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HOUSE OF LORDS

OFFICIAL REPORT

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The following abbreviations are used to show a Member's party affiliation:

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

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

House of Lords

Friday 16 April 2021

The House met in a hybrid proceeding.

11 am

Prayers—read by the Lord Bishop of Gloucester.

Arrangement of Business

Announcement

11.05 am

The Deputy Speaker (Lord Lexden) (Con): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, others are participating remotely, but all Members will be treated equally. I ask all Members to respect social distancing. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Prisons (Substance Testing) Bill

Second Reading

11.06 am

Moved by ***Baroness Pidding***

That the Bill be now read a second time.

Relevant document: 37th Report from the Delegated Powers Committee

Baroness Pidding (Con): My Lords, it is my privilege to move the Second Reading of the Prisons (Substance Testing) Bill, which was introduced by the right honourable Dame Cheryl Gillan in the other place. Members across the House will be aware of the news that Dame Cheryl sadly passed away earlier this month. I hope that noble Lords will understand my wish to take a few moments to reflect on this immense loss. I speak as someone who counted Dame Cheryl as one of my dearest friends. I had the privilege of knowing her for 30 years, from when I took part in her selection by the Chesham and Amersham Conservative Association in my role as Young Conservatives chairman through to now as president of that same association.

I want to pay tribute to Dame Cheryl's remarkable career. She was the longest-serving woman MP on the Conservative Benches, but she was so much more than that. She was kind, empathetic, bright, tenacious, articulate and knowledgeable, and, as one of her former parliamentary colleagues said, she knew what being a colleague was all about. Cheryl was a remarkable parliamentarian and one who had a reach beyond any one political party. She was a great advocate for her constituents and will be sorely missed. My condolences go to Dame Cheryl's family, friends and staff. I pay respects to her for her commitment, passion and dedication to the excellent causes that she championed and I hope that this Bill can represent another significant contribution towards an already impressive legacy.

I also pay tribute to Richard Holden MP, who efficiently and smoothly guided this Bill through its various stages on her behalf. The Bill had a successful passage and received unqualified support from all sides in the other place. I trust that it will be similarly welcomed and supported in your Lordships' House. It would make our prisons and young offender institutions safer, more secure and, ultimately, better environments for rehabilitation.

The misuse of drugs is one of the biggest challenges faced by our prisons and young offender institutions. A survey by Her Majesty's Inspectorate of Prisons in 2019-20 showed that 40% of female prisoners and 45% of male prisoners found it quite easy or very easy to get drugs in prisons. Psychoactive drugs and the misuse of prescription-only medicines and pharmacy medicines in particular are a relatively new problem for our prisons and young offender institutions, but they are a growing and dangerous problem. We must take further action to identify prisoners and young offenders with substance misuse issues and ensure that they are offered the appropriate treatment. The Bill would boost the capability of prisons and young offender institutions in England and Wales to test for the use of illicit substances and would make key progress in combating the prevalence of drugs in prisons.

Members in both Houses are well aware of the scourge of drugs both in prisons and out in the wider community. The scale of the problem with drugs in prisons is demonstrated by the available data. In the year to March 2020, there were almost 22,000 incidents of drug finds in prisons in England and Wales alone. The highest number of incidents was over the past decade, with 182 kilogrammes of illicit drugs being recovered.

Drug use drives the increasing violence that we have seen in prisons. Debts are enforced, discharged or avoided through assaults on other prisoners or staff and incidents of self-harm. This is our chance to make a productive change to the prison drug testing framework, ensure that those with substance misuse issues are referred to the appropriate treatment and disrupt continued violence within our prisons and young offender institutions.

The Prison Service and the Youth Custody Service currently have the legal authority to test for controlled drugs, as defined under the Misuse of Drugs Act 1971, and specified substances listed in Schedule 2 to the Prison Rules 1999 and Young Offender Institution Rules 2000. In order to add a new drug to the list of specified substances, the Government need to individually add each and every new compound to it through secondary legislation. That process is resource-intensive and inefficient. Most importantly, it causes operational delays for prisons and young offender institutions, limiting their ability to deal with emergency healthcare cases and take appropriate disciplinary action. Despite the Prison Service and the Youth Custody Service updating the list at regular intervals, ill-intentioned drug manufacturers and chemical experts are able to quickly get around the law by producing modified variations of these drugs, meaning that prisoners and young offenders are no longer able to be tested for them and their use goes undetected.

[Baroness Pidding]

I turn to the contents of the Bill. Its response to this issue is both simple and straightforward. The Bill adopts the definition of "psychoactive substances" provided by the Psychoactive Substances Act 2016, which will allow the Prison Service and the Youth Custody Service to test prisoners for any and all psychoactive substances now and in future. Similarly, the Bill permits prisoners and young offenders to be tested for the illicit use of prescription-only medicines and pharmacy medicines as defined by the Human Medicines Regulations 2012. The Bill also provides an express power for the use of prevalence testing, which, through the testing of pooled and anonymised samples, allows prisons and young offender institutions to identify new drug types in circulation and tailor treatment services and security countermeasures accordingly.

I am convinced that this Bill will have a meaningful effect, future-proofing the drug testing framework and enabling it to quickly respond to a rapidly changing modern drugs trade. This will allow the Prison Service and Youth Custody Service to take the appropriate action needed to tackle the threat of drugs, whether that be in referring prisoners and young offenders into healthcare treatments or in pursuing sanctions against those involved in the distribution and use of drugs.

In conclusion, I earnestly hope that your Lordships will recognise the importance of making these changes, and speedily. We must act as soon as possible. We know that those who seek profit from drugs will stop at nothing to continue harming our prisons and young offender institutions. We must meet them with at least equal vigour in our measures of disruption. I appreciate that timescales are tight as we come towards the end of this parliamentary Session, but I sincerely hope that this Bill will be on the statute book. I look forward to hearing noble Lords' contributions in this Second Reading debate and hope that there will be support from across the House. I beg to move.

11.14 am

Lord Morris of Aberavon (Lab) [V]: My Lords, I support the Bill and congratulate the noble Baroness, Lady Pidding, on taking it over and moving this Second Reading so eloquently. I, too, pay tribute to Dame Cheryl Gillan, with whom, when she was Welsh Secretary, I spent a pleasant hour discussing Welsh affairs in her office, which I had occupied for six years.

We should all take an interest in what happens in our prisons. Earlier in my life, I had planned to do a little to improve the rehabilitation of prisoners. I fear that age and other issues have crowded out that noble aim. Over the years I have visited many prisons, mostly in the south of England, in a professional capacity as a mainly criminal defence lawyer. However, my first visit was outside my profession. As a young MP, I took my father-in-law, who was a Welsh publisher and did so much for Welsh publishing, to see one of his authors in prison: the illustrious Waldo Williams, who was jailed for refusing to pay that part of his income tax that went to defence expenditure. I had to stay in the outside foyer—I was only an MP—but my father-in-law was a senior magistrate and prison visitor and he was able to see his author.

Having been to many prisons over the years, usually to consulting rooms or foyers for consultations with my clients, I never came across any suggestion of drug taking or anyone being under the influence of drugs. Some of the consultations in long fraud cases would take the best part of a day. Things have changed. The present legislation allows for the drug testing of prisoners. The aim—perhaps it is too ambitious—is to allow no drugs in prisons. I agree with this aim, but fear that this is not the case at present. As the noble Baroness has explained, the amending legislation would allow the prisons to catch up with changes and developments in the importation of drugs. My understanding is that there is an increased importation of psychoactive substances and pharmaceutical medicines.

In his last annual report, the Chief Inspector of Prisons argued:

> "For many years safety and decency in prisons has been undermined by the prevalence of illicit drugs and the impact they have in generating debts, bullying and violence."

This is a terrible indictment of the state of affairs. I fear that the Bill is vitally needed to deal with such drugs. The prisons are having to deal with a moving target; that is why we need the flexibility that the Bill allows and I therefore welcome it very much. It will be a helpful tool to deal with present developments. In my professional life, I have seen too many effects of the damage that drugs have done to individuals. I commend this much-needed Bill and congratulate the noble Baroness on moving it so eloquently.

11.18 am

Lord German (LD): My Lords, I, too, start with a short tribute to the late Dame Cheryl Gillan, in whose name this Bill was taken through the House of Commons. Cheryl and I were both brought up in Cardiff and, although her politics are not mine, we shared a deep love of music. We have been deeply involved in the work of the choir of this Parliament—she as a founder member and former treasurer and I as the present chair. In a book soon to be published charting the 20-year history of this great parliamentary institution, Cheryl wrote that the Parliament choir shows a gentler side of our democratic institution, which has proved itself to be capable of producing great beauty and harmony. Her work in bringing our Parliament and the German Bundestag closer together is a tribute to her. I am sure that we all appreciate this as part of her legacy to this institution.

In the sense of the great harmony of which Dame Cheryl wrote, I welcome the intention of this Bill, narrow in scope as it is. Managing drug abuse is a complex matter. The *Prison Drugs Strategy* splits its first of three aims, "Restricting Supply", into 18 action areas, one of which is drug testing. If it is one of 18 actions in meeting the first of the three aims of that drug strategy, it demonstrates the complexity of this issue. The Bill seeks, first, to future-proof the myriad drug variations that continually appear and, secondly, to properly assess the prevalence of drug use on the prison estate. These are narrow but important ambitions.

I will raise three consequences of the Bill. First, in getting a true picture of drug misuse on the prison estate, what do the Government do with this information?

Is it to broaden understanding, to test assumptions, to influence policy change or all three of these? If so, then it is legitimate to know how Parliament will be informed of these outcomes and in what timescale. So, in replying, can the Minister tell the House how the Government propose to publish these outcomes in a form that Parliament can analyse and discuss?

Secondly, testing will undoubtedly demonstrate more drug use than at present. The consequence of this increase in the number of prisoners misusing drugs is that there will also be an increase in demand for drug treatments. The Government's Explanatory Notes state that the Bill will have few direct financial consequences, but they only refer to the increased costs of testing. This misses the importance of the growth in demand for adequate drug therapeutic support for substance misuse treatment. So will the Minister explain how increased demand for drug-misuse treatment will work without additional funding? From the Explanatory Notes, it would appear that these services will be spread more thinly across a wider cohort of prisoners.

Finally, the new knowledge gleaned from the prevalence of drug testing will require research and analysis—so, in replying, can the Minister tell the House what provision has been made for research and analysis and who will carry this out? With these three questions, I welcome the Bill, and I hope that it has a speedy passage.

11.21 am

Baroness Watkins of Tavistock (CB): My Lords, it is a pleasure to follow on from other noble Lords and to lend my support to this Private Member's Bill, so coherently presented to this House by the noble Baroness, Lady Pidding. I also acknowledge her tribute to the late Dame Cheryl Gillan. My brother and sister-in-law, John and Sarah Watkins, have been supportive constituents of hers for many years, and I extend my deepest sympathy to her friends and colleagues and to the noble Baroness, Lady Pidding, and her partner, Tim Butcher.

The Bill's aim is to enhance the provision of substantive testing in prisons and similar institutions. We have seen the exemplary speed with which vaccines have been developed globally in response to the Covid-19 pandemic. This is medical and scientific innovation at its best, yet, even a decade ago, it would not have been feasible to achieve such outcomes so quickly.

Some of the techniques used in medicine development and the refinement of current drugs are used by criminals, with the sole intent of changing chemical elements while maintaining a drug's ability to encourage addiction. Under current law, because the psychoactive substances that can be tested for in prisons are listed—and, to add to the list, secondary legislation is required—many substances currently abused by prisoners, which often play a role in illicit prison economies, cannot technically be screened for through anonymised prevalence testing.

This Bill is designed to improve the capability of prison services in England and Wales to test for a wide range of illicit substances, including new psychoactive substances, as they emerge, which has for example been the case with spice. This is a highly addictive substance that, as I have said before in this House, is prevalent in many prisons, causing severe problems for prisoners themselves and putting prison officers in at-risk situations because the drug can trigger erratic and aggressive behaviour in users.

However, I am concerned that the Explanatory Notes for the Bill imply that there is no expectation that costs associated with prevalence testing will increase. However, it seems reasonable to expect that laboratory costs will increase in line the number of substances in samples that are screened for. If the Bill is passed, it is acknowledged that greater investment in mental health services will be necessary to treat problems associated with identified addiction to both illegal and, in some cases, prescribed medicines. Could the Minister explain whether the Government will commission an impact assessment to identify the real needs of successful health intervention in prisons, and especially in youth offender institutions, associated with addiction? Screening may well make prisons safer, but, without readily accessible drug rehabilitation programmes, prisoners are unlikely to benefit significantly from the Bill.

I lend my unreserved support to the Bill, but question the extent to which it will make a real difference to the quality and safety of prisoners', young offenders' and prison officers' lives without greater investment in the Prison Service more widely.

11.25 am

Baroness Sater (Con) [V]: My Lords, I am honoured to speak in support of this important Bill, which my dear friend the late Cheryl Gillan introduced as a Private Member's Bill in the other place. Cheryl was a great mentor and friend to so many; I was lucky enough to have encountered this when I first met her 30 years ago. She was so kind and generous with her time and will be sorely missed. She is a huge loss to the other place and to politics in general.

The overarching purpose of the Bill is to help ensure that ultimately our prisons and young offender institutes are not only safer and more secure but, importantly, better environments for rehabilitation. We know that drugs affect the mental and physical health of prisoners, and the use of psychoactive drugs and the misuse of prescription-only and pharmacy medicines is a relatively new but growing problem in our criminal justice system. It is vital that we have a robust process in place that is not only effective but able to respond to the rapid changes in the market for illicit and legal substances. The Bill would make it easier for prison officers to identify these substances and, in turn, lead to better and more effective treatments.

While important, better testing in isolation will not necessarily lead to the better rehabilitation outcomes that we are all determined to see. From the Black review, commissioned in 2019, we know that an estimated one-third of the prison population is there for drug-related crime. Of these, 40% have been convicted of specific drugs offences, such as trafficking, while 60% are serving sentences for crimes related to drug addiction, such as theft.

Moreover, the review highlights that the lack of purposeful activity—and the sense of boredom and hopelessness that it causes—is a "significant factor" in driving the demand for drugs. Purposeful activity

[Baroness Sater]
including, physical activity and sport, can contribute to better mental and physical health among prisoners. Data also shows that prisons that deliver these activities have lower rates of positive drug tests and drug finds.

We send people to prison for punishment, public protection and rehabilitation. Only by prioritising rehabilitation can we reduce reoffending and, in turn, the number of future victims of crime. The Bill is an important step to that ultimate aim, and, although it makes only minor changes to the testing regime currently in place, improving this capability will make a significant impact in tackling the prevalence of drugs in the criminal justice system, improving those all-important rehabilitation outcomes.

11.28 am

The Lord Bishop of Gloucester: My Lords, I add my condolences to those already expressed regarding the sad death of Dame Cheryl Gillan. I echo others in affirming that it is her commitment to reform that means that we are discussing these issues today.

I declare my interest, as stated in the register, as Anglican bishop for prisons in England and Wales. It is a great privilege for me to visit a variety of establishments. In conversations with prisoners, governors and chaplains, you get a sense of those issues that, if tackled, could have a real impact. Drug use within prisons is one of those issues.

In a visit to a prison just two weeks ago, I heard about psychoactive substances being smuggled in on letters and the back of postage stamps. This makes it incredibly hard to prevent, and attempts to do so take up vital time and resource which need to be used more appropriately elsewhere. Rehabilitation must be key in our prison system—prisons should be places where the root causes of offending can begin to be addressed. I will not deviate at this point.

As a Christian, I believe in hope and the possibility of change, and the last thing that prisoners should have access to is a drug to which they are already addicted or that is a new addictive substance. They should also not be tempted by a trade in these substances. Furthermore, staff and volunteers in prisons should be protected from the effect of these substances, which is not the case at present.

