of law, rules and enforcement. Indeed, elsewhere in his evidence he expressed satisfaction that equivalence in financial regulation

“is a rules-based rather than a discretion-based process”, which means that

“the EU would not promiscuously and whimsically withdraw equivalence”.

Yet he expects the EU to abandon its legal and data rules and promiscuously use discretion to gift us access to SIS. This is not serious; it seems to be preparation for a later complaint that the EU is being beastly to us in denying us the opportunity to have our cake and eat it—all this while the present Government and their supporters play fast and loose over whether the Human Rights Act, or even our membership of the European Convention on Human Rights, is safe in their hands. This is not the basis for a security and justice partnership.

On citizens' rights, I was pleased to hear Mr Gove say that the Government would want to “show flexibility and humanity” to EU citizens who miss the June 2021 deadline for applying for settled status, whereas, if memory serves, the Home Secretary, Priti Patel, said recently that they would be illegal residents after that date and thus subject to the hostile environment. Can the Minister confirm that there will be flexibility and humanity, not least for the looked-after EU children to whom the right reverend Prelate the Bishop of Durham referred? It was also notable that Mr Gove told the EU Committee last week that the “moral and social case” was “strong” for accepting the plea, most recently from Austrian Chancellor Sebastian Kurz, for physical documentary proof of status. This is a plea our committee has repeatedly made. Will the Government accept it?

In this debate, several noble Lords, including my noble friends Lord Bruce and Lord Oates, have expressed great disquiet at the Government's lack of action to implement the Irish protocol. I can only second that. Last week, Mr Gove said that opposing an extension to transition was not a matter of ideology but because it could mean that UK could be subject to EU laws and rules in a way that would not be in our interest in a range of areas. I have already referred to my fear that the Government want to diverge from EU privacy law. Can the Minister give any other examples of desired flexibility?

Surely, in any case, the pragmatic, non-ideological thing to do is to recognise that capacity and bandwidth for Brexit have been so diminished by Covid that an extension is just a no-brainer. We certainly need to try and keep a national Parliament office in Brussels on the premises of the European Parliament and to seek a joint parliamentary committee with the latter. However, I fear that our goals will fall foul of this Johnson Government's lack of ambition for a real partnership with the EU. This Government need to show that winning friends and influencing people is indeed what they have in mind.

6.34 pm

**Baroness Hayter of Kentish Town (Lab):** My Lords, this was a farsighted report. It was produced over a year ago, and although today the world feels quite

different—we have left the EU and we see the impact of the virus on both our economy and the talks, which were delayed and have now become virtual—nevertheless, the thrust of its analysis remains pertinent, despite the Government having dropped their plans for

“an ambitious, broad, deep and flexible partnership”,

and a move away from the October political declaration, signed by the Prime Minister, of which we have heard today. Furthermore, many of the 2019 report’s actors have changed, so it was David Frost, not a Minister, who was at the Zoom conference today negotiating the UK’s diplomatic, security and trading future.

The pandemic reminds us how global our future is and how important international co-operation needs to be. The historian, the late Michael Howard, said that

“all difficult problems must be addressed with partners and allies”,

while, in one of the most moving moments on VE Day, the German President, Frank-Walter Steinmeier, looking back 75 years to when Germany was so alone, said,

“for us Germans ... ‘never again’ means ‘never again alone’ ... We want more cooperation around the world, not less”.

As the noble Lord, Lord Boswell, said in introducing the debate, this is no time to pull up the drawbridge. Although social distancing is important, conscious political self-isolation will never be a long-term goal. The report that the noble Lord chaired urged the Government to engage with the remaining EU member states to seek to establish mechanisms for regular bilateral dialogue. Perhaps the Minister can tell us whether this has happened.

Britain stands on the brink of the worst recession since 1709, with huge implications for the type of deal that the Government should be negotiating, perhaps with a different trade deal from that envisaged a year ago, especially as the US—the potential market identified by the Prime Minister—becomes ever more protectionist, as noted by the noble Lord, Lord Campbell. We want to hear that our approach to the future deal is pragmatic and jobs- and economy-oriented, taking account of the likely reduction in air transport to the US and other distant markets. Can the Minister reassure us on that?

I do not need to repeat that one of the thorniest issues of Brexit—how to keep the Irish border free of checkpoints after Britain leaves the single market—has not been resolved. Throughout the UK, it is the implementation as well as the content of the final deal that is alarming business, farmers, lawyers, accountants and consumers.

With our EU exit having been moved from March 2019 to January this year since the report was written, the preparations for the agreed term is therefore shorter than the two years initially foreseen. The current deadline is not simply, in the Government’s words, June to start preparing for no deal but 31 December, when all the customs posts and tariffs must be in place, to say nothing of the paperwork. The Government, we hear, are training 50,000 form-fillers via Mr Gove’s customs agent academy.

The previous Secretary of State promised full and proper accountability to Parliament. He said that Parliament rightly expects that Ministers will be fully accountable to Parliament in the exercise of their duties on the future relationship joint committee. However, since the Prime Minister has taken political control of the talks, he has shown precious little inclination to report back and has failed to share the Government’s drafts either with Parliament as a whole or with a limited, confidential grouping of Parliament, or even, as the noble Lord, Lord Kerr, reminded us, with the 27 member states.

The Prime Minister also has failed to accord the devolved Administrations their proper role, as my noble friend Lord Foulkes and my noble and learned friend Lord Morris said. Despite a Written Answer I received from the Minister yesterday committing the Government to

“working closely with the devolved administrations throughout negotiations to secure a future relationship that works in the interests of the whole of the UK”,

I am told that engagement with the devolved Administrations has been superficial and tokenistic. They have not had sight of the legal texts and have had no opportunity to feed in meaningfully to the negotiating positions, even on issues which will fall to them to implement. Jeremy Miles, for the Welsh Government, called the engagement “deficient”, and while a meeting of the Joint Ministerial Committee on EU Negotiations will take place later this month, it will be the first such meeting since January, and this at a time of supposedly intense negotiations.

Gibraltar also raises big issues at this stage of the negotiations. It has already faced having to make seismic and costly adaptations with only a very short transition period, but this is now compounded by the huge impact of Covid-19. It will be critical for Gibraltar to have some sort of cushion or breathing space, given it has had to borrow vast sums to handle the crisis. Indeed, should the 14-day quarantine cover Gibraltar, unlike Ireland, there could be added tensions with Spain or about the future deal.

In addition to Parliament’s role vis-à-vis government is the call by the new chair of the EU Committee, the noble Earl, Lord Kinnoull, for a structured inter-parliamentary dialogue as part of the future relationship. We look forward to the Minister’s response as to how the Government and Parliament can work to establish such an inter-parliamentary body.

We hear that the talks are not making good progress, with substantial differences between the two sides on the level playing field, fishing and much else, and with EU officials wary of British efforts to make rapid headway on securing a trade agreement, retaining access to the aviation market and other core UK concerns, while leaving fishing and other issues in the slow lane. Yet again, the Government seem to be scaling back their ambition for a UK-EU trade deal. First, we were promised the “exact same benefits” as EU membership, then Canada-plus-plus-plus, and now Michael Gove has confirmed that the aim is any deal which gives them the power to reduce employment and environmental standards. This approach puts ideology before jobs and our economy, as well as straining our

[BARONESS HAYTER OF KENTISH TOWN]

ability to secure a good deal by December. A deal with tariffs on some goods would be significantly more complex to negotiate than the status quo of zero tariffs and zero quotas, and raises serious issues for the Northern Ireland protocol.

Therefore, can the Minister assure the House that, whatever it takes, our exit from the transition will be on terms that benefit our whole economy, our security and—vitality—our future relationship with the EU and its member states?