I therefore support the Bill and support a testing regime, delivered appropriately, which would be responsive to new drugs as they emerge. Of course, all this needs to be set within a wider picture of rehabilitation and a holistic approach to all issues and factors impacting the lives of those sentenced. Further comment on that can wait for a different Bill, which I hope will come to us from the other place in the not too distant future. For now, I welcome the Bill and its potential for good and not harm.

11.30 am

Lord Farmer (Con) [V]: My Lords, I too begin by acknowledging the hard work of the right honourable Cheryl Gillan, about whose passing away we have all been saddened to hear today, in bringing forward the Bill in the other place. Thanks must go also to Richard Holden MP, who steered the Bill in the Commons when necessary on Ms Gillan's behalf, and to my noble friend Lady Pidding for taking it through this place and for her excellent introduction today.

My own interest in the Bill lies in the fact that the endemic proliferation and consumption of illicit drugs across the prison estate are hugely detrimental to prison safety and the relationships that are so important to prevent reoffending. Both safety and relationship concerns must be addressed if rehabilitation is to be a realistic aim of our prison system. In 2016-17, when I was conducting the review on strengthening prisoners' family relationships, the Ministry of Justice's own data showed that prisoners who received family visits were 39% less likely to reoffend after release than those who did not, at a time when reoffending was running at 43%.

In my first review, Peter Clarke, then Her Majesty's Chief Inspector of Prisons, described how many prisons are

"unacceptably violent and dangerous places"

and said that much of this is linked to the harms associated with drugs. To avoid these harms, my review indicated, for example, that quality time spent with family is a key motivator for a prisoner and a parent to stay clean. I quoted one father, who said that it was tempting to use drugs to get through a tough day, but:

"If part of your … routine is to do homework with your child or ring home … to hold a quality conversation with her, this is a strong deterrent to taking a substance that would mean you were unable to do that because you were 'off your head'."

An individual who has easy access to drugs and less will power risks missing out on their child or children's lives and entrenching in them the sense of being abandoned by their mother or father. Reducing the prevalence of drug use in prisons is essential for bringing greater stability and structure to prisoners' and their children's lives. Data shows that a child of a prisoner has more than a 60% chance of being imprisoned themselves.

This is a good, tightly focused Bill, which I hope we can get on to the statute book before Prorogation so that we can make much-needed progress in this important area of rehabilitation.

11.33 am

Lord Ramsbotham (CB) [V]: My Lords, I strongly support the intention behind the Bill and am glad that the noble Baroness, Lady Pidding, began her excellent introduction with a tribute to the late Dame Cheryl Gillan, whose Bill it is, but I admit to being worried about the practicalities of delivery.

I have always thought that the Ministry of Justice and Her Majesty's Prison and Probation Service set too much store by the effectiveness of mandatory drug testing, which, far from being the important tool that they claim, proves nothing except how many people test negative and has always been capable of manipulation.

To illustrate how easy manipulation is, when I was chief inspector, I once went into a cell and noticed some certificates on the wall. On asking the prisoner what they were for, I was told that they were for testing drug-free, which it was known he was, and that if I came back the next month, there would be another one. Another time, I went into a prison where there

were alleged to be no drug users, which I simply did not believe. I found that the prison made a practice of testing only vulnerable prisoners, who were notoriously drug-free. I ordered an immediate test of the whole prison, which found that 47% were users.

The effects of apparently freely available psychoactive and other substances have been well documented, including increased violence against staff and other prisoners. The absence of, or the inability of many prisoners to access, treatment programmes is also a worry. I would be happier if, in addition to trying to prevent substances getting into a prison, there was evidence of a desire to achieve better testing and more access to treatment.

11.37 am

Lord Bourne of Aberystwyth (Con) [V]: My Lords, it is a great pleasure to follow the noble Lord, Lord Ramsbotham, who certainly knows a great deal about this area. I thank my noble friend Lady Pidding for introducing this legislation into our House and Richard Holden for the work that he has done in the House of Commons.

I hope that the House will indulge me if I say a few words about my right honourable and much-missed friend Dame Cheryl Gillan. Cheryl was a good friend as well as a close colleague, particularly when she was shadow Secretary of State for Wales and later Secretary of State and I was leader of the Welsh Conservatives in what is now the Welsh Parliament. We often agreed; we usually agreed, but I can remember on one occasion having a furious row with Cheryl over some footling issue—I cannot even remember what it was now—and I had been dreading meeting up for the supper that the two of us were due to have that evening. I need not have worried. I walked into the restaurant and Cheryl came over to me and gave me a big hug—in the days when we could still hug—and said to me, "I think you're wrong, but we'll do it your way. Now, let's have the evening and not discuss politics." It was typical of Cheryl. She was always fun to work with, a real people person, dedicated, hard-working and disarming. I miss her a lot. This Bill, I hope, will be a fitting tribute to Cheryl Gillan's work and character.

It is clear that drug testing in prison has been a challenging issue because the chemical composition of psychoactive substances is subject to such rapid change. This has meant that new psychoactive substances are often created with minor alterations to the chemical make-up of the previous substance, but, with each alteration of the substance, there has to be an amendment to the law to provide for it. This is time-consuming and causes delay. A further issue is that not all prescription and pharmacy medicines are included in the list of drugs that a prison can test for. Furthermore, there is currently no legislative basis for prevalence testing, an anonymised process to help identify any new substances being found routinely. The Bill, very sensibly, therefore corrects all those problems with the existing law.

The Prison and Probation Service has indicated and provided evidence to show that psychoactive substances in prison have become a significant problem. This measure is much needed. I am proud to lend strong support to it, and pleased that it seems to be reflected across the House, and I very much hope that this will become law before prorogation. Once more, I congratulate the noble Baroness, Lady Pidding, for championing this measure in your Lordships' House, and I strongly support it.

11.40 am

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I take this opportunity to congratulate the noble Baroness, Lady Pidding, on bringing forward this legislation and offer my sympathies to the family of the late Dame Cheryl Gillan, who originally introduced this Bill in the other place. I agree with the purpose and objectives of the Bill, which would amend existing legislation to allow prisons to test for a wider range of drugs, including psychoactive, prescription and pharmacy medicines, without the need regularly to change the legislation in future. I take note of what the noble Lord, Lord Bourne, has just said—that psychoactive substances have certain chemical properties which can change from time to time. Therefore, the prison authorities and the appropriate department has to be on top of this issue to protect and safeguard prisoners.

Undoubtedly, the misuse of drugs is one of the biggest challenges facing the criminal justice system. In many cases, it mirrors what exists in the wider community, but often a custodial sentence will mean that it is the first time that prisoners come into contact with more hardened criminals, and bullying and intimidation can take place in the misuse of drugs. In many cases, the misuse of substances is an intergenerational and international issue.

The punitive element of imprisonment means the loss of an individual's liberty. A successful rehabilitation is often dependent on isolating them from the negative factors in their lives, which have contributed to their offending. Many arrive in prison with significant diagnosed and undiagnosed healthcare needs, and a number struggle with the rigour and restrictions of the prison regime. Some will self-harm or become suicidal with prison life, and the challenges for prison and healthcare staff are real and omnipresent.

I am very happy to support this legislation. I have certain issues that I would like to propose to the Minister regarding the additional costs involved in implementing this legislation and other aspects of parliamentary scrutiny. Would it be possible for Parliament to receive an annual report on its implementation? I am in no doubt that comprehensive drugs-testing in prisons is required. Psychoactive substances are often used alongside other drugs, and the supply of drugs is also a significant cause of violence, intimidation and self-harm across the prison estate.

11.43 am

Lord Berkeley of Knighton (CB) [V]: My Lords, I join colleagues in their tributes to the late Dame Cheryl and support the Bill which is part of her legacy. I do not have anything like the expertise of many noble Lords on this subject today, unlike my noble friend Lord Ramsbotham, whose concerns I endorse. However, for many years I was trustee of the Koestler Trust, which takes the arts into prisons. Indeed, I went to Wormwood Scrubs to see this in action. This links

[Lord Berkeley of Knighton]
into the more general point that I seek to make, which the Government's own 2019 review, the Black review, described as

"the link between the quality of the prison and use of drugs".

It found that a lack of purposeful activity and the sense of boredom and hopelessness that it causes was a significant factor in driving the demand for drugs. The review highlighted the connection between drug use and unrest and violence in prisons, stating that these issues

"disrupt the chances of recovery for those with pre-existing problems and create opportunities for violent organised crime groups to make significant profits".

In my maiden speech in 2013—how the years do pass—I cited the case of a man to whom we in the Koestler Trust supplied the use of a guitar. The offender wrote to thank me; it was a very moving letter, and I have never forgotten it. He said:

"Playing this instrument has completely changed my life and I really think that had I had this means of self-expression when I was young and in a state of considerable turbulence I might not now be serving life for murder."

I understand that a Conservative Government feel strongly that prison should not be some sort of holiday camp, but I fear we have gone too far in the other direction. Prisoners are often locked up for most of the day with little to prompt rehabilitation or get the imagination going, so no wonder that drugs offer a form of escapism. Of course, prisons need to be able to test for the ever more complex drugs being used and manufactured, and I have no quarrel with the purpose of this Bill in that respect. However, it addresses the effect and not the cause. I have said before in your Lordships' House that I would love the Government to at least study some of the prisons in the Netherlands and Scandinavia, where they have had remarkable success in reducing repeat offending and starting offenders on the map to a more constructive way of life.

11.46 am

Lord Cormack (Con): My Lords, it is a joy to follow one of the most civilised Members of your Lordships' House, a man who presents my very favourite radio programme every Sunday at 12 noon. There is a plug for him.

I am delighted to congratulate my noble friend on an admirable, succinct and precise introduction of a very important measure. I pay my tribute to the late Dame Cheryl Gillan. I think I am the only one speaking in this debate who actually knew her and valued her as a parliamentary colleague, because we sat together in the House of Commons. I greatly valued her contributions. She was a classic Member of Parliament who always followed the Churchillian dictum of putting country, constituency and party in that order, as was evidenced by her brilliant campaign on HS2, although alas it was not successful.

The campaign that we are talking about this morning is one of very considerable importance. I had two prisons in my former constituency, both of them visited by the noble Lord, Lord Ramsbotham, a brilliant chief inspector. Of course, I was always very concerned—and others have mentioned it this morning—about the prime purpose of prison, which should be to rehabilitate. Reading some of the tributes to the late Prince Philip, the Duke of Edinburgh, this week, I see that one of his great issues earlier in his life was prison reform. He believed that sentences should be divided into two: a short period in prison and a longer period of rehabilitation. Of course, that is not always possible, but what is not possible ever is rehabilitation while drugs are being trafficked, circulated and taken. It was a bad enough problem 10 years ago, when I ceased to be a Member of Parliament; it is a far worse problem now. Prisons are being totally corrupted by the circulation and trafficking of drugs and the organised crime within prisons.

The classic feature of this Bill is that it will make it possible to deal more speedily with the issue, as drugs proliferate and varieties proliferate. I very much hope that no one will attempt to amend the Bill. It is not perfect—no Bill ever is—but it is a Bill that deserves our wholehearted and united support. I very much hope that it will get it and not be amended, so that it can pass speedily on to the statute book and be a permanent memorial to a very fine Member of Parliament.

11.50 am

Lord Thomas of Gresford (LD) [V]: My Lords, I add my own tribute to those already given to Dame Cheryl Gillan both for her commitment to the work and success of the choir—I have been a member for many years—and for her commitment to Wales as Secretary of State. The noble Lord, Lord Cormack, pointed out only a moment ago that she was a person who put country, constituency and party in that order, and she demonstrated that as Secretary of State. I also congratulate the noble Baroness, Lady Pidding, on her clear exposition of this Bill.

However, I have some concerns. In short, the main thrust of this Bill is compulsorily to take samples from prisoners for the purpose of scientific research. If prisoners refuse to co-operate, they commit an offence against the Prison Rules for refusing to obey a lawful order. Article 8 of the European Convention on Human Rights says that:

"Everyone has the right to respect for his private … life … There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

This Bill is concerned not with the detection of crime but with the gathering of information on an anonymised basis. It is not a criminal offence under this Bill to have substances in the blood, but it would be a crime simply to refuse to give the sample.

This Bill will be tested to determine whether it is in breach of Article 8. Because it is a Private Member's Bill, it does not require certification by the Minister. The taking of a blood and saliva sample against the subject's will constitutes a compulsory medical procedure which, even if it is of minor importance, must consequently be considered as an interference with his right to privacy; that is the case of Jalloh v Germany in the European Court of Human Rights. In Caruana v Malta,

the court considered that the taking of a buccal swab was not a priori prohibited in order to obtain evidence relating to the commission of a crime in which the subject of the test was not the offender but a relevant witness. Taking a sample to prove a criminal offence is one thing; to take a sample for research is another.

I must make it clear that, like the noble Lord, Lord Farmer, I am very concerned about the existence of substances circulating in prisons. I join with the noble Baroness, Lady Pidding, in condemning the scourge of drugs in prison. A prisoner from Blaenau Ffestiniog died from smoking spice in Berwyn prison in March 2018; I have spoken of this before—it is Britain's largest prison and the second largest in Europe. The coroner said that he was concerned about the continuing accessibility of drugs to inmates at that institution and that there was a sense of dread in his office over the number of deaths they would have to deal with. There is recent anecdotal evidence that all sorts of substances circulate through there. Visitors to the prison have been convicted: there was one case in November 2018 for bringing in a book soaked in spice, and another in October 2020 for bringing in letters similarly treated—a practice to which the right reverend Prelate the Bishop of Gloucester has referred. Every effort should be made to prevent the smuggling of drugs and other substances into prisons.

However, there is a solution in hand. A trial scheme was announced in February, to be operated in 12 prisons in north-east England, Yorkshire and Humberside, whose findings will help the Prison Service to target anti-drugs measures. The monitoring of wastewater for traces of drugs has been pioneered in Australia. Sewage monitoring is regularly carried out in Britain to monitor the spread of viruses, including Covid-19. I am sure that the noble Lord, Lord Ramsbotham, would approve of this approach. The Prisons Minister, Lucy Frazer QC, told the *Daily Telegraph* in February:

> "Right across the estate, we're increasingly using technology to help rehabilitate offenders and to prevent drugs and phones from entering prisons. This pilot will help monitor drug prevalence in prisons, detect new and emerging psychoactive substances and ultimately contribute to reducing crime behind bars."

Perhaps the Minister can tell us how this trial is proceeding. Clearly, it is intended to answer the main purpose of this Bill—prevalence testing—without any breach of Article 8.

I have other questions about the Bill. Are random tests proposed, as opposed to targeted tests? At what point are the tests anonymised? The Explanatory Notes say that a purpose is to ensure the prisoner can have medical treatment, which does not suggest anonymity. The Bill says that any substances can be tested for; how is that limited? Finally, as my noble friend Lord German asked, what is the purpose of the tests? Is it to criminalise other substances if found? It does not seem to me that the suggestion that the Bill is proposed in order to prevent delays in criminalising is a very good one.

11.57 am

Lord Ponsonby of Shulbrede (Lab): My Lords, I open by congratulating the noble Baroness, Lady Pidding, on introducing this piece of legislation. It had a fair wind in the other place, and I expect that it will get a fair wind here too—it certainly will from these Labour Benches.

Dame Cheryl Gillan has been remembered by many speakers in this debate. I knew Dame Cheryl through numerous criminal justice-related all-party groups of which we were both members. I would also like to remember Harry Fletcher, who was a former probation officer, trade unionist and lobbyist who latterly worked for Plaid Cymru in the House of Commons. Harry died about a year ago. He set up many of these all-party groups, and Dame Cheryl often chaired them and was always an active member. I have no doubt that these all-party groups were disproportionately influential because of the formidable, if unlikely, combination of Dame Cheryl's leadership and Harry Fletcher's campaigning support.

This Bill has one substantive clause. Clause 1 would amend Section 16A of the Prison Act 1952 so that it would use the generic definition of "psychoactive substance" provided in the Psychoactive Substances Act 2016. This would allow for tests to be carried out for psychoactive substances covered by this definition without the need to repeatedly amend the Prison Rules and YOI Rules for each individual, newly developed substance. The clause would provide for tests to be carried out for prescription-only and pharmacy medicines. It also makes provision for prevalence testing to allow for anonymised testing for the prevalence in prisons of controlled drugs, medicinal products, psychoactive substances and specified substances.

Unfortunately, it has proven far too easy for the producers and suppliers of drugs and psychoactive substances to make minimal changes to the composition of those substances and, therefore, to stay outside the provisions of existing legislation. This has to change and, on this basis, we support the Bill.

I have just finished a book by Chris Atkins about his time as a prisoner in Wandsworth Prison, which is local to where I live in south-west London. It is a well-written and, at times, funny book. Unfortunately, all his observations about the destructive ubiquity of drugs in prison only confirm that drugs have taken hold in the day-to-day operation of many prisons. Prisoners and staff are constantly affected by random acts of violence and exposure to drug-filled atmospheres.

In prison, as outside, many people take drugs to escape the world in which they live. They see drugs as a source of freedom, distraction and numbness. Unfortunately, these fleeting experiences make the problems of a chaotic life so much worse. Drug misuse, like alcoholism, can be seen as a medical problem and healing it requires well-funded, long-term medical and social intervention. Analysis by the Ministry of Justice suggests that being in treatment cuts reoffending by 44% and that the number of repeat offences committed is cut by up to 33%. From this, I believe that we know that substance abuse treatment works to reduce reoffending. It is likely that, if treatment were better funded, larger reductions would result.

Over the last 10 years, local government grants and public health funding have both been cut. Responsibility for drug treatment has been transferred to local authorities and the ring-fenced budget has been removed and reduced. Many of those who are in our prisons today

[Lord Ponsonby of Shulbrede]
might not be there if they had got help earlier, and if society and the state had had the resources to step in and stop that downward spiral before it started.

Substance misuse in prisons is rife. It fuels violence and health problems, and remains a barrier to rehabilitation. The physical and mental impact on prison staff, including those who provide healthcare and education, can be truly awful.

In the debates in the other place, the Minister Lucy Frazer spoke about a pilot drug recovery programme at HMP Holme House, which seeks to help prisoners improve their chances of recovery. She said that it had been in operation for a short period and that an evaluation of the pilot is due shortly. I ask the Minister whether that is now available. She went on to talk about drug-free wings and units in the existing prison estate, and I also ask the Minister what is being done to roll out this drug-free wing or unit approach.

I conclude by echoing the questions of the noble Lord, Lord German. He asked three very apposite questions and his points were backed up by the noble Baroness, Lady Ritchie, and the noble Lord, Lord Thomas of Gresford. His basic point was that there is likely to be an additional prevalence of addicted prisoners through the greater and more accurate testing regime. What will be done to provide and fund a way out of the terrible hole that our Prison Service is in? I look forward to the Minister's reply.

12.04 pm

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): My Lords, I am grateful to all noble Lords who have contributed to this short but important debate on this very important Bill, which the Government support fully and unequivocally. I say at the outset that, when one is talking about prisons, there is a whole raft of matters that one can talk about. There will be certain matters raised today that may be more appropriately debated, at greater length, in other Bills that will come before your Lordships' House.

I start by thanking my noble friend Lady Pidding for introducing this Bill, and all noble Lords for their contributions. It has been a personal pleasure to work with my noble friend on this. But I must echo the tributes made to my right honourable friend the former Member for Chesham and Amersham, Dame Cheryl Gillan, who was a warm and kind-hearted colleague and a tireless advocate for both her constituents and numerous important causes throughout her career. I also note the work that she did for Wales, in particular.

In 2009, she successfully brought the Autism Act into law, following the introduction of another Private Member's Bill, which boosted provisions for adults with autistic spectrum conditions. Therefore, as my noble friend Lord Bourne of Aberystwyth noted, it is a fitting tribute and a demonstration of her consistent contributions to society and Parliament that we are debating this important Private Member's Bill this morning.

It is apparent that Members across the House recognise the benefits of this Bill and, as others have, I pay tribute to Richard Holden in another place for championing its cause and bringing it forward. I hope that it reaches the statute book before the end of the Session. The Government have taken a keen interest in the legislation; it has therefore been reviewed by parliamentary counsel to ensure that it is legally sound. The Explanatory Notes in support of the Bill, to which I will come back, have been prepared by the Ministry of Justice with the permission of my noble friend Lady Pidding.

I fully endorse the point made by my noble friend that, to use her phrase, the Bill is "simple and straightforward". It will future-proof drug-testing frameworks in prisons and young offender institutions by adopting broader definitions of psychoactive drugs, prescription-only medicines and pharmacy medicines. It will enable us to have a robust and responsive drug-testing framework that can respond very quickly to new drugs emerging on the market, as criminals tweak the chemical composition of existing psychoactive drugs to evade detection.

One has only to compare the speech of the noble and learned Lord, Lord Morris of Aberavon, who explained the position some years ago, when drugs were virtually unknown in prison, with the evidence provided by the right reverend Prelate the Bishop of Gloucester, who explained the ingenious ways in which criminals now get drugs into prisons. If I may break into Latin in the court of Parliament, because I am not allowed to any more in the courts of justice—tempora mutantur, nos et mutamur in illis. Your Lordships will need no translation.

The Bill also puts prevalence testing on a firm statutory footing. As my noble friend Lady Pidding explained, prevalence testing equips the Prison Service with better information to identify new and emerging drug trends, so that it can quickly react to changes in drug use. So this is a distinct Bill with a distinct purpose.

Drug misuse in prison is not only harmful but disruptive, both to the prison and its staff. It prevents hard-working staff in prisons delivering safe, meaningful and rehabilitative regimes. As my noble friend Lord Cormack reminded us, it is almost impossible to have proper rehabilitation if drugs are flowing through the prison. For too long, our interventions have been restricted by limitations in our drug-testing capabilities. That is why the Government support the measures in the Bill to tackle drugs in prisons and young offender institutions.

I was going to explain to your Lordships' House some of the other work that the Government are doing in prisons but, given that I have limited time and have been asked a number of questions, I hope your Lordships will permit me to respond to those, as so far as I am able to, standing on my feet today.

First, the noble Lord, Lord German, asked three questions. The first was about publishing the findings, a point echoed by the noble Baroness, Lady Ritchie of Downpatrick. The position there is that Her Majesty's Prison Service currently publishes data annually, as part of the annual digest, and data on psychoactive substances, prescription only and pharmacy substances, as a result of this Bill, will be included in those future annual publications.

The noble Lord's second question was about funding, which a number of noble Lords asked about. The position there is that although the Bill provides power to test for a wider range of substances than is currently covered in the testing framework, the legislation will not significantly affect the practice or, we think, the volume of mandatory drug testing in England and Wales. There may well be additional lab costs, but that will be covered by existing budgets, so we anticipate that any financial impact will be modest. Depending on how the Bill's powers are ultimately used and what the results are, they may give rise to a larger number of positive test results and, if that happens, there could be increased costs for providing therapeutic support, such as substance misuse treatment or increased adjudication costs. Again, we do not anticipate that those will be significant, but we will obviously keep that under review.

The noble Lord's third question was about research. Data captured from the changes in the Bill will contribute to the wider picture available to the Prison Service and, in particular, to the drugs strategy and delivery unit. Analysis of this data will enable us to more accurately model future substance treatment interventions, as well as the implementation of suitable security countermeasures.

The noble Baroness, Lady Watkins of Tavistock, asked about the cost point, which I hope I have answered. She also asked about a review. I can assure her that this issue is kept under constant scrutiny by the department, and in particular by the Minister in the other place, whose policy area this is. My noble friend Lady Sater asked about rehabilitation and funding in that context. In January this year, we announced £80 million investment in drug treatment in England for the coming financial year, 2021-22. This will obviously increase the number of available drug treatment services in England for prison users with substance misuse issues.

The noble Lord, Lord Ramsbotham—as others have said, his experience in this area is, unparalleled—spoke about delivery. With respect, he is absolutely right. Of course, testing must be done on a proper basis, and I will say a little more about that when I respond to the point put to me by the noble Lord, Lord Thomas of Gresford. In fact, I turn to that now.

The first issue I should respond to is a rather legal one, so I will be brief, given the time. The noble Lord mentioned Article 8 of the ECHR. The Explanatory Notes, to which I draw the House's attention, in paragraphs 34 to 42, provide that, although the Minister—in other words, me—does not have to give a certificate for the Bill, because it is a Private Member's Bill, the Ministry of Justice has looked at the issue and we are satisfied that the Bill is compliant. Those paragraphs set out why we think the Bill is compliant with Article 8. I emphasise that prevalence testing is done only on samples already provided for mandatory drug testing: there is no further Article 8 interference and there is no power in the Bill to take intimate samples such as blood. I heard what the noble Lord said about the Act, if it becomes an Act, being challenged; we will cross that bridge when we come to it, but we have considered the issue.

On random and targeted testing, the position is that prisoners can be required to undertake monthly random mandatory drug tests or suspicion-based drug tests, or they can volunteer for compact-based drug tests. Prisons across England and Wales must carry out random mandatory drug testing on at least 5% to 10%, but no more than 15%, of the resident population each month. Where suspicion-based drug testing is employed, staff are required to undertake unconscious bias training to help prevent prisoners and young offenders with protected characteristics being disproportionately affected by the testing regime. I hope that that deals with the random and targeted point, as well as the anonymous point that the noble Lord put to me. As for the purpose, I think I have explained that in what I have already said.

I note the time, but I want to reply briefly to the point of the noble Lord, Lord Ponsonby of Shulbrede, about Holme House. That is a £9 million project which provides an innovative, whole-system approach to tackling substance misuse in prisons. It is subject to four evaluation elements. There is a process evaluation which will report by the end of spring this year, and an impact and economic evaluation which will report in 2023. If I am able to add any more to that, perhaps the noble Lord will permit me to write to him.

I am very conscious of the time, and also conscious that I have not replied to everybody who has contributed, but I hope I have dealt with the main points put to me and very much hope that this House will endorse and support the Bill, which has been so ably brought to us by my noble friend Lady Pidding.

12.16 pm

Baroness Pidding (Con): My Lords, I start by thanking noble Lords on all sides of the House, and my noble and learned friend the Minister, for their warm comments about Dame Cheryl. I am touched by them and I know that her family will be too.

I thank all noble Lords who have taken part in this debate, and I appreciate the generous support for these important measures and the very thoughtful contributions. The Bill will make our prisons and young offender institutions safer, more secure and, ultimately, better environments for rehabilitation—aims that all local Lords who have spoken today share. Once again, I take this opportunity to reiterate the limited time we have remaining in this parliamentary Session. There is a real risk that the Bill could fall and we would miss the opportunity to pass these measures into law. From the valuable contributions today, it is clear that all noble Lords recognise the benefits of the Bill and the importance of the measures contained within it. However, should there be any unanswered concerns, I would welcome early engagement from colleagues across the House to allow me—I hope, with the support of the Minister—to address any concerns and resolve them without the need for amendments to the legislation as drafted.

Finally, I appreciate the Minister's expertise and very supportive remarks and I thank the clerks and the officials at the Ministry of Justice for the guidance

and support they gave me in preparing the Bill. I ask your Lordships to give the Bill a Second Reading. I beg to move.

Bill read a second time and committed to a Committee of the Whole House.

The Deputy Speaker (Lord Russell of Liverpool) (CB): We will now move to the next business. We will wait a few minutes for noble Lords to leave the Chamber and for those who will speak in the next debate to come in.

Botulinum Toxin and Cosmetic Fillers (Children) Bill

Second Reading

12.19 pm

Moved by ***Baroness Wyld***

That the Bill be now read a second time.

Baroness Wyld (Con): My Lords, I first congratulate Laura Trott MP on her success in skilfully navigating her Bill through the other place, and in particular on its arrival in this House unamended. I am afraid the beginning of my speech may be a bit of an Oscars speech, because so many people have campaigned on this issue to date. I want to mention Alberto Costa MP, who has campaigned for so many years following the high-profile case of one of his constituents who suffered a terrible injury following a botched lip filler administered by an unregulated and unqualified beautician, and Carolyn Harris MP and Judith Cummins MP, who are co-chairs of the All-Party Group on Beauty, Aesthetics and Wellbeing. I also pay tribute to the fantastic work of Save Face, which is a national register of accredited practitioners who provide non-surgical cosmetic treatments.

I was delighted when Laura Trott approached me to sponsor this Bill in this House and I hope, with the help of noble Lords, to steer it on to the statute book in the remaining weeks of this Session. I am sure we will have a very wide-ranging discussion about children and young people; for good order, I declare my interests as a non-executive member of the boards of Ofsted and DCMS.

The purpose of the Botulinum Toxin and Cosmetic Fillers (Children) Bill—which is very hard to say—is to prohibit specific cosmetic procedures being performed on people under the age of 18 in England, except under the direction of a doctor, thus safeguarding children from the potential health risks of Botox and cosmetic fillers. The Bill has cross-party and government support; we are very grateful for the collaboration from both Opposition Benches and the time that noble Lords have given me. I hope that will help its progress.

I still find it quite shocking that this Bill is needed at all. To be clear, I have no problem whatever with an individual's right to alter their appearance, should they so wish. However, children are still developing, physically and emotionally, and without this legislation we are leaving them exposed to completely unacceptable risk. Laura Trott commented in the other place:

"The most frequent reaction I have received in response to my Bill is, 'Surely, that is illegal already.'"—[*Official Report*, Commons, 16/10/20; col. 652.]

Today we have the chance to ensure we put this right.

In recent years we have seen a growing prevalence and normalisation of non-surgical cosmetic procedures; they are increasingly accessible and affordable on the high street because technologies and products in this field have advanced. Cosmetic fillers and botulinum toxin—which I will refer to as Botox, which is actually a brand name—have been identified as the two procedures most appropriate to be brought under the scope of the Bill, as they are two of the most accessible and invasive procedures available on the high street.

For those who do not know, I will quickly say what Botox and cosmetic fillers are. Fillers are gel-like substances commonly injected into the lips or face to add volume and plump the injected area; they may also be used in the hands and feet, or for non-surgical nose jobs. There are temporary fillers and less common permanent fillers, which have an increased risk of serious complications. Although some filler products are regulated as medicines, they are usually classified as general products. As a result, there is a vast range of products available for purchase, and the specification and assurance of the product is limited.

Botulinum toxin is a medicine injected into the skin to smooth lines and wrinkles—I considered making a joke about Botox in your Lordships' House, but I thought we ought to play it safe today. As prescription-only medicines, they are regulated by the MHRA in the UK. Regulated healthcare professionals with prescribing responsibilities, such as doctors, may delegate responsibility for the administration of the medicine to a secondary practitioner who does not have to be medically qualified.

I will now explain why children are at risk. In England, cosmetic surgery can be performed only by doctors registered with the GMC, and providers of cosmetic surgery are required to register with the Care Quality Commission. As non-surgical procedures, the administration of botulinum toxin and cosmetic fillers is not a regulated activity. The procedures can be performed by clinicians, beauty therapists or lay people in both clinical and high street venues.

Although these procedures are offered on the high street, there are risks and complications. Risks from Botox include blurred or double vision, breathing difficulties, if the neck area is injected, and infections. For fillers, complications include the substance moving away from the intended treatment area, infection, scarring and blocked blood vessels in the face, which can cause tissue death and permanent blindness. People—mainly women—have been left with rotting tissues, lip amputations and lumps.

Currently, children, in the same way as adults, may access Botox and cosmetic filler procedures on the commercial market without a medical or psychological assessment. A 2018 survey showed that 100,000 under-16s had undergone cosmetic enhancements, the most common of which were fillers.