6.43 pm

**The Minister of State, Cabinet Office (Lord True) (Con):** My Lords, I express my gratitude and admiration to my noble friend Lord Boswell, not only for his report but for his long service to his country and his very distinguished chairmanship of the EU Committee. I look forward to working closely with his successor, the noble Earl, Lord Kinnoull, who is already proving to be a doughty and statesmanlike leader in that role.

The report is crucially important, as is its title, *Beyond Brexit: how to win friends and influence people*. The noble Duke, the Duke of Montrose, reminded us from a past perspective of the importance of international friendship and co-operation—friendships and co-operation which can lie across, within and outside all sorts of international institutions. I simply disagree with those who say that the Government are isolationist and dogmatic—I heard those terms used in this debate among others; I shall not list them, but it is simply not a fair representation of the attitude of this Government or of the British people, who, I must remind this House, voted for a new relationship between this country and the European Union and, ipso facto, a new relationship between this country and the wider world. There were times in the debate when I felt like whistling or humming

“Lead, kindly light amid th’ encircling gloom”

because many of the speeches shared a tone of impossibilism and doubt that this country could succeed in its common objectives, which are to reach a friendly future relationship with our friends in the European Union.

The view of the Government is that there is ample time to strike a deal based on fair trade and friendly co-operation. As your Lordships know, we are looking for an agreement largely like those that the EU has agreed with others. There are plenty of precedents and texts around. We are familiar with each other’s systems and, with sufficient energy, there is plenty of time. Moreover, the EU agreed to this timeline when it agreed the political declaration last autumn. I submit that no one should cast doubt on it; we should be getting on with it.

Of course Covid, as a number of noble Lords have referred to, exists; it is a great tragedy and a great crisis. However, the Government have the bandwidth and the capacity to conduct negotiations within Europe and to deal with the Covid crisis, as my right honourable friend Mr Gove assured the EU Committee last week. Notwithstanding the succession of noble Lords who asked for an extension in the transition, the Government’s view remains that that would simply prolong the negotiations and business uncertainty and delay the

moment of control of our borders. As my noble friend Lord Cavendish of Furness said, extending the transition would mean that we would have to make further payments into the EU budget. It would also keep us bound by EU legislation at a point when we need legislative and economic flexibility to manage the UK response to the Covid pandemic. Some would characterise that as an ideological statement; I would characterise it as a statement from a Government intent on doing what they have been asked to do by the British people and to do so amicably to reach agreement with the people who will always remain our European friends.

Some have said that a long time has elapsed since this report was published. I was reminded when the noble Earl, Lord Clancarty, was speaking of the old saying that there are decades when nothing happens and there are many weeks when decades happen. Sometimes in this House last year, it seemed that there were hours when weeks happened. New circumstances have arisen and we are now finally beyond Brexit, having left the EU in January, with a third round of the negotiations on our future relationship having started yesterday and with, I repeat, the transition period ending at the end of the year.

While the passage of time has meant that many areas raised in this report have been superseded, I agree with many noble Lords that that does not make this debate any less important or our aspiration for good relations across Europe and beyond any less vital. I hope to respond a little later to some of the specific points on our representation. I also acknowledge the important remarks of my noble friend Lord Howell of Guildford.

While much of the work of this House and the other place has lately been focused on what we were looking to achieve, this report and debate are about not losing sight of how we should achieve our objectives. I will try to address most of that in the rest of my remarks.

I will answer one or two specific points raised in the debate. We still believe that it will be possible to reach an understanding on financial services equivalence by June. On the question of refugee children, raised by the right reverend Prelate the Bishop of Durham—technology has let me down; I hope to be able to reassure him on that later in my response.

Many noble Lords asked about the work of the Withdrawal Agreement Joint Committee and the specialised committees. The Joint Committee met for the first time on 30 March via remote means and was co-chaired, as noble Lords know, by my right honourable friend the Chancellor of the Duchy of Lancaster and the European Commission vice-president, Maroš Šefčovič. The UK and the EU updated the Joint Committee on progress to implement the withdrawal agreement, with particular focus on citizens’ rights—I agree with the noble Baroness, Lady Ludford, that they are important and I endorse what my right honourable friend said on that matter—and on the Ireland/Northern Ireland protocol, which I will come to in a moment.

The UK and the EU also agreed to start the work of the six specialised committees on citizens’ rights, other separation provisions, the protocol on Ireland/

Northern Ireland, the protocol relating to the sovereign base areas on Cyprus, the protocol on Gibraltar and financial provisions. The UK and EU co-chairs of the specialised committees have each now spoken informally. They are making plans for their respective specialised committees to meet as appropriate. Indeed, the Ireland/Northern Ireland Specialised Committee met on 30 April. UK and EU officials co-chaired the first meeting via video and the UK and EU co-chairs both welcomed the collaborative and constructive conversation.

The Government are determined to give Parliament appropriate opportunity for scrutiny of the Withdrawal Agreement Joint Committee, and we have committed to issuing Written Ministerial Statements before and after each meeting. The Government have always been clear—the noble Lord, Lord Wood, and the noble Baroness, Lady Hayter, referred to this—that Gibraltar is covered by our negotiations with the EU and we have committed to involve it fully. Decisions on representation at specialised committee meetings will be taken in accordance with the withdrawal agreement.

A number of noble Lords asked about work on the Northern Ireland protocol—if I listed the names on each occasion it would take time from this debate. However, the noble Lord, Lord Caine, introduced a parallel point, reminding us that our top priority in implementing the protocol should be to protect the Good Friday agreement and gains from the peace process, and to preserve Northern Ireland's place in the United Kingdom. That is the central purpose of this Government in agreeing ways to carry this forward. The protocol puts legal obligations on both sides. We are committed to complying with ours, just as we expect the EU to comply with its.

I apologise to the noble Baroness, Lady Ritchie, for not replying on this in a previous debate, but I was asked about the presence of an EU Commission office in Belfast. There is no reason why the Commission should require a permanent presence in Belfast to monitor the implementation of the protocol, nor, with respect to the noble Lord, Lord Kerr of Kinlochard, any reason why that should cause distrust. This is not a requirement that was included in the protocol; it is an additional EU ask. Article 12 of the Northern Ireland protocol does not necessitate, or place any requirement on the UK to facilitate, such a presence. Our position remains that EU officials can exercise their rights under Article 12 of the protocol, without necessarily a permanent presence in Northern Ireland.

The protocol is a practical solution to prevent a hard border on the island of Ireland and makes clear—this is important—that Northern Ireland is, and will remain, part of the customs territory of the United Kingdom. The arrangements that we introduce will reflect this. As set out in the New Decade, New Approach deal, the Government are committed to legislate to guarantee unfettered access for Northern Ireland's businesses to the whole of the UK internal market, and to ensure that this legislation is in force for January 2021. We want to work with Northern Ireland businesses, as many noble Lords have asked us to, to ensure that new administration procedures are streamlined and do not affect the flow of trade.

The protocol also ensures that the future arrangements for Northern Ireland will depend on the consent of those affected by them through a vote that can take place every four years. We will continue to take forward discussions on the implementation of the protocol in the joint committee and specialised committee, and to do so in good faith.

A number of noble Lords remarked on how we are engaging with the EU during the transition period. Since the UK has left the European Union, we are seeking to engage and co-operate with the EU through normal diplomatic channels. That is why the UK will not attend EU meetings, other than in exceptional circumstances. Our relationship with the EU and its member states will be conducted on the basis of normal diplomatic and international practice, as part of our wider agenda.

However, as was recognised by, I think, the noble Baroness, Lady Bowles, it is the fact that the United Kingdom Government are increasing the number of members of the UK Mission to the European Union, or UKMis—formerly known as UKRep, for those not up to date with the changes. That will continue to be our principal interface with EU institutions. As part of the strengthening of our diplomatic effort across Europe—I agree with the noble Lord, Lord Empey, on the importance of this—UKMis Brussels has grown from over 120 staff in 2016 to over 180 staff at the time of the UK's exit from the EU. It has established a dedicated public diplomacy function to support the new ways of working, and has enhanced its communications team, which will play an important role in shaping the narrative around the UK's activities and priorities within Europe. We set great store in the importance of maintaining good relations with our partners across Europe.