This Bill's focus is intentionally narrow. It will create a new offence in England of administering botulinum toxin and cosmetic fillers to persons under 18, except where their use has been approved by a medical practitioner. The procedures will still be available

to under-18s from doctors and a limited range of registered health professionals—dentists, pharmacists and nurses who are acting under the direction of a doctor—as there are cases where medical conditions would require such a treatment, for example with migraines. It also places a duty on businesses to ensure that they do not arrange or perform the procedure on under-18s unless it is administered by an approved person—a doctor, nurse, pharmacist or dentist.

The Bill creates no new enforcement mechanisms. Local authorities will be able to use the powers already accorded to them under the Consumer Rights Act 2015. As they would be criminal offences, the police can use their existing powers in relation to the powers in the Bill. The legislation would bring these specific invasive cosmetic procedures in line with age restrictions on tattoos, teeth-whitening and sunbed use.

The Bill is both short and straightforward—in many ways that is its strength—but its effect in introducing an important protection for young people is crucial. It is not about attacking the cosmetic treatment industry; indeed, the industry supports the purpose of the Bill. It is about ensuring that young people cannot access cosmetic procedures until they are able to make a genuine, informed choice.

Like many others speaking today, I speak a fair bit in this House and in my other work outside it about policy affecting children and young people. I spend most of the rest of my life, when not at work, worrying about my three young daughters and whether I am being overprotective or not protective enough, given that, after all, life is full of risk and we should prepare children for that. But there are situations when we have an absolute responsibility to step in and remove danger. I strongly believe that this is one of them. I beg to move.

12.28 pm

Baroness Massey of Darwen (Lab) [V]: My Lords, I thank the noble Baroness, Lady Wyld, and the original mover of this Bill, Laura Trott, MP for Sevenoaks, for bringing this important issue to our attention. In particular, I thank the noble Baroness for setting out the issues so clearly today. I know that Nadine Dorries, Minister for Mental Health, Suicide Prevention and Patient Safety, has already indicated government support for the Bill, which is welcome. The noble Baroness laid out the main concerns set out in the Bill. I will simply emphasise the importance of this legislation and some of the possibilities and dilemmas involved.

The United Nations Convention on the Rights of the Child, along with other domestic legislation, sets out the need to protect children—under-18s—from all kinds of dangers. But children take risks, and hopefully learn from any mistakes. They must also be empowered by parents, schools and society to resist dangerous actions and say no to pressure—and there is a good deal of pressure on young people in relation to their appearance, particularly girls.

Social media exerts huge influence. As Laura Trott said at Second Reading in another place, girls see the attainment of physical desirability as unachievable without cosmetic surgery. This is increasingly available, no questions asked, through DIY efforts at home, despite Botox being a prescription-only medicine which should be administered by medical professionals who have taken account of the person's age and believe them to be over 18.

It is clear from the evidence that procedures are inadequately regulated and may result in horrific injuries—physical, mental and emotional. Some 100,000 treatments of under-16s have been recorded, and the actual number is probably higher. Reparation of injury is expensive and difficult.

The Bill is very timely. Legislation is clearly needed, but so is a public health approach that informs and persuades people to change their behaviour. Young people may grow out of dangerous behaviour, but that may be too late and much regretted. Will any public health messages about botulinum toxin be directed at young people and parents? Are schools being warned to look out for symptoms? Is counselling available? How will perpetrators of illegal treatments be dealt with?

I see that there are signs that the Bill could result in increased funding for local authorities to carry out enforcement of the law and that the regulations consequential on the Bill could be made by statutory instruments. All that is welcome, but I hope that careful watch will be kept on the impact of the Bill and progress monitored, not only on the number of cases but on interventions to help children keep well away from these dangerous practices.

12.31 pm

Baroness Walmsley (LD) [V]: My Lords, I thank the noble Baroness, Lady Wyld, for bringing us the Bill, and I support it as far as it goes. However, I would like assurances that, using the powers to make regulations in Clause 5, the Government will ensure that, for the most part, botulinum toxin procedures on under-18s do not take place at all, even by a clinician.

We live in a world where young people, particularly girls, are under great peer pressure about their appearance and their weight. Undertaking a dangerous procedure such as this is not necessarily the answer. If the matter affects the mental health of the young person, it should be treated as a mental health issue, not with Botox.

The charity Changing Faces has provided us with the voices of young girls affected by "visible difference". One said, "Everywhere I looked, clear-skinned models told me the same thing. I never saw a public figure that looked like me and I felt totally alone. I spent hours researching various scar removal surgeries and extreme treatments and started saving for them." These young people require support, information, the attention of professionals and the protection of the law.

When the Bill was debated in another place, amendments were tabled to ensure that medical practitioners could provide non-surgical cosmetic procedures to a person under 18 only if it was medically necessary. I agree with this. There may be situations where facial disfigurement from whatever cause is causing physical or mental distress to the patient and for which botulinum toxin is considered by a doctor to be the appropriate treatment, rather than more intrusive cosmetic surgery. In such cases, regulations could be used to lay down those matters which should be considered before a clinical decision is reached.

[Baroness Walmsley]

Laura Trott MP, the sponsor of the Bill, argued that it already had safeguards to ensure that under-18s would receive these procedures only where medically necessary. The Minister, Nadine Dorries, agreed that there would be a review of the regulations to assess any unintended consequences. I would like an assurance that this review will consider regulations to restrict the use of this procedure except in certain clearly defined conditions of medical need.

I am aware that GMC guidance says that doctors performing cosmetic interventions can provide treatment to children only when it is deemed to be medically in the best interests of the patient. However, I would like to see the Government making their intentions clear in regulations that under-18s should not receive this treatment except where strictly medically necessary. I would also like the Minister's assurance that mental health support will be provided to patients in this situation where appropriate.

12.34 pm

Lord Lansley (Con): My Lords, I congratulate my noble friend on bringing this Bill forward and on her excellent presentation, which set out very clearly its purposes and justification. I very much support it.

My noble friend will know, and the House may well recall, that the Bill is in line with one of the recommendations from the *Review of the Regulation of Cosmetic Interventions* led by Sir Bruce Keogh and published in April 2013. Of course, as Secretary of State, I asked him to lead that review back in January 2012, following the PIP breast implant scandal disclosed the previous month. It is fixed in the memory of Health Ministers across the globe—the problems were disclosed by the French Government the day before Christmas Eve, so we all lost our Christmas in 2011. One of the consequences was that the many issues and problems associated with cosmetic interventions and medical devices were exposed. Indeed, the Keogh review did a great deal to help to bring that forward. I think this Bill will be extremely welcome.

While I have this moment, I would mention the Cosmetic Surgery (Standards) Bill in my name, which is way down in the Lords list of Private Members' Bills. It is not going to have the benefit of the House's attention in this parliamentary Session; I hope it may in a future one, perhaps even with the benefit of support from the Government at some point. It also follows up one of Bruce Keogh's recommendations. It was very good that our honourable friend the Member for Sevenoaks was able skilfully to bring this Bill through. I know how difficult it is in another place to get a Private Member's Bill through, even if one is fortunate to get a place in the ballot.

I briefly mention two other things. First, Kevan Jones, who also supports my Bill, spoke in the other place about the issues associated with advertising cosmetic interventions, increasingly on social media these days, and he was right to do so. That is an issue raised in the review that needs to be followed up. I also hope that, in line with my Bill, the Government will encourage the General Medical Council, regardless of legislation or otherwise, to use the Royal College of Surgeons interspecialty committee's work on certification for cosmetic surgery to try to ensure that it is indicated on the medical register, so that people can identify who is properly certified and qualified to provide cosmetic interventions.

Bruce Keogh's review said—I think I quote correctly—that, in

"our view … dermal fillers are a crisis waiting to happen."

It is not a crisis in respect of which young people should be the victims. I am very glad that my noble friend has brought the Bill forward, and I hope that we will be able to pass it into law before the end of this Session.

12.37 pm

Baroness Bull (CB): My Lords, I too congratulate the noble Baroness, Lady Wyld, on bringing the Bill to the House and on her excellent introduction.

Restricting the use of Botox and cosmetic fillers in young people seems to me such an unarguable proposition that I could resume my seat at this point. However, I would like to take a moment to set this legislation in the wider context of body image and, in particular, the causes and impact of body image negativity in children.

The term "body image" describes our relationship with our body—how we think and feel about it and how much other people's opinions affect that view. The recent report from the Women and Equalities Committee in the other place reveals that 66% of children feel negative about their body image, with body dissatisfaction identified in children as young as five.

Poor body image matters because of where it leads: low self-esteem, depression, anxiety, body dysmorphic disorder and eating disorders. Poor body image prevents young people from taking exercise, joining clubs, visiting their GP or even speaking up in the classroom. It increases risky behaviours, reduces quality of life and, at the extreme, can lead to self-harm and suicide ideation. It does not go away: poor body image lasts a lifetime. It is not surprising that Professor Chambers of the Nuffield Council on Bioethics describes body image as nothing short of a public health issue.

The factors acting on our sense of our bodies are manifold and unrelenting. From early childhood, we are bombarded with images of unrealistic bodies on screen, in print and online—ideals that young people internalise and then pursue, with social media the perfect platform to idealise and compare. The Commons inquiry highlights the damaging impact of digitally altered or filtered images in advertising across social media, with image editing apps readily available to change our shape or our appearance—apps regularly used by 45% of 11 to 16 year-olds.

I stress all this today because body image dissatisfaction is understood to be a motivator for the pursuit of cosmetic medical interventions. Preventing these procedures for young people who do not have the maturity to give informed consent at least addresses the supply side of the equation, but can the Minister say what we can do to address the demand side? What steps will government take to reduce the image editing, ban altered images and encourage use of a greater diversity of body types in advertising? Will the Government ensure that the forthcoming online harms Bill covers harms related to body image, and will they

reconsider the potential harms inherent in the obesity strategy, particularly those relating to calorie labelling, which the Minister has been good enough to discuss with me?

The Bill is important, I support it and its provisions are welcome, but it addresses only part of the problem. Unless we create an environment in which children are supported to accept and enjoy their bodies as they are, they are likely to carry on chasing the fairy tale dream of a skin-deep perfection that does not in reality exist.

12.41 pm

Baroness Sugg (Con) [V]: My Lords, I speak in full support of this Bill. I congratulate my noble friend Lady Wyld for sponsoring it and thank Laura Trott MP for her work on it in the other place.

The non-surgical cosmetic treatment industry is worth over £2.75 billion and accounts for over 75% of all cosmetic enhancements carried out each year. However, it remains almost entirely unregulated, meaning that legally, cosmetic injections can be administered by pretty much anyone.

A number of reports over the years have highlighted and flagged this problem. The review by Sir Bruce Keogh, commissioned by my noble friend Lord Lansley, found that, among other things, non-surgical cosmetic procedures were almost entirely unregulated. In 2017, a report by the Nuffield Council on Bioethics highlighted several concerns, including "inadequate" controls on the safety of some of the products and the absence of any statutory requirements for practitioners who perform such procedures to have particular qualifications or experience.

I am pleased that the Government have been considering ways that training and qualifications could strengthen sector standards and that they have been exploring the regulation of premises, practitioners, products and consumer safeguards. I welcome moves from practitioners to make these procedures safer, and I commend the work of bodies such as Save Face, an organisation that provides a national register of accredited practitioners.

This Bill is needed, and needed now. We know this is a problem that needs resolving. There are clear complications that can occur through such treatments, which other noble Lords have highlighted. The number of cases of botched jobs has at least doubled in the last year and, given the unregulated nature of the industry, that is probably just the tip of the iceberg.

As the demand for treatment has continued to increase, so have the number of unscrupulous treatment providers. We know that tens of thousands of under-18s undergo cosmetic enhancements every year, with cosmetic fillers being the most common procedure. Children should not be able to access these procedures from unregulated and unqualified providers, let alone with no prior medical or psychological assessment required.

It has been nearly a decade since Sir Bruce Keogh's original and concerning report. In the intervening years, as my noble friend Lady Wyld highlighted in her opening speech, there has been a growing prevalence and normalisation of non-surgical cosmetic procedures. These services are more accessible and more affordable. For young people, as the noble Baronesses, Lady Massey and Lady Bull, highlighted, there are huge pressures to conform to the unrealistic and unattainable ideals that young people, particularly girls, see on social media.

This Bill will stop the dangerous and unnecessary non-medical procedures that can ruin children's lives. It is narrowly focused and includes exceptions and protections where appropriate. It has been widely welcomed as a positive step forward by the industry and patient safety campaigners and across the political spectrum, and I hope that it moves forward unamended. My particular questions to the Minister have already been asked by other noble Lords today. I am pleased that the Government fully supported the Bill in the other place, and I look forward to hearing the Minister's response.

12.44 pm

Baroness Meyer (Con): My Lords, I too fully support this Bill and thank my noble friend Lady Wyld for introducing it to this House.

If you need to be 18 to get a tattoo or a sunbed session, it stands to reason that Botox and fillers should also be illegal, to protect children under 18 from themselves and from unscrupulous practitioners. It is normal for teenagers to worry about their appearance. However, as we heard earlier, the pressure put on them by social media has led to the increasing normalisation of cosmetic interventions among the young. Children who are still growing should not be considered candidates for cosmetic treatments, particularly with products such as Botox, which paralyses muscle and is used to lessen the appearance of wrinkles. Of course, there may be instances where the prescription of Botox is medically needed, even for under-18s, as we heard, but Botox is at least classified as a medicine, so it must be prescribed by a medically qualified practitioner. The problem is that it can be injected by somebody with no qualifications at all.

Fillers, on the other hand, are classified as devices as opposed to medicines, which means that they are wholly unregulated. Children can, for instance, walk into a shop and get their lips injected by someone with no qualifications at all. Botox and filler parties are quite common among the young, where they inject each other. As with Botox, complications with fillers are not uncommon. They can include the filler moving away from the treated area into other parts of the face. As we heard, some individuals were left with rotting tissue and lumps on their faces, and required lip amputations.

The medical profession itself has tried for many years to get fillers classified as medicines and not devices and to close loopholes such as online purchase, whereby unscrupulous doctors prescribe a product and have it delivered for a fee to someone with no qualification whatever. The young and vulnerable should be protected from unscrupulous exploitation. In other countries, legislation prohibits cosmetic procedures under a certain age. In Germany, for example, no procedure can be done on someone under 18, whether aesthetic or otherwise, without parental consent. In Spain it is the same, and in France the law is even stricter.

Clearly, the Bill must be approved, and I fully support it, but as this business is lucrative, it will be difficult to curb illegal trade. I also look forward to hearing the Minister's responses to some of the questions that were raised about supply.

12.47 pm

Lord Addington (LD): My Lords, this is one of those debates where it is very difficult to find somebody who disagrees with the central thrust of what is proposed. The main thing we can say is, why on earth was this not done earlier? I hope that the noble Baroness, Lady Wyld, will accept my congratulations and pass them on to everybody who worked on this Bill in the other place, and to all those who did the prior spadework. This should have happened already. We are patching up a hole here, not dealing with some new problem. The noble Baroness, Lady Bull, described very well—much better than I could—the pressure of social media.

This is not new. When I first came here all those years ago, we were talking about photoshopping images in magazines. However, it is more intense now. It is also not an exclusively female problem. The body image issue generally affects both sexes, but due to fashion, it affects girls predominantly. Can we please make sure that we keep this under review? The Government should be doing more of this—but they should be doing more of many things. I therefore hope that the House and indeed Parliament as a whole will keep an eye on what is going on here.

I had one or two other points to make but my noble friend Lady Walmsley—I am very glad to be on the same team as her—did an excellent job of saying everything I was going to say, and more succinctly.

I conclude by asking the Minister to make sure when he sums up that we get an idea of the Government's overview of this subject. Can he confirm that where these procedures are needed for a medical problem, whether physical or psychological, they will still be available? Their unavailability is the only conceivable objection I can see to this measure being adopted.

I hope that we will all give this Bill a great round of applause—a metaphorical one—so that it gets through quickly, because it will make life a little bit safer and better for people. Even if such a botched procedure is only temporary, that still involves more trauma, which will add to any problems that made the person go there in the first place.

12.50 pm

Baroness Neville-Rolfe (Con): My Lords, like the previous speaker the noble Lord, Lord Addington, I very much support this Bill.

The idea of cosmetic Botox and fillers for under-18s fills me with absolute horror; that horror has been magnified by the debate so far. I speak as a grandparent of five beautiful granddaughters who are adventurous and will grow up to experiment. These kinds of procedures used to be the preserve of those of us who are care-worn and ageing but, with social media, everything has changed. There is a very strong case for early action. I congratulate my noble friend Lady Wyld on her first Bill and her clear introduction. I also congratulate Laura Trott MP in the other place—another emerging talent. They have done really well to secure government support, as my noble friend Lord Lansley said. I look forward to his Bill.

Noble Lords will know that I am always concerned about enforcement. I am glad to see that the Bill uses the powers in the Consumer Rights Act 2015, which I had the pleasure of putting on the statute book when I was a Minister. There are parallels with tattoos and sunbeds. I have faith in local authorities as enforcers of such regulations and in stopping bad practice as such practices go underground, although I always fear that their funding is inadequate.

I am disappointed that no impact assessment is available, but then this is not a government Bill. I have heard that one has been made; perhaps I could have a copy. I would, however, ask my noble friend the Minister or my noble friend Lady Wyld where the new costs are likely to fall and on whom. I assume that operators will lose some of their ill-gotten gains and that there will be a cost in understanding the new requirements, in training and in identifying under-18s accurately.

I know that there was also some concern in the other place that the Bill did not respect the common commencement dates for regulations of 1 April and 1 October. I valued these conventions as a former operator across many regulatory areas when I was in retail—though not in Botox, I hasten to add. They allow for proper preparation and training. However, it is for the Government to set the commencement date under Clause 6, so they may be willing to support that policy.

I wish the Bill a speedy passage so that it is not lost in the forthcoming Prorogation of Parliament before the new Queen's Speech.

12.53 pm

Baroness Mobarik (Con): My Lords, I thank my noble friend Lady Wyld for introducing the Bill. I want to take this opportunity to congratulate my honourable friend Laura Trott MP on championing this important cause.

Like many in your Lordships' House and the other place, I was alarmed to learn that there are currently no statutory provisions in place to restrict access to botulinum toxin and cosmetic filler procedures for children and young people aged under 18. The Bill is therefore a welcome step towards the protection of children from aesthetic interventions, particularly from non-medically qualified practitioners.

It is a chilling thought that children today feel the need—or pressure, more likely—to alter their appearance. The innocence of children is being lost. It was harrowing to learn that, back in 2018, some 100,000 children under the age of 16 had undergone cosmetic procedures, mostly consisting of fillers. It is a sad reflection on our failure to stand up to this global trend of so-called body perfection, which is why I am passionately behind the common-sense, practical measures that the Bill will provide.

We know that the pressures faced by young people today are more extreme than they have ever been. Although much good has come from the near-universal access to the internet that we are privileged to have in this country, we cannot ignore the fact that the social media giants preside over a grave situation in which

the youth of today are constantly bombarded with images, videos and filters that present unrealistic aesthetic ideals. It is no wonder that so many children feel the need for cosmetic alterations. I call on big tech to do what is morally right and protect our children from the unrealistic ideals being forced on them.

At a young and impressionable age, one is heavily influenced by what one hears or sees. The media has become ever more powerful and pervasive in recent decades, with social media platforms enticing young minds to look at images that are unattainable, rather than giving them confidence about their own individuality. I reflect on my own youth: as perhaps the only child from my ethnic background throughout my schooling, having large dark eyebrows and full lips was not very commonplace. Had I had the chance to eradicate them, I probably would have done—but then I would not have been on trend later. What might seem like a good idea to someone at 14 may not be the case when that person reaches the age of 24, not to mention the untold harm and disfigurement that these procedures potentially cause.

While the matter of filters in advertising being shown to young people via social media is not in the scope of the Bill, I believe that the Bill is an important milestone to that end. By prohibiting specific cosmetic procedures being performed on young people for purely aesthetic purposes, we will be putting the necessary safeguards in place—and not before time.

I hope that, if the Bill is passed, the social media giants will consider this legislation a warning shot and so adapt their practices before we are obliged to legislate further. The Bill is long overdue. It is a first step towards providing a proportionate way of protecting our children while not interfering with the mandate of personal choice. To that end, it has my full and unwavering support.

12.57 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I thank the noble Baroness, Lady Wyld, for bringing us the Bill, and offer my group's full support. We have heard many important contributions already. I associate myself with the comments of the noble Baronesses, Lady Walmsley, Lady Bull and Lady Sugg—particularly the last, on the urgent need for more regulations.

This is a long, obvious and necessary measure. Although it is disappointing that it took so long for it to reach us, at least we are here now. However, it is important to consider why we need this legislation at all. There is little doubt that, while we will soon have this measure on our own soil, once travel restrictions are lifted, at least some who might have sought these practices here will do so overseas where restrictions are, in some cases, less strict or non-existent. There is also the problem of enforcement, of course, as outlined by the noble Baroness, Lady Meyer.

To protect the young people—indeed, all people—of Britain, it is worth thinking about why there should be such demand for these medically unnecessary, expensive and dangerous procedures; indeed, the noble Baroness, Lady Wyld, rightfully and graphically outlined the dangers. Surely this is evidence of the need for much further action. There has been much talk about, and focus on, the technologically new social media, but it is important that we do not underestimate our children's ability to think critically and clearly about what happens to them and the world they live in—particularly if we provide the educational framework of critical thinking to do so.

It is also important that we do not ignore other, possibly greater, pressures. Your Lordships know about the push that comes from advertising. This includes not just direct advertising for procedures, although we should be looking at considerably tighter controls on that, but broader advertising that depicts airbrushed, perfect features and flawless complexions achieved through art, not life. Look at the sheer level of bombardment with such images to which we are all subjected, whether by choice or not. Less advertising in our public spaces, with more art, poetry and nature instead—there's a radical idea for your Lordships' House.

There is also the pull of insecurity, fear and competition in the workplace. There is the gig economy, with management practices that regularly cull the so-called lowest performers in workplaces. There is the weight of student debt and the fear of economic difficulty. All combine with the assumption that, for a wide range of jobs—practically any job—individuals need to market themselves, present themselves well and compete to get to the top of the pile.

The noble Baroness, Lady Wyld, in introducing this Bill, identified her interest in Ofsted. I hope that she will think about how Ofsted, and all those involved in education, can inoculate our young people against the economic, social and commercial pressures, with strong support for their mental health and well-being, and how we can transform our society and our economy to greatly reduce—even end—these workplace pressures. As the noble Baroness, Lady Massey, said, we need a public health approach— a systems-thinking approach.

1 pm

Lord Hannan of Kingsclere (Con): My Lords, it is a great pleasure to follow the noble Baroness, Lady Bennett, my noble friends, and noble Lords opposite. In fact, I would like to associate myself with all the informed concern and expertise brought by so many more qualified than myself. I do not want to add anything to what has already been said, other than to associate myself with the congratulations for my noble friend Lady Wyld, and for Laura Trott for bringing the Bill before us.

Instead, allow me to invite your Lordships to ponder the somewhat anomalous legal position in which a 16 or 17 year-old British subject finds himself or herself. At that age, you are allowed to pay tax but not to quit full-time education; you are allowed to have sex but not to watch it on the screen; you are allowed to smoke cigarettes but not to buy them. Anomalies are intrinsic in any legal system in our imperfect, Aristotelian, sublunary world. An anomaly is not intrinsically a reason not to do something. None the less, there has been something of a harmonisation around the age of 18 as the moment at which we recognise legal adulthood and informed consent. You have to wait until your 18th birthday to buy a bottle of wine, a knife or a

[Lord Hannan of Kingsclere]
mortgage—though probably not in that order. You have to wait until you are 18 before you can serve on a jury or indeed be confined in an adult prison.

In a way, all that this legislation is doing is bringing this procedure into line with what we are increasingly recognising as the age at which adulthood begins. This has been, by the way, a move carried out under Governments of all parties—it was the previous Government, I think, who raised the age for buying fireworks, using sunbeds, buying knives and so on.

I leave your Lordships with the thought that it would be extraordinary to ban people under the age of 18 from making all these decisions about their own bodies while enfranchising them, and thereby allowing them, through the ballot box, to play a part in deploying the full coercive power of the law on the decisions that other people are allowed to make. If 18 is the age of adulthood, it would be extraordinary, whether in elections or referendums, to lower it. If you cannot get fillers then you should not have the franchise.

1.03 pm

Baroness Gardner of Parkes (Con) [V]: My Lords, I welcome this legislation. The growth in social media, instant likes and dislikes as regards body image, and peer pressure to improve a false perception of not being body perfect, all add up to pressure on children these days, so this has not come too soon. My concern, however, is whether the Bill goes far enough. The effect of the proposals is to ban anyone not qualified to use such fillers and toxins, the consequences of which I completely agree can be extreme. But I cannot help but wonder why, other than in medically justified cases, under-18s need this work done at all.

The noble Lord, Lord Addington, made a very good speech, and the comment on botched jobs doubling last year should give us real cause for concern. Should the legislation not provide a blanket ban, and then allow for limited exceptions, such as in cases of disfigurement after an accident, a birth defect or similar, for any such work to be carried out on a child?

1.04 pm

Baroness Brinton (LD) [V]: My Lords, I declare my interest as a vice-president of the Local Government Association and congratulate Laura Trott MP and the noble Baroness, Lady Wyld, on promoting this long-needed Bill. It is important to say from the start that we on these Benches believe that this Bill will provide a safer environment for those children and young people who are tempted to seek treatments, including Botox, fillers and cosmetic treatments, which currently can be administered by unqualified individuals. To be frank, like some other speakers today, we would welcome stronger regulation of those administering these treatments to adults too. But we have some questions about how this Bill, as it stands, might be improved to ensure safety and regulation to make it work.

We have heard from noble Lords horror stories of staff treating individuals with complex and sometime disastrous consequences. I agree with the noble Baroness, Lady Bull, and my noble friend Lord Addington that young people, mainly girls, are encouraged to have treatments such as these. That speaks to the very dangerous body image agenda that is far too prevalent. Although not part of this Bill, we must ensure that schools and wider society reinforce the key point that we are all different, and that judging people on the way that they look is short-sighted and damaging.

As my noble friend Lady Walmsley mentioned, in the UK, Changing Faces is a charity that supports everyone with a visible difference, including people born with, and those acquiring, visible differences during life. Changing Faces makes the point that these young people may need the use of invasive or non-invasive cosmetic interventions to help them manage and control their condition, mark or scar, along with other physical treatment or mental health support that they also need to access. It is vital that any child or adult is appropriately supported with the right information. Along with Changing Faces, we hope that people—whether children or adults—would always have this advice and treatment from a healthcare professional. It is good that this Bill starts that process for those under 18. Changing Faces has a long track record of signposting its clients to their GPs and consultants to make sure that they get the correct advice. This is excellent practice.

We also agree that adverts for these treatments should not be available to the under-18s. Advertisements have too often promoted a stereotypical perception of beauty, and offering to "fix" perceived imperfections can be damaging to a child or young person, particularly one with a visible difference. Hannah, a young client of Changing Faces, explains her experience:

> "In the early days of social media, there were constantly adverts for different cosmetic procedures and I felt everywhere I looked, someone was saying I was ugly and needed to be fixed. Young people, whether they have a visible difference or not, must be protected from advertising that promotes cosmetic interventions. How can young people be expected to craft a healthy body image when the world is telling them that they can be fixed? Online spaces are tricky to make safe for young people, but it is possible to minimise the impact that unrealistic body image has on their developing minds by limiting advertising."

Hannah is so right.

Our second concern from these Benches is on the effective policing of the proposals in this Bill. As outlined by the noble Baroness, Lady Neville-Rolfe, can the Minister confirm that the regulation proposals in this Bill match tattoo parlour and sunbed regulations? This should be an absolute minimum, because the treatments outlined in today's Bill are less reversable than tattooing, piercing and tanning. Can the Minister explain how local authorities will be able to enforce these regulations? The Government's repeated cuts to local government have severely impacted local weights and measures teams. Without the resources to police it, this Bill will fail, meaning that most enforcement will be retrospective, so that the offences by bodies corporate will be important.

That brings me to my final point. For any Bill to have effect, the threat of serious financial harm to organisations is the most likely deterrent. The most obvious defence is that corporates will need to be fully implicated. It is set out in Clause 3(2), which starts:

> "If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of … any director, manager or secretary of the body corporate"

et cetera. This seems analogous to the corporate manslaughter situation, whereby virtually no CEO ever gets prosecuted and yet fewer are convicted.

We are concerned that the Bill, if passed, would not be policed due to under-resourced councils and, if dealing with a breach, only the local, low-paid operative would be prosecuted. Can the Minister say whether the Government have a plan properly to license, resource and supervise such therapies? I look forward to the Minister's response and to supporting this Bill as it starts its passage in your Lordships' House.

1.10 pm

Baroness Wheeler (Lab): My Lords, I too congratulate the noble Baroness, Lady Wyld, on sponsoring the Bill and on her excellent introductory speech, which clearly set out the overwhelming need for urgent and longer-term action to bring the regulation of botulinum cosmetic fillers for under-18s in line with other appearance-related procedures, such as tattoos and sunbed use, for which there is already a statutory minimum age of 18. This is what we know the public would expect and, as we have heard, mostly assume we already have.

Like other noble Lords I was shocked to realise that this crucial area is as unregulated as it is and that in 2018 an estimated 100,000 under-16s underwent cosmetic enhancements. It is also important to note that Sir Bruce Keogh's 2013 review was also shocked, and that shock was reinforced by the 2017 Nuffield Council on Bioethics review, which highlighted major safety concerns. Everybody has been shocked ever since then, but now we are at last able to begin the process of remedying this deeply worrying situation,

Progress is obviously due to the tireless work and determination of Laura Trott MP in the Commons and the Bill's many supporters, in particular the co-chairs of the All-Party Group on Beauty, Aesthetics and Wellbeing, Carolyn Harris MP and Judith Cummins MP. They have highlighted the lack of age restrictions for these procedures and concerns about advertising and social media promotion that leave young people at risk. The APPG's inquiry is ongoing and has brought together people from across the sector to talk about the lack of robust, consistent and enforceable standards. It is a tribute to the cross-party work that has taken place across both Houses on these vital issues, and when it reports it will be a valuable tool to build on the initial measures in the Bill.

Like other noble Lords, I pay tribute to the pioneering Save Face charity for its campaigning and awareness-raising, its voluntary register and its work to build the necessary standards and safeguards through its accreditation with the Professional Standards Authority for Health and Social Care.

The Bill is an important step forward and fully supported by Labour. It is welcome because it prohibits specific procedures being performed on young people under the age of 18, except under the direction of a registered health professional, and prevents businesses arranging or performing procedures on under-18s on their premises. Most importantly, its provisions do not affect the vital medical use of Botox or fillers by appropriately qualified medical practitioners, such as Botox treatment for conditions such as Bell's palsy, which will remain available where there is an assessed need.

During the course of the Bill and in today's speeches we have heard about the horrific consequences for vulnerable young people when procedures go wrong, including the worst-case scenarios of infection, permanent scarring and tissue death, as well as serious psychological and mental health problems for young people whose lives have been seriously impacted by botched procedures undertaken by unqualified and improperly trained staff who bear no responsibility or accountability when malpractice occurs.

As the British College of Aesthetic Medicine stresses:

"Dermal fillers in particular are plain dangerous in the wrong hands".

Its call for

"a wider regulatory regime, which supports controlled access to prescription medicines, and which differentiates aesthetic medicine from beauty therapists, spas and salons"

is the vital work that will need to follow from the Bill.