The noble Lords, Lord Foulkes and Lord McConnell, were among many who raised the question of the devolved Administrations. Of course, the UK Government are engaged with the devolved Administrations during the development of the approach to negotiations, through regular official meetings and bilateral discussions between the Paymaster General and her ministerial counterparts in the DAs. That has ensured that the UK Government have taken on board the views of the DAs, and that has been reflected in the published approach to negotiations. I reaffirm our commitment to working with them to deliver a future relationship with the EU that works for the whole UK. The UK Government are committed to this, and last week, on 6 May, the Paymaster General spoke to Ministers from the DAs to update them on negotiations and exchange views.

I follow my right honourable friend Michael Gove in responding to the important question raised by the noble Earl, Lord Kinnoull, and a number of other Peers about parliamentary engagement with the EU institutions post Brexit. It is clear that, understandably, many Members of your Lordships' House are keen to maintain those links—important links between the Parliaments of member states. But I repeat the position, expressed by my right honourable friend when he spoke to your Lordships at the EU Committee, that it is not for the Government to tell Parliament how to

[LORD TRUE]

maintain and develop these arrangements. I can assure the noble Earl that the Government are keenly supportive of such proposals and developments.

The noble Lords, Lord Bruce and Lord Broers, and others asked about participation in EU agencies. We will, of course, discuss with the EU how best to manage our friendly relations but any solution has to respect our red line of no commitments to follow EU law and no acceptance of the CJEU. That is fundamental and was put to the British people at the last election.

Unfortunately, there are relatively limited options for third-country membership of the EU bodies, but we have been clear that we will operate on the basis of existing precedents where they represent a real benefit to British people and industry and provide convincing value for money. I confirm that we are considering participation in Horizon and in a number of other bodies referred to in the debate. We are also, obviously, considering participation in Erasmus+.

My noble friend Lord Duncan of Springbank asked about climate change. We are already working closely with the EU on climate change and I see no reason why that should not continue. I also want to confirm that the UK will continue its participation in the emissions trading scheme during the transition period.

The technology now having worked, I can reply to the right reverend Prelate on refugee children. The UK continues to be fully committed to meeting our obligations under the Dublin regulation. We remain in close contact with member states, to keep abreast of updates and establish where transfers can take place as quickly and safely as possible in accordance with existing Covid-19 restrictions. I hope that is a reasonable response.

The noble Lord, Lord Moynihan, referred to the importance of sport. This is, of course, important in Europe, both within and outside the EU; one recognises that.

Time is unfortunately constrained. I agree with the feelings of a number of noble Lords who have spoken: it will be a good day when we can get back to challenge and response. But, despite my feeling sometimes that it was a little pessimistic, the debate has been good and instructive. It has demonstrated again the capacity of this House and its committees to look at our exit from the EU in the round and look towards our long-term relationship. We do not believe that our vision for the future is incompatible with having a close relationship with the EU. We continue to see the EU, and the EU nations, as our neighbours and our friends. We will continue to aspire to, and have, a relationship inspired by our shared history and values and, I hope, always informed by your Lordships' House.

7.05 pm

**Lord Boswell of Aynho:** My Lords, briefly and in conclusion, I thank all noble Lords for their contributions and for their personal kindness towards me. I also thank the Minister for his efforts to respond to the debate within the constraints of time. All I would say to him and to other Members of the Government in the present circumstances is, "Don't close your minds. Remember that there is no stigma in being flexible and pragmatic in order to meet the interests of the country." Perhaps I will leave it at that.

It has been the case, as it has through the debate, that complex EU structures, including its legal structures, and the protracted nature of the Brexit debates that we have had over the past four years, have been centred on detailed issues. As has been mentioned, our report went into some of those detailed implementation issues. Yet beyond that, the current exceptional circumstances drive us to some reappraisal of our strategic priorities. I noted with approval a recent article in the *Times* by the former Prime Minister, Theresa May, commenting simply and powerfully:

"Strong international relations are vital to our security and success."

I hope that we can all agree on that.

I am proud in this case of the EU Committee's role in taking our strategic thinking beyond Brexit. The answer for this country lies not in some retreat into what I might call national lockdown, but in attention and commitment to continuing international engagement. As the debate has made clear, we have all the circumstances of the pandemic and issues of climate change, and we could perhaps have said more about their interaction in the position of developing countries and the ongoing impact on migration, for example. There is a huge international agenda out there on which we must not turn our backs.

As we reflect this week on the lessons of the Second World War, which led to the foundation of what became the European Union, we must leave ourselves space to rise to the occasion, and in doing so with other partners across the world perhaps play our proper part in making the world a better place. I beg to move.

*Motion agreed.*

7.08 pm

*Virtual Proceeding suspended.*

## **Covid-19: Strategy** *Statement*

*The following Statement was made yesterday in the House of Commons.*

"With permission, Mr Speaker, I would like to make a Statement about the next steps in our battle against coronavirus and how we can, with the utmost caution, gradually begin to rebuild our economy and reopen our society.

For the last two months, the British people have faced a grave threat with common sense, compassion and unflinching resolve. We have together observed the toughest restrictions on our freedoms in memory, changing our way of life on a scale unimaginable only months ago. All our efforts have been directed towards protecting our NHS and saving lives. Tragically, many families have lost loved ones before their time, and we share their grief, yet our shared effort has averted a still worse catastrophe, one that could have overwhelmed the NHS and claimed half a million lives.

Every day, dedicated doctors, nurses, social care workers, Army medics and more have risked their own lives in the service of others. They have helped to cut the reproduction rate from between 2.6 and 2.8 in

April to between 0.5 and 0.9 today. The number of Covid patients in hospital has fallen by over a third since Easter Sunday. Our Armed Forces joined the NHS to build new hospitals on timetables that were telescoped from years to weeks, almost doubling the number of critical care beds and ensuring that, since the end of March, at least a third have always been available.

Our challenge now is to find a way forward that preserves our hard-won gains while easing the burden of the lockdown. I will be candid with the House: this is a supremely difficult balance to strike. There could be no greater mistake than to jeopardise everything we have striven to achieve by proceeding too far and too fast. We will be driven not by hope or economic revival as an end in itself, but by data, science and public health.

The Government are today submitting to the House a plan that is conditional and dependent, as always, on the common sense and observance of the British people and on the continual reassessment of the data. That picture varies across the regions and home nations of the United Kingdom, requiring a flexible response. Different parts of the UK may need to stay in full lockdown longer, but any divergence should be only short term because, as Prime Minister of the UK, I am in no doubt that we must defeat this threat and face the challenge of recovery together.

Our progress will depend on meeting five essential tests: protecting the NHS; reducing both the daily death toll and the infection rate in a sustained way; ensuring that testing and personal protective equipment can meet future demand, which is a global problem, but one that we must fix; and avoiding a second peak that would overwhelm the NHS. A new UK-wide joint biosecurity centre will measure our progress with a five-stage Covid alert system.

The combined effect of our measures so far has been to prevent us from reaching level 5—a situation in which the NHS would have been overwhelmed—and hold us at level 4. Thanks to the hard work and sacrifice of the British people in following social distancing rules, we are now in a position where we can move in stages to where I hope the scientific advice will tell us that we are down to level 3, but this will only happen if everyone continues to play their part, to stay alert and to follow the rules.