Noble Lords, especially the noble Baroness, Lady Bull, have spoken movingly of the pressure on young people to conform to the body images they see around them, especially on social media, which holds so much power over today's youth and is flooded with adverts for treatments claiming to make them look younger, thinner and prettier. The Childline, Mental Health Foundation, YoungMinds and Save Face surveys all show an alarming picture of the impact of all this on young people's sense of self-worth and their physical and mental health. The thousands of young people who view procedures such as lip fillers as easy, temporary and comparable to getting a haircut or manicure are deeply concerning when the results can have a profound and extensive impact on so many lives.

Under Clause 4, there are significant new responsibilities for local authorities to reinforce the provisions of the Bill using their powers available under Schedule 5 to the Consumer Protection Act, which we welcome as local councils are best placed to monitor local businesses and developments. The Explanatory Notes to the Bill acknowledge that it may result in an increase in revenue support under the Local Government Finance Act 1988, and the Commons has agreed a money resolution to give effect to any decision on this. Noble Lords have expressed serious concerns, which we echo, about what new money will be made available to local authorities to meet these responsibilities in the light of the huge funding cuts they have faced in the past decade. Can the Minister reassure the House that new money will be made available to implement the provisions of the Bill? Without additional funding it is hard to see what local authorities will actually be able to achieve.

I also seek clarification about the scope of the Bill. As I understand it, the Bill applies only to procedures carried out in England, reflecting the fact that public health is devolved. In so doing, it amends the Consumer Rights Act and the Human Medicines Regulations 2012, both of which have wider England and Wales or UK territorial scope. The Human Medicines Regulations also cover Northern Ireland. I would be grateful if the Minister or the noble Baroness, Lady Wyld, could confirm

[Baroness Wheeler]
whether this would be solely for the purpose of making consequential amendments and what work and consultation with appropriate devolved bodies is envisaged in this respect.

As we have said, the Bill is a welcome first step to address the growing threat of unregulated cosmetic treatments to young people's mental and physical well-being, but it is just that: a start which lays the groundwork for future change. We strongly support the Bill and look forward to the Minister's response to noble Lords' questions on how its provisions are to be taken forward, the timescales for implementation, the proposals for the review of regulations and guidance that has been spoken about, and the next steps that need to be taken to ensure effective future monitoring and regulation.

1.17 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, I am enormously grateful to all those who have contributed to this lively debate today and pay particular tribute to my noble friend Lady Wyld for sponsoring the Bill, as well as to the honourable Member for Sevenoaks who navigated its passage through the other place. It would also be right to pay tribute to Professor Sir Bruce Keogh for his review of regulations on cosmetic interventions, which was mentioned by many noble Lords and has clearly paved the way for this important Bill. I reassure my noble friend Lord Lansley that his plug for his Private Member's Bill has been well and truly heard by the Minister.

The Government are pleased to support the introduction of an age restriction for botulinum toxin and fillers. As my noble friend Lady Wyld showed so clearly, the provisions in the Bill will ensure that young people are accorded the highest protections to safeguard their physical and psychological health. There are already statutory age restrictions in place for tattooing, teeth whitening and sunbed use. It makes no sense that there are not similar protections for invasive, injectable cosmetic procedures.

Botulinum toxin, dermal fillers and laser hair removal account for nine out of 10 non-surgical treatments performed in the UK—an astonishing proportion. Analysis by my department last year estimated that as many as 41,000 botulinum toxin procedures may have been carried out on under-18s in 2020 and that more than 29,300 dermal filler procedures may have been undertaken on under-18s in 2017. I support the decision to focus on the treatments covered by the Bill, as introducing an age restriction on botulinum toxin and fillers will protect the greatest proportion of young people seeking a cosmetic procedure at this time.

To practise in the UK, doctors must be registered and hold a licence to practise with the General Medical Council, the regulator of doctors. The GMC publishes clear standards of practice and guidance for doctors, including *Good Medical Practice,* which covers consent, the treatment of patients aged under 18 years and safeguarding vulnerable patients. On my noble friend Lady Neville-Rolfe's point on costs, keeping up to date with these provisions is the normal cost of doing business in this area.

The department is working with stakeholders to assess the need for strengthened safeguards around the regulation of providers who offer some of the more invasive non-surgical cosmetic procedures. I completely take on board the points made by the noble Baronesses, Lady Wheeler and Lady Brinton, on the advice given by the excellent Changing Faces charity on the need to protect the surgery that some young people with particular needs may require.

I assure the noble Lord, Lord Addington, the noble Baroness, Lady Walmsley, and others who have asked that the department is working closely with the Medicines and Healthcare products Regulatory Agency to develop our future regulatory regime for medical devices, which prioritises patient safety. As part of this, we will consider whether to bring all dermal fillers and any other relevant procedures into the scope of the device legislation.

Measures in the Bill complement other important work that we are taking forward. I assure the noble Baroness, Lady Massey, and others who asked that public health and mental health messages to our children and young people are key priorities in our long-term plan for the NHS. In addition to the existing funding as part of the long-term plan, the Government recently announced a further £79 million boost to funding for children and young people's mental health. In addition, in July last year we launched *Tackling Obesity: Empowering Adults and Children to Live Healthier Lives*.

On the touching comments on body image by the noble Baroness, Lady Bull, I completely agree that we must seek better understanding of the motivations that may be driving consumer demand among young women. We have put in place the first government-led women's health strategy for England. This will set an ambitious and positive new agenda to improve the health and well-being of women across England. I encourage the noble Baroness, Lady Bull, and all other Peers who have a valuable contribution to make to ensure they hit the end-of-May deadline for evidence.

The Government plan to make a full response to the Independent Medicines and Medical Devices Safety Review report chaired by my noble friend Lady Cumberlege later this year. To ensure that patient voices are heard as we move forward, a patient reference group has been established and is working closely with the department.

On the points made by the noble Baroness, Lady Bull, I note that the House of Commons Women and Equalities Committee recently published the findings of its inquiry into body image. The findings offer insight, and it is disturbing to note that the inquiry's public survey found that 61% of adults and 66% of children feel negatively or very negatively about their body image most of the time. These figures are even higher for specific groups including women, people with disabilities and transgender people. It is clearly far too high.

These are very personal issues. My noble friend Lady Wyld has spoken of her three daughters and my noble friend Lady Neville-Rolfe spoke of her beautiful granddaughters. I have two daughters of my own and worry daily about the world they live in and their consumption of social media. I should be clear to noble Lords who have raised these points that the Bill

before us has a tight focus, and social media is not the target of the Bill. I join my noble friend Lady Mobarik in calling for big tech to do all it can in this area. I reassure noble Lords that the online safety Bill will be ready this year. The legislation will help ensure that children can make the most of the benefits of going online while staying as safe as possible.

The noble Baroness, Lady Wheeler, asked some specific questions about the Bill's powers. I would be glad to write to her to clarify her questions. In the meantime, I urge noble Lords to resist any temptation to try to improve the Bill through amendments and risk losing it altogether. Time is so tight before the end of the Session.

That leaves me to congratulate my noble friend Lady Wyld and, recognising the encouraging words from the noble Baronesses, Lady Brinton and Lady Wheeler, I offer the Government's support to this important Bill.

1.24 pm

Baroness Wyld (Con): My Lords, I am so grateful to everybody who spoke in the debate today. I know we are tight on time; I see the Whip looking up at me. I wish I could go name by name through everyone and respond, because so many important issues came up.

As the noble Lord, Lord Addington, so rightly said, others did all the spade-work. I must pay tribute to my noble friend Lord Lansley. I am really delighted that he was able to come in to support me today. I am very grateful to the Minister for his comprehensive response and to the Opposition Benches, as I have said, for their support thus far.

It was a very moving debate. It made me think a lot about my own daughters and the world they are growing up with, as I said. As adults, when one comes to terms with our own physical imperfections, it is easy to forget the great pain that one feels as a young person or child at being different in any way. I will be glad if we can do a little today to help.

I hope that, with such breadth of support, we ensure the Bill has a speedy passage through your Lordships' House. I echo my noble friend the Minister's plea that the temptation to table helpful amendments is resisted. I think and hope it is. I beg to move.

Bill read a second time and committed to a Committee of the Whole House.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): We shall move on to the third Private Member's Bill in a moment, but we will allow the Chamber to clear and re-form itself before we do so.

Arrangement of Business

Announcement

1.28 pm

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the Hybrid Sitting of the House will now continue. I ask Members to respect social distancing.

Animal Welfare (Sentencing) Bill

Second Reading

1.28 pm

Moved by ***Lord Randall of Uxbridge***

That the Bill be now read a second time.

Lord Randall of Uxbridge (Con) [V]: My Lords, I beg to move that this Bill be now read a second time. I am delighted to be able to sponsor this Bill as it passes through your Lordships' House. I pay tribute to my honourable friend in the other place, Chris Loder, who has successfully steered the Bill through all its stages there—no easy task.

The Bill realises an important commitment from the Government on animal welfare, assists the courts in their essential work and helps to keep this country at the forefront of the care and protection of animals. I also mention Anna Turley, who is no longer an MP but introduced an earlier version of this Bill during her time in the other place.

Every animal deserves to live a dignified life and we should act conscientiously, while acknowledging that this is an emotive subject, to ensure that this is the case. We have an obligation to provide for the welfare needs of animals we have control over, which should be safe in our care, whether they be as pets or farm animals or in other captive environments.

Like many Members in the other place and in your Lordships' House, we have pets that have been a constant companion to us, particularly in these rather testing Covid times. My own rescue hound was provided by a local gentleman, Roger Warren, who rescued our saluki/whippet cross as a puppy in a pitiful condition and nursed her back to health. Anyone seeing her today would not realise her terrible past. Mr Warren, who has rescued many dogs and many other animals, told me about the incredible cruelty that he has seen, including greyhounds that have had their paws smashed with a hammer.

Under the Animal Welfare Act 2006 the maximum penalty for animal cruelty offences is six months' imprisonment and/or an unlimited fine. The Bill would increase the maximum sentence for those convicted of the worst animal cruelty offences in England and Wales from six months to five years. It is a straightforward but much-needed measure that would ensure that those who harm an animal by, for example, causing unnecessary suffering, mutilation or poisoning face the full force of the law. That would include cases of systematic cruelty such as the deliberate, premeditated and sadistic behaviour of ruthless individuals and gangs who use dogfighting to fuel organised crime. The Bill would mean that English and Welsh courts had sentences at their disposal commensurate to the most serious cases so that the punishment could fit the crime. That would send a clear signal that there is no place for animal cruelty in this country.

My association with the Bill began when I was a special adviser to the then Prime Minister, Theresa May. I convened and chaired a round table on the subject, hearing the views of a coalition of animal welfare

[Lord Randall of Uxbridge]
organisations such as the League Against Cruel Sports; the RSPCA; Battersea Dogs and Cats; the Humane Society International; Compassion in World Farming; IFAW; Cats Protection; Dogs Trust; A-Law, the UK Centre for UK Law; Blue Cross; and World Horse Welfare. I commend their effectiveness in supporting the Bill and the increased maximum penalties that it would provide. I particularly thank Andy Knott, the CEO of the League Against Cruel Sports, for his constructive and pragmatic approach to the Bill and for undertaking a lot of the heavy lifting with coalition members.

I want to recognise the many individual members of the public who collectively fill our postbags and sign e-petitions each year concerning animal welfare issues. I particularly want to mention the pupils of Redhill Preparatory School in Haverfordwest, who recently wrote many individual letters to me. Their deputy head teacher, Vicky Brown, should be congratulated on getting her pupils involved in the democratic process.

The legal and moral imperative that this important Bill addresses and the support it has already received are why I regard it as a privilege to be able to sponsor its passage through this House. The Bill would amend Section 32 of the Animal Welfare Act 2006, which currently sets out a maximum penalty of six months' imprisonment and/or an unlimited fine for the more serious "prevention of harm" offences.

The current sentence is much lower than the European average for animal welfare offences, which is two years, and many countries have much higher maximum penalties. Northern Ireland has a maximum penalty for animal cruelty offences of five years' imprisonment, set in August 2016, and the Scottish Parliament passed a Bill in June 2020 to implement a five-year penalty within Scotland. I am pleased to say that this Bill would ensure that England and Wales also had one of the toughest punishments in the world, bringing us into line with the penalties available in other countries including Australia, Canada, New Zealand, India and Latvia, which all have a maximum of five years' imprisonment.

There have been several cases where very serious cruelty had been inflicted on animals and, in sentencing, the judges were clear that they would have imposed a higher penalty or a custodial sentence had the Animal Welfare Act made provision for that. A man was convicted of causing unnecessary suffering to his cat. He committed several appalling acts including burning the cat, attempting to flush her down the toilet, attempting to strangle her and throwing her against a wall. He was sentenced to 18 weeks' custody suspended for two years, banned from keeping pets for 10 years and ordered to pay £440 in costs. In another example a man deliberately set his dog on a pet cat, which was mauled to death. He was jailed for 18 weeks after admitting causing cruelty and banned from keeping animals for life. The comments of the judiciary in these examples are telling. In the first case the magistrate said that the offender was "extremely dangerous" and that she would have liked to have put him in prison for as long as she could. In the second case the chairman of the Bench said when passing sentence that

"we would if we were actually permitted to do so have imposed a far greater custodial sentence."

Aside from the cases tried in our courts every year, animal welfare organisations complete important work in rescuing and rehoming animals. In many cases those animals have arrived at their door because the owners have suffered a change in circumstances, but others have been rescued from the most appalling acts of violence. Some of the animals that welfare organisations receive must then be nursed back to health over lengthy periods. Providing that care costs rehoming centres, often established on a not-for-profit basis, many thousands of pounds in veterinary bills. We need to strongly discourage people from committing such acts in the first place.

The Animal Welfare Act is very effective legislation under which some 800 people are successfully prosecuted every year for animal cruelty. In that respect the Act is serving our animals well but, as with any law, we need to revise it when there are improvements to be made, and that includes revising its penalties. As a result, and to address the previously mentioned issues of dogfighting, comments from the judiciary and the cost to animal welfare organisations, I and many others, including the Government, believe it is high time that animals were offered more robust protections. Offenders should face tougher sentences for causing harm to animals.

I know that many noble Lords have spoken up for animal welfare over the years, and I am sure they will do so again. I hope that with their assistance we can see this Bill reach the statute book and provide the protection that animals in our care or under our control deserve. This will secure an improvement not just to animal welfare but to society through a reduction in the instances of animal cruelty and criminality.

The Animal Welfare (Sentencing) Bill is a simple one amounting to just two clauses. Clause 1 is the focus of the Bill. It outlines the mode of trial and maximum penalty for certain animal welfare offences. As I have previously outlined, under the Animal Welfare Act the maximum penalty is currently six months and/or an unlimited fine. Clause 1 would change the maximum custodial sentence available for the five key offences defined as "prevention of harm". Under Clause 1 the existing maximum penalty of six months would still apply in cases where offenders were summarily convicted. However, where offenders were convicted at a trial heard at the Crown Court, they might now receive a higher penalty of up to five years imprisonment and/or an unlimited fine.

Clause 2 provides for the Bill to extend to England and Wales, arrangements for its commencement and the Short Title. Animal welfare is a fully devolved matter but in the case of this Bill the Welsh Government have confirmed that the new maximum penalty should also apply in Wales, and the Bill is drafted on that basis. The Bill is set to come into force after two months if it receives Royal Assent. The revised maximum penalties are not retrospective so would not apply to offences committed before the Bill came into force.

The public care passionately about the welfare of animals. Making sure that the way in which we treat animals reflects who we are as a nation is a priority for the people, illustrated by the great lengths to which they go in petitioning the Government on the subject. The Bill would be a significant step towards ensuring

that our courts had the appropriate tools to respond to those who inflict deliberate suffering on innocent animals.

The current maximum penalty is too low and has been so for too long. Increasing it would be a relatively simple step that would align England and Wales with Scotland and Northern Ireland. While we are a world leader on many animal welfare issues, it is important to implement this measure, which would put our sentencing regime on a par with other leading nations. The Bill would let animal abusers know that they could not escape serious penalties where serious acts of animal cruelty were committed. For those who undertake illegal activities such as organised dogfighting and systematic cruelty towards animals, it is only right that sentences be in years rather than months.