We must also deal with the epidemic in care homes, where a tragic number of the elderly and vulnerable have been lost, and while the situation is thankfully improving, there is a vast amount more to be done. Of course, we need a world-leading system for testing, tracking and tracing victims and their contacts, so I am delighted that Baroness Harding, the chair of NHS Improvement, has agreed to take charge of a programme that will ultimately enable us to test hundreds of thousands of people every day.

All this means that we have begun our descent from the peak of the epidemic, but our journey has reached the most perilous moment, where a wrong move could be disastrous. So at this stage, we can go no further than to announce the first careful modification of our measures. Step 1 in moving towards Covid alert level 3 involves a shift in emphasis that we can begin this

week. Anyone who cannot work from home should be actively encouraged to go to work. Sectors that are allowed to be open should indeed be open, but subject to social distancing. These include food production, construction, manufacturing, logistics, distribution and scientific research. To support this, we are publishing guidance for businesses on how to make these workplaces safe and Covid-secure.

People who are able to work from home should do so, as we have continually said, and people who cannot work from home should talk to their employers about returning this week and about the difficulties that they may or may not have. Obviously, anyone with Covid symptoms, or who is in a household where someone else has symptoms, should self-isolate. We want everyone travelling to work to be safe, so people should continue to avoid public transport wherever possible, because we must maintain social distancing, which will inevitably limit capacity. Instead, people should drive or, better still, walk or cycle.

With more activity outside our homes, we would now advise people to wear a cloth face-covering in enclosed spaces where social distancing is not always possible and you are more likely to come into contact with people you do not normally meet. The reason is that face-coverings can help us to protect each other and reduce the spread of the disease, particularly if you have coronavirus-like symptoms. But I must stress that this does not mean wearing medical face masks—2R or FFP3—which must be reserved for people who need them.

We have all lived, so far, with onerous restrictions on outdoor spaces and exercise. This is where we can go significantly further, because there is a lower risk outdoors than indoors. So from Wednesday there will be no limits on the frequency of outdoor exercise people can take. You can now walk, sit and rest in parks, you can play sports and exercise, and you can do all these things with members of your own household, or with one other person from another household, provided you observe social distancing and remain two metres apart. I do hope that that is clear. I am conscious that people will come back and ask questions in more detail, and I will be happy to answer them.

We shall increase the fines for the small minority who break the rules, starting at £100, but doubling with each infringement up to £3,600. You can drive as far as you like to reach an outdoor space, subject to the same rules and the laws and guidance of the devolved Administrations. I am sorry to say, however, that we shall continue to ask those who are clinically vulnerable, including pregnant women and people over 70, or those with pre-existing chronic conditions, to take particular care to minimise contact with those outside their households. We must continue to shield people who are extremely vulnerable. They should, I am afraid, remain at home and avoid any direct contact with others. I know that easing restrictions for the many will only increase the anguish of those who must remain shielded, so the Government will look at every possible way of supporting the most vulnerable.

All of our precautions will count for little if our country is reinfected from overseas, so I give notice that we shall introduce new restrictions at the UK border,

[LORD BOSWELL OF AYNHO]

requiring 14 days of self-isolation for international arrivals, while respecting our common travel area with Ireland. Every day, we shall monitor our progress, and if we stay on the downward slope, and the R remains below 1, then, and only then, will it become safe to go further and move to the second step. This will not happen until 1 June at the earliest, but we may then be in a position to start the phased reopening of shops; to return children to early years' settings, including nurseries and childminders; to return primary pupils to school in stages, giving priority to the youngest children in reception and year 1 and those in year 6 preparing for secondary school; and to enable secondary school pupils facing exams next year to get at least some time with their teachers. Our ambition, and I stress that this is conditional, is for all primary school pupils to return to the classroom for a month before the summer break.

To those ends, we are publishing guidance on how schools might reopen safely. Step 2 could also include allowing cultural and sporting events behind closed doors for broadcast, which I think would provide a much-needed boost to national morale. Nothing can substitute for human contact, so the Government have asked the Scientific Advisory Group for Emergencies when and how we can safely allow people to expand their household group to include one other household on a strictly reciprocal basis.

Finally, no earlier than July, we may be able to move to step 3, if and only if that is supported by the data and the best scientific advice. We would then aim to reopen some remaining businesses including, potentially, hospitality, cinemas and hairdressers, as well as places of worship and leisure facilities. This will depend on maintaining social distancing and new ways of providing services, so we will phase and pilot any reopenings to ensure public safety. I must be clear again: if the data goes the wrong way and if the alert level begins to rise, we will have no hesitation in putting on the brakes and delaying or reintroducing measures locally, regionally or nationally.

Our struggle against this virus has placed our country under the kind of strain that will be remembered for generations, but so too will the response of the British people, from dedicated shopworkers keeping our supermarkets open and ingenious teachers finding new ways of inspiring their pupils, to the kindness of millions who have checked on their neighbours, delivered food to the elderly, or raised astonishing amounts for charity. In these and so many other ways, we are seeing the indomitable spirit of Britain.

Let me summarise by saying that people should stay alert, by working from home if you possibly can, by limiting contact with others, by keeping your distance to two metres apart where possible and by washing your hands regularly. If you or anyone in your household has symptoms, you all need to self-isolate. If everyone stays alert and follows the rules, we can control the virus, keep the rate of infection down and keep the number of infections down. That is how we will be able to save lives and to save livelihoods as we begin to recover from coronavirus. I commend this Statement to the House."

7.16 pm

*The Statement was considered in a Virtual Proceeding via video call.*

**The Deputy Speaker (Baroness Henig) (Lab):** My Lords, the Virtual Proceeding on the Statement made in the House of Commons yesterday on the Covid-19 strategy will now commence. Please note that it has been agreed in the usual channels to dispense with the reading of the Statement itself, and we will proceed immediately to questions from the Opposition Front Bench.

**Baroness Smith of Basildon (Lab):** My Lords, having watched the Prime Minister's recorded message on Sunday and his Statement to MPs yesterday, I will make two observations. We recognise that the complexities and unknowns of this virus mean that decisions about how we respond are very difficult and challenging. To meet those unprecedented challenges, the Government must provide certainty, confidence and clarity. Unfortunately, in his two statements the Prime Minister missed those targets by announcing the plans without the detail needed. Dominic Raab then had to tour the media studios on Monday morning with a basic message of, "What the Prime Minister meant to say was..." For example, when Mr Johnson said that people who were able to should go back to work on Monday, he really meant Wednesday. When we most needed clarity, we got confusion.

We now have the strategy document, so we can discuss the detail, but there is a reason why Statements should be made to Parliament, rather than taking the "Blue Peter" approach of "Here's one I made earlier" and recording them especially for the media. The Government should not see the normal process of consultation, engagement, questions and scrutiny as political obstacles to be avoided. They must understand that this is the way that we get the best decisions and, therefore, the best outcomes. It is only by highlighting problems that we can work together to overcome them. Can the noble Baroness confirm that the impact assessments on these strategy documents will also be published?

Because of the way this has been handled, there are numerous questions to be addressed to ensure that the public have all the information they need and that we can all monitor and support the way forward. Will the noble Baroness guarantee that no question today is left unanswered and that, if necessary, she will follow up in writing with complete answers?

I will pick up four specific issues. The first is about understanding the R rate—the reproduction rate—which is essential in fighting the virus. How robust is the calculation of the current level being between 0.5 and 0.9? The report states that 136,000 people are currently infected in the UK. Given that there is no universal testing or tracing, on what scientific basis is it calculated and what is the confidence level of the statistics and the margin of error? It is a basic question of whether it is a calculation or an estimate. Our national strategy is predicated on that figure, so we need to be able to respond quickly if it changes, either by the further easing of restrictions or, as is happening in parts of Germany and in South Korea, having to respond to an

increase in the R rate. How quickly can we accurately identify changes and adapt plans accordingly? If we are asking those who enter the country to self-isolate for 14 days to help keep the R rate down, how will this be enforced and monitored?

Secondly, the Prime Minister said that the virus varies across the nations and regions of the UK and therefore needs a flexible response. That makes sense, but flexibility does not mean the Government going it alone for England; it means consultation and engagement to ensure coherent policy even if there are differences. So what discussion and consultation took place with the devolved Governments before the Prime Minister's announcement? And I have to ask: is it really true that they heard about the change of advice from "Stay at home" to "Stay alert" in the media and on Twitter? The noble Baroness attends COBRA meetings so she will be aware of the weekly meetings with the leaders of the devolved Administrations. Were the differences in policy discussed at those meetings? Can she also confirm that the meetings will continue to be weekly? It seems even more important now that they are so, if they are not, why not?

At a smaller, regional level, how accurate is that R figure in identifying regional and local differences? We see that the information regarding infections and deaths is given at local government level. Can the R rate be identified in the same way?

I want to ask about the advice on going back to work, which still appears to be that if you can work from home then you should do so. Many decisions will be predicated on social distancing and other protection measures being in place. I have real concerns about workplaces where there is no proper system for challenging decisions that are taken by an employer or manager. Should employees have little or no confidence that a proper risk assessment at the workplace has been carried out or acted upon, what support will the Government provide to protect their health, or in the event of any threat of job losses just for asking questions? I have to put this to the noble Baroness as well: does she consider that the Health and Safety Executive is fit for purpose on this front? Does it have both the capacity and the political support?

Today we have had more detail on how social distancing will work on public transport and where capacity is to be dramatically reduced. However, given that demand to travel on buses, trams and the Tube may start to outstrip supply, how will the Government ensure that transport networks are not overwhelmed by those just trying to get back to work, as the Government have advised?

It is also suggested that primary schools will go back in June. In the interests of the wider workforce, is guidance being prepared for schools and nurseries on how long children should attend for each day? If that were provided, it could help the public, employers and employees to properly plan ahead. On all those issues, can the noble Baroness confirm that genuine consultation with the relevant trade unions will be part of the decision-making and implementation process?

As we move to the next stages and some parts of everyday life begin to reopen, it is even more important that we get shielding and support for vulnerable people right. What are the Government doing to improve

their efforts to identify and notify those in high-risk categories? Local authorities are reporting huge errors. They initially raised their concerns that the numbers seemed too low, but were not asked to contribute their knowledge as data identification was being undertaken centrally. It now appears that thousands of people were initially missed off, and in some areas local authorities have been told that the numbers of citizens to be shielded have more than doubled in the last week. That is a lesson to us all that local authorities have a vital role to play, given their understanding and knowledge of their communities, and that we have to work in ongoing partnership with them to make improvements and harness their local knowledge.

A huge amount is being asked of individuals over the coming weeks. People will rise to the challenge and do their best to keep themselves and each other safe, but it is not just an individual responsibility; it is a collective one and the Government must maintain their end of the bargain. That means delivering on testing, tracing and PPE for front-line workers.

Over the past few months our lives have changed. Thousands are grieving for loved ones. We have seen extraordinary efforts and commitment to manage and eradicate the virus and support individuals and communities. Staff in the NHS, in caring, in transport, in retail, in pharmacies and so many other public-facing roles that we rely on have done so much. We have a responsibility to them to prepare for the future, to do what we can to get the economy moving and to support people in getting back to work, but with great caution, as well as hope for what our country might become when this horrible disease is no more.

**Lord Newby (LD):** My Lords, I thank the noble Baroness the Leader of the House for taking questions on the Prime Minister's Statement. I think everybody agrees that the Government have to strike an extraordinarily difficult balance in moving from the simplicity of lockdown and the "stay at home" slogan towards some sort of social and economic normality without jeopardising the progress being made to control the virus. Even while following the science, there are many uncertainties and risks that have to be weighed, and decisions have to be based on judgments which only Ministers can make.

In these circumstances, the best way to secure maximum public trust and support is to be clear, consistent and open. The Prime Minister's statements to both the nation and the Commons, coupled with many and various briefings by Ministers, spads and other officials over the past week, have unfortunately led to many uncertainties, inconsistencies and unanswered questions.

I therefore have some questions for the noble Baroness the Leader of the House. First, on testing, how resilient do the Government believe the system now is, given that only a few days ago they sent some 5,000 tests to America because they could not be analysed in a timely manner in the UK? Have any further such shipments proved necessary?

On the crucial track and trace technology, how confident are the Government that their own bespoke system, currently being tested in the Isle of Wight, is fit for purpose in the light of their placing a £3.8 million contract last week to investigate the use in the UK of a

[LORD NEWBY]

completely different one? If a track and trace system is implemented, how will the Government ensure that those who need to isolate do so, given that the number of people they plan to employ on this task is way short of the numbers involved in countries that have been following such a system effectively for some time? Will they consider establishing multidisciplinary community Covid teams, on the German model, involving local directors of public health, which will check not only that people really are isolating themselves but that they are getting the support they need in their homes?

Underlying these questions is the common theme of a monolithic, national programme that has been implemented with little apparent understanding of local conditions and the potential for working collaboratively with local public and private sector partners. Will the Government now look at developing a more collaborative approach in the months ahead in order to avoid some of the problems that they have encountered in the weeks we have just seen?

Moving on to the safety of people at work—an issue which the noble Baroness, Lady Smith, touched on—compliance with the rules is policed by the Health and Safety Executive and local authorities. Both are desperately short of resources to undertake this additional work. What further resources will the Government make available to them to ensure that if employees have concerns about their working conditions they can get a timely inspection of their premises? At the moment, I feel that any concerns raised by employees will not be dealt with expeditiously, because there are simply not the people able to deal with them.

In relation to quarantining for those coming into the UK, why have the Government waited so long to take a measure that has been in place in over 100 other countries for several months? If this is now such an important barrier against the virus, why has the Prime Minister agreed to President Macron's request to exempt all those travelling from France, which has also had a very high incidence of the disease? It is very difficult to see on what science that decision could possibly have been made.

On schools, why have reception and year 1 groups been prioritised over other primary and junior years, given that these groups will find it the most difficult to maintain social distancing? Again, what is the scientific rationale for that? In the light of the fact that some headmasters are saying that they will not open their schools because they do not believe that they can do so safely, what response, if any, do the Government plan in such cases?

Finally, on your Lordships' House, the Prime Minister has been keen to urge the House of Commons to move "in step with public health guidance ... towards further physical proceedings".

Does the noble Baroness agree that the Lords should also embrace this principle and move now towards a hybrid Chamber along the lines of that already in place in the Commons?

As the noble Baroness, Lady Smith, said, there has been a terrific and positive communal response to beating this virus. That feeling exists strongly today, but if it is to continue, the Government must just be

open with the people, be clear, and make sure that all of us know how we are supposed to behave in the best interests of ourselves, our families and the country in the months ahead.

7.31 pm

**The Lord Privy Seal (Baroness Evans of Bowes Park)**

**(Con):** I thank the noble Lord and the noble Baroness for their comments. Like them, I pay tribute to everybody for the fantastic national effort that we have seen over the last few weeks. They are absolutely right: it is critical that we provide information at this very difficult time, particularly as we are coming out of the lockdown. We are committed to keeping Parliament and the public informed. In addition to the plan that was published on Monday, over 45 guidance documents have been published, and there is more to come, so we are absolutely committed to making sure that everybody has the most up-to-date and best information possible so that they can understand their responsibilities and the decisions they have to make in the coming weeks.

The noble Baroness asked about the vulnerable and shielded. I assure her that there has been a huge amount of cross-government, cross-agency and local government work. Local resilience fora in particular are playing a critical role in supporting and helping those who are shielded—that will continue—and, of course, we should pay tribute to the hundreds of thousands of members of the public who have signed up to the good Samaritan app to help and provide support to those people.