To sum up, the Bill is of great importance to the House, to the animal welfare community and to the public. We need to increase the maximum penalty so that it offers appropriate custodial sentences and provides a strong deterrent in line with the maximum penalties for other criminal offences. I beg to move.

1.38 pm

Baroness Mallalieu (Lab) [V]: My Lords, I declare my interests as president of the Horse Trust and a long-standing member of the RSPCA. I strongly support the Bill and express my gratitude both to Mr Chris Loder in the other place and to the noble Lord, Lord Randall of Uxbridge, for their sponsorship of it. It is commendably and unusually short. It has a clear purpose and a single target, and I hope that attempts are not made to bolt on extras that might put it in jeopardy through timing.

The underlying purposes of sentencing are said to be punishment, deterrence and reform. Deliberate, calculated, sadistic behaviour involving the inflicting of unnecessary suffering on an animal is deeply repellent, and I see some of those results through the Horse Trust. It appears in only a very small number of cases in the panoply of animal cruelty cases that I am afraid are likely to come within the ambit of the maximum penalties, but it has a place on the statute book.

The majority of animal welfare cases are the result not of sadists but of ignorance, greed or the limited or diminished mental or physical capacity of the owner, of changed personal circumstances, and even of misplaced sentimentality, which so often leads to neglect, mistreatment and abandonment. In reality, education has a huge role to play in reducing animal suffering, probably more than any prison sentence.

For example, it is clear that a large number of people have chosen to get a dog during lockdown and some, as I know, to get a horse because they have the time. The prices for both those animals have risen to absurdly high levels—I heard of £2,000 for a Jack Russell puppy—providing an incentive for future irresponsible breeding and, too often, for deformed dogs bred specifically with facial defects to look appealing, but consequently unable to breathe properly. People need to know all this, and to remember that a dog is for life and not just for lockdown or until it has ceased to entertain the children. The Horse Trust has received a phenomenal number of calls from people wanting to get rid of a horse for which they no longer have time or money. I expect that dog rescue centres can expect to be very busy in the near future.

Lastly, with prosecutions in mind, I would like specifically to praise the current leadership of the RSPCA under its chief executive, Chris Sherwood. They have got that most important of our animal charities back on the right track. Having had an official warning and special measures from the Charity Commission, and after too many years of bad running and shrinking membership, it is now back on track—let go, as it were, by the Charity Commission to carry on doing its superb work, which is done by nobody else. I am very pleased about the decision it made and announced in January: that it will in future hand over its investigations for prosecution to the CPS and not do them itself. After all, that was what the EFRA Committee in the other place recommended four years ago.

Let us hope that once this Bill reaches the statute book, as I very much hope it will soon, it will be needed less and less in the future.

1.42 pm

Baroness Parminter (LD) [V]: My Lords, like the noble Baroness, Lady Mallalieu, I welcome and support this Bill, which will increase sentencing for animal welfare offences from six months to five years. It has been ably introduced today by the noble Lord, Lord Randall, and I commend him and Chris Loder in the other place for all they have done on this matter.

In January 2017, when I first asked in this House what plans the Government had to increase penalties for animal welfare offences, the noble Lord, Lord Gardiner, replied that the Government had no current plans to increase the maximum penalties for those offences. It is thanks to campaigning across parties and in civil society—I pay tribute to the work of the RSPCA, Battersea Dogs & Cats Home and others—that those arguments, already being made again today, have led the Government to reconsider. I thank them for that.

As I say, the case has been made powerfully and I am not going to repeat it. But we are all human and I felt a fair degree of emotion—indeed, abject horror—when hearing of some of the cases which have been making a mockery of our sense of justice. The noble Lord, Lord Randall, mentioned some of them, but the one that really turned my stomach was of a man torturing a hedgehog by cutting off its limbs and covering its face with candle wax. He received just 26 weeks' imprisonment. It is right that this Bill will introduce an appropriate level of punishment for the crime and that our important principle of justice will be upheld.

There is, however, more we can and should do for those abused and ill-treated animals who survive these appalling cases and are rescued by animal welfare centres and organisations in England and Wales. At present, these organisations rehome those animals, but they have to wait until the court proceedings are completed to do so. In Scotland, they have agreed to introduce a law allowing rehoming after 20 days.

The Minister would be surprised if I did not always ask for yet more to protect animals. I would not dream of prejudicing this important legislation in clearing its

[Baroness Parminter]
final parliamentary hurdles. However, I hope that once the Bill is safely on the statute book, the Government will turn their attention to this matter and introduce legislation to stop the delays, often of months and sometimes years, which prevent abused and ill-treated animals getting a second chance of a loving and permanent home.

1.44 pm

Baroness Fookes (Con) [V]: My Lords, I first declare an interest as a vice-president of the RSPCA and the president of one of its branches. I am very well aware of that sentence, "Everything has been said, but not everyone has said it". Suffice it to say that I agree wholeheartedly with the points so ably made by my noble friend Lord Randall in introducing the debate and the various points made by the speakers who preceded me. Therefore, I will turn to one or two other points that are important.

I am glad that the idea of unlimited fines is being carried over into the Bill from the 2006 Act, but I understand that this does not always work very well because the courts are reluctant to impose heavy fines on people who will clearly not be able to pay them. This means that there is a disconnect between the terrible or great crime that has been committed and the amount of the fine that can be incurred. That makes it all the more important that we have proper sentencing for those who engage in the worst of these crimes. I do not want to repeat any of the cases that I have seen; it shocked me to the marrow even to read them, let alone to repeat them in this Chamber.

However, I am concerned about another issue, which does not relate directly to the Bill but is germane: sentencing guidelines. I understand that, if a defendant declares as soon as he practicably can that he is guilty, up to a third of a sentence may be remitted. That may be appropriate in some circumstances, but I suggest to your Lordships that it is far from a good idea when you are dealing with the more serious crimes against animals. I hope that there will be some revision of the sentencing guidelines; although I accept that this is not a matter for us, I want to put that firmly on the record.

Another point that occurs to me is that there is often a connection between people who are cruel to animals and those who are cruel to children and others. From hearing from RSPCA inspectors in the past, I know that they have sometimes looked into an animal cruelty case and found that there were far from happy circumstances for human beings in the same household. Therefore, I hope that, in future, there will be a much stronger connection between the authorities to ensure that, where one is found, something else is looked for—starting with either animals or, say, children. I wish the Bill to be third time lucky and to have a speedy passage on to the statute book.

1.48 pm

Baroness Butler-Sloss (CB) [V]: My Lords, I have owned dogs, cats, horses and, occasionally, sheep. Now, one small dog rules our life. It is an interesting fact that this country is passionate about animals, and animal charities get far more money than children's charities do. However, the darkest element has been cogently described by the noble Lord, Lord Randall of Uxbridge.

This is an excellent Bill, which has the huge advantage of being very short. It increases the sentence, which is absolutely necessary, and brings us into line with the other parts of the United Kingdom. However, I agree with the noble Baroness, Lady Mallalieu, that education is an important factor and something that the Department for Education might perhaps take on board, once this legislation has been passed. I congratulate the noble Lord, Lord Randall of Uxbridge, on bringing forward the Bill, and I also congratulate those who did so in the Commons. I wish it well.

1.49 pm

Lord Taylor of Holbeach (Con) [V]: My Lords, I congratulate my noble friend Lord Randall of Uxbridge on picking up this Bill from the other place and presenting it so ably at Second Reading today. This small but important Bill could have no better sponsor. It has a simple purpose: to ensure that the courts have the ability to hand down sentences that fit the crime for those found guilty of cruelty to animals. I expect that we will find ourselves of one mind on this Bill.

I am not a believer that imprisonment is the answer in every case; indeed, it cannot be the solution to preventing all criminal activity or salvaging lives from a life of crime. However, I do believe that this modest measure is very much needed to deter and punish animal abusers and, if noble Lords have any doubt on this score, I ask them to remember the link between abuse of animals and abuse of people, as my noble friend Lady Fookes reminded the House.

I thank the RSPCA, the Dogs Trust and Battersea Dogs and Cats Home among others for their briefings today and over the years. We are all well served by our animal charities and their teams—I know this from being in opposition and in government, where as a Minister in both Defra and the Home Office I was responsible for animal welfare matters. I remember a visit to the RSPCA's Harmsworth animal hospital in London, when I was a Defra Minister, working on dog control. I remember the dedication of the team there, and how they picked up the pieces of broken animals and put them slowly back together again.

As we have heard, this amendment to the law will bring England and Wales into line with the other nations of the British Isles. Increasing the maximum sentences will act as a deterrent for some and show that the criminal justice system takes these matters seriously. Cruelty to animals is not a party-political issue, and I hope that this House and Parliament will come together to do what is right, not just for animals but for our society as well. The British electorate and public expect nothing less.

1.52 pm

Lord Dodds of Duncairn (DUP) [V]: My Lords, I congratulate the noble Lord, Lord Randall of Uxbridge, and thank him for introducing this Bill today, along with Chris Loder in the other place. The Bill is narrow,

and I appreciate that that is in part because of a desire to avoid further delays in enhancing the sentencing powers available to the courts. I fully support the Bill, which is long overdue in bringing maximum penalties for animal cruelty offences in England and Wales into line with those already in place elsewhere. In Northern Ireland, I am pleased to say, the maximum sentence for animal cruelty offences has been five years since 2016, and the Scottish Parliament has just passed legislation increasing it as well.

It is absolutely imperative that animals are cared for in our society, that those who abuse animals are appropriately punished and that those with a legal responsibility for animal care have the support and resources they need. Recent reports from the RSPCA suggest that cruelty cases have risen during the pandemic, so the legislation is not only timely but hugely important. As a result of this legislation, as has been said, the United Kingdom will have one of the toughest animal cruelty sentencing regimes anywhere in the world, but our ambition should not end with its passage. There is more that we can do to prevent, deter, detect and prosecute crimes against animals. I am delighted that the Department of Agriculture in Northern Ireland is working at pace to bring forward legislation to introduce Finn's law in Northern Ireland, which would afford greater protection to service animals injured in the course of their duty.

As well as increased funding for animal welfare services, we should consider the establishment of a register of animal cruelty offenders to avoid repeat harm and take a preventive approach to wrongdoing. I am aware that the creation of such a register is very complex and that data protection, human rights and cost issues would have to be overcome, but we should not run away from the responsibility to exhaust all avenues to make progress in this important area. For instance, it could be limited to banned offenders with appropriate and limited access to relevant agencies.

Like other noble Lords, I believe in raising awareness and educating people about responsible ownership and the value of animals. That would go a long way to rooting out the causes of these evil crimes of animal cruelty. There is also room for greater UK-wide co-operation and efforts to tackle cruelty. A national charter, for instance, could ensure a joined-up and cohesive approach to initiatives being taken forward in each of our countries.

I wish this Bill well in what I hope is a speedy passage through the House.

1.55 pm

Baroness Eaton (Con) [V]: I first declare my interest as a vice-president of the Local Government Association.

I am pleased to speak in support of this Bill. I thank Chris Loder and my noble friend Lord Randall for their welcome endeavours on it. The current maximum sentence in England and Wales is out of step with that for other crimes and in other countries. Battersea highlights that offences such as fly-tipping or theft can carry penalties of five years in prison, yet only six months is available to the courts for those convicted of running brutal dog-fighting rings or torturing animals.

Battersea research also showed that courts in England and Wales are already issuing the maximum sentence in many cases, indicating that a higher sentencing ceiling is needed. As we have heard, other countries have a tougher approach. In 2017, Battersea surveyed 100 jurisdictions globally, including the whole of Europe, and found England and Wales the most lenient, with a six-month maximum custodial penalty for the most serious cases. None had a lower maximum penalty.

In 2018, 862 people were found guilty of animal cruelty in England and Wales. Nearly a third received a custodial sentence and some received the maximum term of six months in prison, the average being 3.6 months. RSPCA prosecution figures show that this is an ongoing problem. In the two years from 2016 to 2018, the number of prosecutions secured in the magistrates' courts rose by just over 200 to 1,678.

Sadly, and as we have heard, there is also a strong link between acts of violence against animals and acts of violence against people, both of which, tragically, are reported to have increased during the Covid-19 pandemic. A Battersea study revealed that women in domestic violence shelters were nearly 11 times more likely to report that their partner had previously harmed or killed pets, while children are at risk of neglect or abuse in 83% of families with a history of animal abuse. I agree strongly with the points made in this area by my noble friend Lady Fookes.

The Covid-19 pandemic has shone a spotlight once again on the importance of our relationships with our pets. For many of us, owning a dog or cat has helped get us through the most challenging of times in the past year, and they continue to provide us with joy and companionship. It is therefore only right that we do what we can in return to help protect our animals now and in the future. If this Bill is passed, I would welcome further clarity in sentencing guidelines to enable the courts to establish clearly which offences would merit the tough penalties available and those which may not require a custodial sentence. This would also usefully establish a uniform approach to sentencing in animal welfare cases.

I thank Battersea and other animal charities for all the wonderful work they do for all our animals. This legislation is supported by all major political parties and definitely by the public. We must not let this opportunity to introduce such an important change fall again before the end of the current parliamentary term.

2 pm

Baroness Boycott (CB): My Lords, I congratulate the noble Lord, Lord Randall, and Chris Loder for bringing this Bill so speedily and efficiently to this House. This is an important, short piece of legislation which we must try to get through. I agree wholeheartedly with everything that has been said, so I will try not to repeat it.

I think we have a very weird attitude to animals in this country. When I was editor of the *Daily Express*, we ran a piece about a man who had no job, and because he had no job, he could not feed his dog. Within about 24 hours, more than £32,000 was raised to feed the dog but, unfortunately, the man was not

[Baroness Boycott]
offered a job. It seemed to tell us a lot about our rather skewed attitude to animals. In fact, Battersea states that 27 public consultations have found that 70% of people support these proposals, together with tougher prison sentences, so it seems to be very late in the day not to be clamping down on people who treat animals cruelly.

As a couple of Peers have already mentioned, animal cruelty offenders are much more likely to be people offenders. In fact, they are five more likely to have a violent crime record. Currently, an act of fly tipping or theft is actually sentenced with greater severity than being cruel to animals. I was listening to a programme on Radio 4 the other day about theft on country farms. I heard about a sheepdog in Norfolk who had been crucified on a barn wall and left as a message for the owner, whose tractor was also taken. I do not know about other noble Lords, but it seems to me that the act against the sheepdog was a great deal worse than the theft of the tractor, yet, under the law at the moment, this would be reversed.

The current maximum sentence does not in any way fit the violence of the crime. I have talked to people who work and in animal shelters such as Battersea—I have had a Battersea dog who lived to be almost 20 and was one of my greatest companions. They put together animals such as Chester, a one year-old Saluki found by the side of the road with appalling injuries. It took 44 days for him to recover.

As other noble Lords have mentioned, during Covid we have become very fond of our pets, and our pets have been very valuable to us. It is well worth recording that pet owners make 15% fewer visits to their doctor every year: pet ownership therefore saves the NHS an astonishing £2.45 billion a year. We should respect our animals, and children should be taught that teasing animals in any way is quite incompatible with being a decent and upright human being. I welcome the Bill and look forward to its speedy passage.

2.02 pm

Viscount Trenchard (Con) [V]: My Lords, I congratulate my noble friend Lord Randall of Uxbridge on introducing this Bill today. It is absolutely right that the courts should be able to impose sentences in line with what the public rightly have come to expect in the worst cases of cruelty towards animals. As pointed out by the RSPCA, there is something wrong with the present law when, under the Anti-social Behaviour, Crime and Policing Act 2014, a person can go to prison for three years if his dog injures a guide dog, but for only six months for beating his dog to death.

As a result of the commitment and years of hard work put in by my right honourable friend Sir Oliver Heald, Finn's law, the Animal Welfare (Service Animals) Act, was passed in 2019. As I live very near Buntingford, where Finn the retired police dog and his master, PC Dave Wardell, live, Sir Oliver asked me to sponsor that Bill when it came before your Lordships' House. Finn had been seriously injured in the course of arresting a miscreant in Stevenage. Noble Lords who were in their place when the Bill was passed on 2 April 2019, with unqualified support from all sides of the House, will remember that Finn barked his approval from the Gallery at the precise moment the House gave its approval.