The noble Baroness rightly asked about the data and the R rate. The fact that the R rate today remains between 0.5 and 0.9, which is perilously close to 1, is the reason why we are taking very careful steps in the coming weeks. In particular, that is why we have set up the joint biosecurity centre, which will bring the UK's leading epidemiological expertise together to ensure that future outbreaks are detected and brought under control.

This centre will collect a range of data to build up the picture of infection rates across the country, and analyse it to form pictures of changes in infection rates across the country, thereby providing intelligence on both the overall national picture and potential community level spikes. It will advise the CMO of a potential change in the alert level, which we have also just set up, and the CMO will then advise Ministers. It will identify specific actions to address local spikes in infection in partnership with local agencies, and of course it will work in partnership with the Government and the devolved Administrations to ensure that it is effective throughout the United Kingdom.

I hope that the noble Baroness will therefore see that this centre will be critical as we move into the next phase. We will rightly be looking at all the data and its robustness, and ensuring that we can act quickly to changes in data and, along with SAGE, advise the Government. Several other countries, such as New Zealand, South Korea and the United States are also operating a Covid alerting system of the type that we have just set up.

I can assure the noble Baroness that the devolved Administrations have been involved in all discussions. As she rightly said, I sit on a number of the COBRA committees. Representatives of the devolved

Administrations attend every committee. We discuss areas of best practice and mutual interest, and where approaches and data slightly diverge. It has been a very strong relationship between the Administrations, but there have been differences in the data in each country—it is of course right that the devolved Administrations make decisions for the people of their area.

Both the noble Lord and the noble Baroness asked about the return to work. We have been working closely with unions, the Health and Safety Executive, public health authorities, business groups and local authorities to develop the guidance that we have published for businesses, and we will of course continue to do so. I am pleased to let the noble Lord and the noble Baroness know that today we announced £14 million of additional funding for the Health and Safety Executive. We are determined that it should be able to do its job. Nobody should be forced to work in an unsafe workplace. If employees are concerned that their employers are not taking all practical steps to promote social distancing, they can report them to their local authority or to the HSE, which can take a range of actions. We will support them in doing that.

The noble Baroness and the noble Lord asked about schools. We want to get reception and year 1 children back into education as quickly as possible and as the scientific advice allows. We believe that school is the best place for them to learn and we know that it is important for their mental well-being to be back with their friends and teachers. Schools will open only in a phased way and only when it is safe to do so. We will of course continue to work closely on this with the unions. We have published guidance for schools and other healthcare settings. We are asking them to implement a range of protective measures, including increasing cleaning, reducing pinch points at the start and end of the day and utilising outdoor space, and we will look at their staying in their small classes for as long as possible so that they have minimum contact with groups around the rest of the school.

The noble Lord asked about testing. We believe that we have a robust system in place, but we will not be complacent. We are trialling the NHS app, but that is just one part of the track and tracing system that we will use. We will ensure that the vulnerable and those who do not have access to the app will be able to be tracked and traced. We will certainly continue to learn from international experience, as the noble Lord mentioned.

The noble Lord also asked about the UK's borders. During the contain phase, we had enhanced monitoring at the borders to identify symptomatic travellers, but once there was significant transmission within the UK, the scientific advice was that border restrictions would have had a marginal effect on the number of coronavirus cases. Now that domestic transmission within the UK is coming under control, it is right that we take these new measures. As the noble Lord said, the Prime Minister has been talking to President Macron to develop a joint approach.

The noble Lord asked about the House of Lords and a hybrid House. As he will know, work is ongoing to establish how we can do that, but I am sure that all

noble Lords will want to ensure that if we return physically we do so in a safe environment both for your Lordships and for the staff, who are supporting us fantastically through this difficult time.

7.38 pm

**Lord Flight (Con):** My Lords, I thank and congratulate all who have been involved in containing the coronavirus crisis. The Government's plans are correctly conditional, and they have a difficult balance to strike. This must avoid proceeding too far and too fast. When life is at stake, perhaps the first objective must be to avoid a second peak, which could overwhelm the NHS. Under the Government's plan, we are just about at level 3. When do the Government expect to achieve our target of level 1?

My second question is prompted by my wife and focuses on the tragic number of the elderly and vulnerable who have died in care homes, where the Covid virus is still life-threatening. Will the Government consider obliging all care home employers to provide regular testing of the carers in their employment? Many carers do not wish to be tested, as they fear losing their jobs if they test positive.

**Baroness Evans of Bowes Park:** I thank my noble friend for his question. More than 140,000 tests have been delivered to almost 440 care homes since April. The CQC has referred more than 34,000 care workers for testing, so testing is on the up, and we will be delivering up to 30,000 tests a day for staff and residents of all care homes that look after the over-65s by early June.

I am afraid that my noble friend cannot tempt me to speculate about when we might reach level 1. Of course that is what we are aiming for, and we have set out some cautious steps over the next couple of months that we believe we can take but only, as he rightly says, if we manage to keep the virus under control by paying attention to social distancing and the other measures that we need to keep us safe.

**Baroness Primarolo (Lab):** My Lords, I refer to my declared interests. I want to return to the question of safety in the workplace. Does the Leader not agree that to provide clarity and simplicity the Government should now agree to make Covid-19 safety standards in the workplace legally enforceable, thus ensuring that employers that implement the safety standards are not undercut by those that do not and, importantly, that employees have a quick resolution of disputes about the safety of their workplace and confidence that their health and well-being are protected without delay so that they can continue to be in their workplace safely?

**Baroness Evans of Bowes Park:** As I said in my answer to the previous question, it is absolutely right that nobody should be forced to work in an unsafe workplace. I have set out a number of ways in which employees with concerns could take them forward. Of course, we expect businesses to abide by the Covid-secure guidelines. We have done a whole series of them for different types of workplaces. We have worked closely with the unions, the Health and Safety Executive and public health authorities to make sure that these are

[BARONESS EVANS OF BOWES PARK]

accessible, and will work very hard with business to make sure they provide the safe workplaces we all want to see.

**Lord Taylor of Goss Moor (LD):** My Lords, the muddled messages of the last 72 hours have left the nation uncertain and confused by the Prime Minister's plan. Does the Minister agree that first publishing draft proposals—even options—and a Green Paper that experts, Parliament and the public could have scrutinised and interrogated could have delivered greater clarity, less confusion and quite possibly better answers? Then, announcing conclusions first to Parliament, where they could be questioned and explained, would certainly have ensured that the all-too-obvious confusions were at least answered and hopefully avoided. Does the Minister agree that Parliament has evolved in this way for a reason? Frankly, I am one of those who believes that the NHS's increased capacity and the fact that the number of new cases is down means that a more targeted strategy focused on protecting the vulnerable would have been the better next step. Can the Government at least now publish their assessment of the main options that have been canvassed?

**Baroness Evans of Bowes Park:** As I mentioned, I believe that we are being clear in our messaging and that the public understand our messages. As I said, in addition to the road map we have published more than 46 pieces of additional guidance on a whole range of areas from transport to workplace safety and school settings, and we will continue to do that over the coming weeks. We want to keep a dialogue with both Parliament and the public and take everyone with us as we navigate this cruel disease. I believe everyone is playing their part. It is fantastic that we have been able to get to a point where we have a road map and can start to see a bit of light at the end of the tunnel, but we have to make sure we continue abiding by the social distancing rules, keeping up with hand-washing and doing all those other things we have been told about. That is what we need to do to keep moving in the right direction as we tackle this disease.

**The Earl of Clancarty (CB):** My Lords, how confident are the Government in reaching and maintaining from the end of this month the 200,000-a-day testing target that the Prime Minister promised yesterday in answer to a question during the Statement?

**Baroness Evans of Bowes Park:** We are not at all complacent about the task ahead of us, but we reached 100,000 tests when we said we would. Our testing capacity was 110,670 and, in the last 24 hours up to 12 May, 85,293 tests were undertaken. This is a massive effort, and credit should go to everybody who is ramping it up. We will continue to work to the target the Prime Minister has set.

**The Lord Bishop of Durham:** My Lords, language matters. Loose language and sloppy images hinder, rather than help. We need to continue to suppress the coronavirus—learn to coexist with it—as eradication is a long way off. Does the Leader agree that any recovery road map must recognise and speak of the

importance of spiritual, social and mental well-being, as much as physical and economic health? Will she guarantee that this will be the case as phases 2 and 3 are developed?

**Baroness Evans of Bowes Park:** I thank the right reverend Prelate for his comments; he is absolutely right. I assure him that mental and physical health and well-being, as well as the financial pressures that many people are facing, are foremost in our minds. As he rightly said, it is critical that, having got the disease under control, and being able to take steps forward, we make sure we continue with that. If we do start to see the R number rise again, we have to take swift action to make sure that we do not see a second peak.

**Lord Mackenzie of Framwellgate (Non-Affl):** My Lords, the new lockdown rules are making the job of the police “almost impossible”. Those are not my words, but those of John Apter, the chairman of the front-line Police Federation. On the next sunny weekend, a father of five in London can now gather his household and drive for a day's exercise to the Lake District. Were the police consulted on this relaxation of the rules? What advice would the Leader of the House give to the police who might check the vehicle as it enters Cumbria, particularly in the light of convoys of other drivers doing the same thing? Finally, does she think that this decision is an example of good, solid, British common sense?

**Baroness Evans of Bowes Park:** First, I pay tribute to the police for the fantastic work that they have done. I assure the noble Lord that the Home Office has been working closely with the police to make sure that the new guidance is clear to officers. The police are updating their guidance regularly and those discussions will continue. The overwhelming majority of the public will follow the rules without the need for enforcement action or for the police to take action. That is welcome, but the police must have the ability to act if people are acting recklessly. They have been doing that around the country and we commend them for their great work.

**Lord Cormack (Con):** My Lords, what plans are there to give museums and galleries the opportunity to reopen in July? These are much appreciated resources. Many of them are also at the heart of our tourist industry. While I completely accept that we could not necessarily just open the doors and let everybody come, we could presumably arrange booking systems so that numbers were controlled as well as distance maintained. Will my noble friend reflect on that and give me some encouragement?

**Baroness Evans of Bowes Park:** One of the many tragedies of the virus is that we are not able to enjoy the fantastic cultural life and sporting events that we may have been looking forward to in the summer. As the noble Lord will know, museums, cinemas and theatres are being looked at under step 3—July at the earliest. However, I have to stress again that all this is based on ensuring that we keep the disease under control. We have seen examples of supermarkets, and other businesses that have been able to remain open through this time, being able to find safe ways to

socially distance. Museums and other organisations can learn from that and from the best practice in other countries coming out of lockdown. Then if, as we hope, we get to the point when they are able to open their doors—albeit, perhaps, to a smaller number of visitors—they can do so in a safe way and we can start to see a bit more of normal life return.

**Lord Monks (Lab):** After a few days of muddle and mixed messages, it is very welcome that the Government have acted positively on the health and safety of workers. The TUC has described it as a step in the right direction. The challenge now is to live up to the Prime Minister's promises. As the noble Lord, Lord Newby, asked, will this involve extra resources for the HSE, if necessary, in addition to the welcome £14 million to date? Will it involve much-needed investment in PPE so that we do not have to experience the problems in care homes spreading to other workplaces? Will there be legal protection for whistleblowers? Are the Government likely to encourage the mobilisation of the network of union safety reps, who can do an important job on this? Will the self-employed get the same protection as employees?

**Baroness Evans of Bowes Park:** I thank the noble Lord for mentioning and recognising the TUC's comment that these guidelines are a step in the right direction. As I have said, it is a testament to the fact that unions, businesses, the Health and Safety Executive and the Government have been working very closely together because it is of paramount importance that we ensure that workplaces are safe for all those returning to work. As he rightly said, and as I mentioned, further funding has been provided to the HSE. I am sure that discussions will continue to make sure that everyone has the resources they need so that, slowly but surely, people are able to go back to their workplaces and start that side of their life again, which I am sure many people around the country want to do. I am sure there will be a positive partnership between employers and employees; we all want the best for everyone and for this country to come out of this terrible disease.

**Lord Shipley (LD):** My Lords, I shall pursue a point made by the noble Baroness, Lady Smith of Basildon. The Prime Minister's Statement says:

"Different parts of the UK may need to stay in full lockdown longer."—[*Official Report*, Commons, 11/5/20; col. 24.]

What evidence base will the Government use, and will they publish the past, current and future R rates for all parts of the United Kingdom so that future decisions can be shared, discussed and understood?

**Baroness Evans of Bowes Park:** I hope I answered that question by talking about the role of the joint biosecurity centre, the new body that has been set up. It will have a critical role. One of its roles will be to identify specific local actions to address local spikes in infection in partnership with local agencies. It will work with the devolved Administrations and SAGE to provide guidance. We want to be transparent and we are continually looking at what data we can make available as our knowledge of this virus grows.

**Baroness Hollins (CB):** My Lords, in the new plan, how will the needs and best interests of individuals with protected characteristics, as required under the Equality Act and the Mental Capacity Act, be balanced with public health concerns? For example, just as in society at large, could family contact be resumed for people in care when both parties have recovered from Covid-19, or will blanket rules continue in care settings regardless of the mental well-being and best interests of individuals? I include here the one in four disabled adults of working age who live in care homes.

**Baroness Evans of Bowes Park:** Of course we are absolutely cognisant of the real issues that many of the socially isolated are having, and we are very concerned about them, but we cannot put them, their carers and their families in danger—in a situation where the virus could start to get out of control once again. Of course we keep this under review, but we are proceeding with cautious steps because we have seen the tragedy in care homes and we want to make sure that it does not happen again. We want to make sure that everyone is safe and that we can move forward as a country. However, I can assure the noble Baroness that we are very aware of all these issues and we look at them in the round when we are making decisions as we start to move away from the lockdown.

**Baroness Neville-Rolfe (Con):** The Prime Minister is rightly charting a staged return to normality, in the interests of our economy and our economic future. I agree with my noble friend that we can learn from abroad. Will the Government consider adopting the World Health Organization standards of one metre of social distancing rather than two, as Denmark has done as part of its recovery? For example, that could help to restore the scale of activity that we need in our vital construction sector, or in galleries and museums, mentioned by my noble friend Lord Cormack.

**Baroness Evans of Bowes Park:** There is good reason for the two-metre social distancing rules, because experimental and mathematically modelled data support the view that the droplets associated with the spread of coronavirus—those expelled during breathing and talking—in the main drop to the ground within a two-metre radius of the person. There is science behind the two-metre rule. Having said that, as we continue with our hand washing along with social distancing, I hope that we will steadily move to having the disease even further under control. SAGE continually looks at this, but there is good reason for the two-metre rule at the moment.

**Lord McKenzie of Luton (Lab):** My Lords, given that we now know that the low paid in manual jobs face a greater risk of dying from the virus than high-paid white-collar workers, does the Minister consider that acceptable and what steps are proposed to rectify it? I join my noble friend Lord Monks in recommending that the Government look to TU safety reps as a significant resource to help tackle the current situation. Finally, one sector that the Government have particularly focused on to make a start under their "baby" return is construction. Of course, one thing we know about construction is that it is one of the riskier sectors so

[LORD MCKENZIE OF LUTON]

far as health and safety are concerned. There is a long history of challenges to the HSE. Although certain improvements have been made in recent times, it is an added challenge to the HSE to go about the task that it has been set. Are the Government satisfied with that?

**Baroness Evans of Bowes Park:** On the noble Lord's first point, we are extremely concerned about the apparent disparities in how Covid-19 affects people. That is why Public Health England is undertaking a rapid review to provide insight into how factors such as ethnicity, deprivation, age, gender and obesity are disproportionately impacting people. That review is under way and the findings will be published at the end of the month. In relation to his other points, as I said, we are working closely with the unions and businesses in developing our guidance. I am sure that we will take advantage of the excellent union reps that the two noble Lords mentioned. We are working closely with business in all sectors, including construction, to make sure that the workforce who return go to a safe place. That is in all our interests, and I believe that employers and employees will work together to ensure that it happens.

**Lord Fox (LD):** My Lords, the Prime Minister's Statement announced an escalation in the level of fines. The debate earlier this afternoon highlighted how much confusion there is around legally enforceable regulations and non-enforceable guidelines, and the noble Lord, Lord Mackenzie, highlighted the difficulties the police have. In order to develop some clarity, perhaps the Minister could give just two specific examples of public behaviour which the new increased fines are designed to stop.

**Baroness Evans of Bowes Park:** As I have said, the Home Office is working closely with the police on the guidance, and I am sure that it will update it through the NPCC and the College of Policing. As the noble Lord rightly says, fines will go up to £100, which will be lowered to £50 if paid within 14 days. As now, if members of the public do not follow the rules, the police can arrest individuals who are acting unlawfully and instruct people to go home, leave an area or disperse, or impose fines.

It is worth reiterating to noble Lords that the vast majority of people are respecting the rules and what is happening. Only a very small minority are not doing so, and it is absolutely right that the police should have the tools at their disposal to deal with that minority.

**Baroness Hayman (CB):** My Lords, I draw attention to my interests as set out in the register. Yesterday, when answering questions on the Statement, the Prime Minister spoke of the huge opportunities for cleaner, greener transport in the Government's current proposals. Does the Leader of the House agree that, when looking ahead to the enormous investment that will be required to rebuild our shattered economy, we need not to try to replicate exactly what we had before but to take the opportunities to build better and to forge a greener, fairer and more sustainable economy for the future?

**Baroness Evans of Bowes Park:** Yes, I do agree. That is why we have, for instance, announced a £2 billion package to boost cycling and walking, including £250 million for an emergency travel fund for England to fund pop-up cycle lanes and cycle-only corridors. This is a personal priority for the Prime Minister, and I can assure the noble Baroness that it is also at the top of the agenda for the Secretary of State for Transport.

**Lord Sheikh (Con):** My Lords, I know three people who have contracted Covid-19, one of whom became seriously ill. Fortunately, they are now all well again, thanks to the marvellous NHS. Unfortunately, it has come to light that members of the BAME communities are more likely to contract Covid-19 with fatal consequences compared with the rest of the population. I understand that a letter signed by 70 dignitaries has been sent to the Prime Minister asking for an independent inquiry to look into the reasons why this has happened. Can I ask my noble friend the Leader of the House if an independent inquiry will take place? If so, what is the timetable for that to happen?

**Baroness Evans of Bowes Park:** I am very sorry to hear about the friends of my noble friend Lord Sheikh and I am glad to hear about their recovery. I too pay tribute to the fantastic work done by all those in our NHS and care homes who are keeping us safe. As I mentioned in a previous answer, Public Health England is undertaking a rapid review of how different factors, including ethnicity, are disproportionately impacting people. The review is being led by Professor Kevin Fenton, the London regional director of public health at Public Health England, and his findings will be published at the end of the month.

**Baroness Blackstone (Ind Lab):** The Secretary of State for Education has said that nothing can replace being in the classroom. Can the Leader of the House confirm that all primary school pupils will be able to return to school by the end of June and that further reassurances about this will be given to parents? If the R rate allows, will the Government also reconsider their plans for secondary schools so that all these pupils, whose mental well-being is also at stake, can return to school, even if only briefly, before the summer holidays? That will help to mitigate the growing inequality among children in this age group.

**Baroness Evans of Bowes Park:** I am afraid that, as with everything, I cannot give categorical promises or guarantees. Everything is being done in a cautious way on the basis of the science, the data and public health. However, I can certainly say to the noble Baroness that it is our ambition, if it is feasible, for all primary school-age children to return to school for a month before the summer, and this will be kept under review. At this point, I am afraid that only secondary school pupils with exams next year will be able to have face-to-face contact with their teachers in order to support their remote learning. There are no plans for other secondary school pupils to return to school before the summer.

**Baroness Bennett of Manor Castle (GP):** My Lords, this Statement launched the Government's document, *Our Plan to Rebuild*. It says:

"Anyone with symptoms should isolate immediately, alongside their households, and apply for a test. If a negative test is returned, then isolation is no longer required."

But the NHS is widely reported as estimating a false negative rate of 30% for swab tests. On 1 May, *Pulse Today* reported that the advice from NHS England is for GPs and other staff who have tested negative not to return to work if they still have symptoms. Can the noble Baroness the Minister explain the dangerous, and potentially deadly, apparent gap between those two sets of advice?

**Baroness Evans of Bowes Park:** If people have symptoms, they should of course self-isolate, along with their household. As we have said all along, it is extremely important that people look after themselves, follow the advice and self-isolate if they think they have any symptoms. We are moving forward from the lockdown in an extremely cautious manner, and it is absolutely imperative that everybody puts their health, and the health of everyone around them, first.

**Lord Lansley (Con):** My Lords, there is limited evidence about the extent of transmission of the virus between children and between children and adults. Returning to the issue of schools, I wonder whether my noble friend will ask the Government to publish their evidence on transmission of the virus between children. The Government must also look to France, which today is allowing the youngest children back into schools, in a way similar to that proposed for this country from the beginning of June. The Government should perhaps try to acquire data that would give reassurance, not least to teachers, about the safety of young people returning to school.

**Baroness Evans of Bowes Park:** We will certainly look at international evidence. As countries come out of their lockdowns at different rates and through different measures, we will of course all learn from that. I assure my noble friend that the Government Office for Science is working to regularly publish the evidence, documents and studies that have formed the basis of SAGE's discussions and advice to Ministers. We expect that to include the data raised by my noble friend on the reopening of schools.

**Baroness Andrews (Lab):** My Lords, further to the question asked of the Leader of the House by my noble friend the Leader of the Opposition, can she confirm now that the Prime Minister did not actually consult the devolved nations about his change of message, from "Stay at Home" to "Stay Alert", and the policy that followed? Will she therefore now explain why the Prime Minister thinks that it is safe for people in England to go back to work, while in Wales, Scotland and Northern Ireland, it is seen as too risky and premature?

**Baroness Evans of Bowes Park:** The Prime Minister has regular conversations with the devolved Administrations. As I said, the leaders of those Administrations are involved in all COBRA meetings and discussions. There is close dialogue. As Nicola Sturgeon said, it is

"perhaps reflecting the fact that our first cases came later than England's ... so we may be at a different—and slightly later—stage of the infection".

As we move out of lockdown, while we want the four nations to move together, if there are slight differences, we will need to take that into account. However, I do not think that the divergence in approach between the four nations is as great as has been made out. We continue to work closely together because we all want the best for all of our citizens.

**The Deputy Speaker (Lord Rogan) (UUP):** My Lords, the time allocated for the Statement is now up. The day's Virtual Proceedings are now complete and are adjourned.

## National Security Strategy (Joint Committee)

*Message from the Commons*

*A message was brought from the Commons that they have appointed a Select Committee of eleven Members to join with the Committee appointed by the Lords as the Joint Committee on the National Security Strategy.*

*Virtual Proceeding adjourned at 8.09 pm.*





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