My right honourable friend had, as part of his original proposals for Finn's law, included a measure to increase the maximum sentence for serious offences against police dogs and horses and other service animals to five years. At that time, the Government agreed to support his Bill, but without the change in maximum sentence, because it was already their intention to legislate to increase the maximum sentence for all animals, not just service animals.

Last year, instead of introducing a government Bill, they agreed to support my honourable friend Chris Loder's Private Member's Bill to achieve the same result. So I am very happy that Finn's law part 2 is achieved through the passage of this Bill before your Lordships today.

It is also right that the maximum sentences are extended to five years, not just for service animals but for all animals, including domestic animals. As Battersea Dogs and Cats Home has argued, the current six-month maximum sentence available is the lowest in the 100 jurisdictions across four continents that Battersea examined, and there has been overwhelming public support for this change.

Of course, Battersea and other supporters recognise that the maximum sentences will certainly not be appropriate in the majority of cases, and have called for the Government to provide clarity on which offences would merit the tougher available penalties and which may not require a custodial sentence. I strongly agree with what the noble Baroness, Lady Mallalieu, said about this. A uniform approach to sentencing policy in animal welfare cases is very necessary, and I ask my noble friend the Minister to confirm that the Government agree with this.

It is to be welcomed that your Lordships' House has found the time to debate this Bill today, in the expectation that it can become law before the end of this Session of Parliament.

2.06 pm

Lord Khan of Burnley (Lab) [V]: My Lords, when I was a member of the European Parliament, young children from the primary school that I myself attended—Heasandford Primary School—wrote me a letter about this sentencing issue and having a maximum sentence of only six months. Now I am in the House of Lords, I am in a position to offer my support and voice to ensure that this Bill passes speedily to the statute book.

I add to what many other speakers said my own concern that certain offences such as fly-tipping have a sentence of five years, whereas cruelty to animals has only six months. It is very frustrating that we are seeing this still being debated as it has not yet passed into law. This is the third time that is has been attempted, so I hope that we can get this on to the statute book as fast as possible.

To add to what other colleagues have said, make no mistake: with people who abuse animals, there is a link to abusing women and children. We have seen during this difficult and challenging time with coronavirus that this abuse has unfortunately increased. Until we

get this law in place, we should send a message to people not just here in the United Kingdom but across the world, where other jurisdictions still need to do much more to increase sentencing to deter people who think they can abuse animals.

Finally, I will just say that this is all about the public; in 2017, 70% of the general public, during a government consultation, expressed their desire to see tougher sentencing. So I thank Chris Loder in the other place and the noble Lord, Lord Randall of Uxbridge, for sponsoring this Bill and I look forward to supporting it.

2.08 pm

Viscount Bridgeman (Con) [V]: My Lords, I am very pleased that this admirable Bill has at last found its way to your Lordships' House, having been several times a victim of the parliamentary timetable in the past few years. I must thank my noble friend Lord Randall for piloting it through your Lordships' House.

My noble friend Lord Trenchard has reminded us that England currently holds the wooden spoon as practically the only country—certainly in Europe—that does not have a five-year rule for these offences. Northern Ireland and Scotland have introduced five-year maximum prison sentences, which have also been in place in the Republic of Ireland since 2014, and I am very pleased to note that Wales has laid a legislative consent memorandum to enable this Bill to apply in Wales.

My noble friend Lord Randall highlighted the many reports of frustration among magistrates and judges in England that they are restricted to imposing the current maximum of six months, and my noble friend Lady Eaton pointed out that there are a large number of maximum sentences being handed down at this lower level. The current maximum applies to the most brutal crimes, such as running dogfighting rings and torturing animals. As other noble Lords have pointed out, it compares with the iconic maximum sentence for fly-tipping, which is five years.

Your Lordships will be aware of the disturbing increase of dog thefts during the current lockdown. More people have relied on the companionship of dogs, and their price has gone up very sharply. I suggest that the noble Baroness, Lady Mallalieu, understates the crisis; a cocker spaniel puppy can now easily fetch £3,000, and this has naturally attracted the attention of dog thieves. Some stolen dogs finish up in good homes, but many most certainly do not, and the recent discovery of a large number of dogs on a Travellers' site in Suffolk is an illustration of the extent of the problem.

Several noble Lords emphasised the connection between acts of violence against animals and violence against people. I am indebted, as many of your Lordships are, to the excellent briefing from the Battersea Dogs & Cats Home study—dogs and cats indeed; I understand there are plans for the chipping of dogs to be extended to cats, as there has also been an upsurge in cat theft during lockdown. I should be grateful if the Minister could update us on any progress made on this proposal.

In short, this is an admirable Bill which has cross-party support and will be welcomed by the general public. I trust your Lordships will hasten its progress towards the statute book.

2.12 pm

Lord Oates (LD): My Lords, I welcome this Bill and pay tribute to the noble Lord, Lord Randall of Uxbridge, for introducing it in this place, to Chris Loder MP for piloting it through the Commons and to MPs and Peers across all parties who have campaigned for it over a long period. Increasing the maximum sentence to five years has been a long-standing policy of the Liberal Democrats, so I am delighted to support the Bill.

We are all aware of the appalling cases of cruelty to animals which are from time to time reported in the media, but they are very much the tip of the iceberg. A huge number of acts of cruelty take place every year which never reach the public or the courts. Despite being a nation of animal lovers, there is a small minority who have no compunction in inflicting terrible suffering on animals.

The judiciary has been clear that it lacks the powers it needs to impose appropriate sentences for the most serious of these crimes that come before them. This Bill will deal with that problem, and that is welcome, but we should not be under any illusion that it is some sort of panacea. The contrast between the five-year maximum for fly-tipping and the current six-month maximum for animal cruelty has been drawn. As we know, fly-tipping continues to happen.

In introducing the Bill in the other place, Chris Loder referred to the vast number of cases of cruelty which are reported to the RSPCA and the fact that just 100 were prosecuted. He specifically raised the case of a man who had recently been convicted of burning his cat in a hot oven, before attempting to flush her down the toilet, strangling her and then throwing her against a wall. He received an 18-week suspended sentence, was banned from owning a pet for 10 years and was ordered to pay just £440 in costs.

Both these points highlight the problems that this Bill cannot deal with: the lack of resources for enforcement and the fact that sentencing guidelines need to be reviewed as well. Even today, some in the judiciary are failing to use the powers they already have.

The Bill is a welcome and important step, and I am pleased to support it. I very much hope that it will prove third time lucky and pass through this House rapidly. But there is still much to be done. Without adequate resources for enforcement, a review of sentencing guidelines and effective means to prevent people who have inflicted cruelty on animals from acquiring animals in future, the welfare of animals will continue to suffer.

2.15 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, this Bill is obviously necessary to tackle animal cruelty and to ensure that humans who harm animals are properly punished. I usually hesitate to advocate longer custodial sentences, as we already have too many prisons with too many inmates, sometimes for minor crimes, because of poor legislation. However, although I would prefer better funding for groups of police to tackle this crime and bigger fines to make it less attractive, in this case it is clear that there has to be a strong consequence for cruelty to animals.

[Baroness Jones of Moulsecoomb]

I heartily congratulate the noble Lord, Lord Randall of Uxbridge, and Chris Loder in the other place on bringing this as a Private Member's Bill. It is long overdue. The Government first proposed this legislation in 2017, along with protections for animal sentience, but then they dropped the animal sentience bit. It was June 2019 before the Government brought in this Bill, but with all their shenanigans of shutting down Parliament and then using the Queen's Speech as a party-political broadcast before holding a general election, the Bill fell twice in as many months. Now, with only a few weeks left of the fourth Parliament since the Government first promised this legislation, we are either going to have to rush the Bill through, pass a carry-over Motion or lose the Bill yet again.

I hope that the Minister will explain why the Government have delayed the Bill for so long—just like the Environment Bill, which is still nowhere to be seen. These important pieces of legislation, both designed to protect animals, the natural world and our environment, have been delayed again and again. I feel that it shows where the Government's priorities lie when we compare it to the speed and quantity of nasty, damaging Bills like the "spy cops" Bill and the overseas operations Bill, which are rushed through at a moment's notice.

I really would like the Government to fulfil their promises on animals and animal sentience. I hope that the Minister will pass on to his ministerial colleagues the strong feelings of your Lordships' House on this issue and the fact that we would like to see this Bill on the statute book as fast as possible. I am staggered—I am sure that the Queen is getting fed up with reading out the same bits of legislation again and again, so let us do it quickly and do it well.

2.18 pm

The Earl of Caithness (Con) [V]: My Lords, I congratulate my noble friend Lord Randall of Uxbridge on introducing this very important piece of legislation. It is a two-clause Bill, but a worthy one. I hope that it gets on to the statute book quickly.

I think the noble Baroness, Lady Mallalieu, put her finger on the key issue: education for pet owners. We have seen and witnessed far too many situations where owners have behaved irresponsibly for various reasons, but one of the main reasons is a lack of knowledge. The consequences for animals and the way that their pets have attacked and destroyed other animals, such as sheep, is a cause for great concern. I think that concern will increase as we move out of the pandemic, because—as other noble Lords have rightly said—a number of dogs and cats have been purchased. When life returns to normal, I think that a lot of these animals will be treated badly and not be supervised in the way that they should. That is a concern.

The RSPCA did research into how long dogs should be left alone for, and 20% of dog owners got the figure wrong. SongBird Survival has done a huge amount of research with Exeter University into how cats behave; owners could do a lot to prevent the destruction of songbirds and the way cats behave by simple measures, using a little common sense and some education.

The noble Lord who just spoke was absolutely right to mention that this is not in itself an answer to the problem; there are other measures. I hope my noble friend is ensuring that the best possible measures are available to the judiciary and the judiciary use them. One measure that should be used, mentioned by my noble friend Lord Randall of Uxbridge, is that any pet owner who treats that pet badly, or whose pet behaves badly, should not be allowed to own a pet in the future. That would be a deterrent but, again, it needs enforcement. I hope my noble friend will review that situation, particularly as the Agriculture Act we just passed encourages a great deal more access to the countryside.

2.21 pm

Lord Trees (CB) [V]: My Lords, I very much welcome the Bill, which brings UK sentencing in line with current law in Scotland and Northern Ireland and other comparable countries, better reflects the nature of welfare offences in comparison with other offences and, because there is a strong link between violence against animals and violence against people, may help reduce human abuse as well as animal abuse.

Apart from strongly supporting the Bill, the main point I want to make is to emphasise that legislation is but part of improving standards and enforcement is an important second part. We have a whole raft of excellent animal welfare legislation in the UK but, sadly, there is a marked deficiency in the enforcement of that legislation, as the noble Lord, Lord Oates, mentioned.

The most serious deficit is the fact that no one state organisation has statutory responsibility for animal welfare. Local authorities have the power to appoint inspectors, but this is discretionary and not a legal duty. I urge the Government to consider making the enforcement of animal welfare legislation the statutory responsibility of local authorities and to provide appropriate resources for that purpose.

One of the costs of enforcing the Animal Welfare Act is that dogs seized under the Act must be kept at local authorities' expense. An unwelcome consequence of the current Bill might be that offences come to court even more slowly than currently. This would have negative welfare and financial consequences, as the noble Baroness, Lady Parminter, mentioned. Can the Minister say what consideration has been given to this issue?

The inadequacies of current enforcement are allowing, among other things, the gross abuse of the pet travel scheme and the shortage of UK-sourced puppies has encouraged major criminal involvement in large-scale puppy and dog smuggling, with attendant welfare consequences. Another aspect of dog smuggling is that, if illegal importation is detected but no offence under the Animal Welfare Act can be proved, I understand that the maximum sentence is likely to be no more than 12 months under the rabies importation order; thus the increased sentence that the Bill would allow, and which we all welcome, would not apply in those cases. Is this anomaly being addressed?

A final concern with regard to livestock is in the light of the fact that, following Brexit and with the phasing out of the basic payment scheme, APHA

farm inspections to ensure cross-compliance will cease. Such inspections were an opportunity for inspectors to review the welfare of livestock on inspected premises. What plans are there to ensure that, in future, there are appropriate inspections to check welfare standards on farms?

That said, in summary, I very much welcome the Bill and wish it a speedy passage.

2.24 pm

Lord Naseby (Con) [V]: My Lords, I support this Bill. Before I go any further, I should declare an interest in that I have two Jack Russells. Biggleswade is where we live and our senior Jack Russell is called Biggles after the books of Captain WE Johns, which I read as a young man. He should be in the basket behind me but it was pointed out that he might object to certain contributions from your Lordships and bark, so he is outside in the sunshine.

The Bill is overdue. I wish it a smooth passage. I want to say a sincere thank you to my noble friend Lord Randall. I do not know whether everybody who is taking part in this debate, either from the Chamber or from home, has ever taken a Private Member's Bill through the House. I have taken through one that I started—to help the mutual movement—and a couple of others that started in the other place. It takes a lot of time and effort, however it is done. I really do thank my noble friend. Without the effort that he has put in, we would not be making the progress that we are making today.

However, it is disappointing—I hope my noble friend on the Front Bench will take note of this—that this is not the first time that we in England and Wales, particularly in England, are out of step and playing catch-up with the other home nations on a small but important area of legislation. I wonder whether, because of the devolved nations being more active nowadays, we as the Government at the centre should not take a closer look at the minor Bills being promoted in other areas to see whether they are relevant to England and Wales.

I thank Battersea Dogs & Cats Home, which does a superb job. I remember visiting it when I was a councillor in the London Borough of Islington. The case histories that it has sent us are indeed harrowing and deeply worrying. It makes me wonder whether the time has come to review the Dangerous Dogs Act; that is not for this afternoon, obviously, but it is worth putting it on the record. I also hope that the fact that your Lordships' House is dealing with the Bill expeditiously will reassure professionals such as those as Battersea.

Finally, I want to make two points. First, the noble Lord, Lord Trees, is right that law enforcement needs to be looked at. Secondly, I say again to the Whip on duty that, if necessary, I am prepared to sit on Friday 30 April—we are not scheduled to sit then—to ensure that this Bill gets on to the statute book.

2.27 pm

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, I welcome the Bill. It is a delight to follow the noble Lord, Lord Naseby. I met him in Durham a couple of years ago. To be clear, he was not visiting the prison; he was visiting his daughter at the university. I congratulate the noble Lord, Lord Randall of Uxbridge, and the Bill's sponsors in the other place.

I will be brief because a lot of what I was going to say has been said. Public support for increasing sentences for those who abuse defenceless animals stands at more than 70%. It is unbelievable that arranging dogfighting and torturing animals attracts a maximum of only six months in prison whereas, as has been said, serious litterers can get a maximum of five years. As a police officer investigating violent crime over 35 years, I came across a connection between people who tortured animals in their early lives and those who went on to be violent against their fellow human beings later; this was mentioned by the noble Baroness, Lady Fookes, and the noble Lord, Lord Taylor of Holbeach, among others.

A classic example of this was Ian Brady in 1963. He was notorious for his involvement, with Myra Hindley, in the torture and murder of children in the infamous Moors murders. His early childhood was plagued with examples of torturing domestic animals; of course, we saw the tragic result. Indeed, animal cruelty offenders are five times more likely to have a violent criminal record. As has been mentioned, there is also a correlation between animal cruelty and domestic violence, which has increased during the pandemic. When examined by Battersea Dogs & Cats Home, we fared badly, with the lowest penalty out of 100 jurisdictions across four continents.

I have said enough. I commend the Bill to the House.

2.29 pm

Lord Holmes of Richmond (Con): My Lords, I congratulate my noble friend Lord Randall of Uxbridge and Chris Loder MP in another place for their sponsorship of this clear piece of legislation. I declare my interest as a guide dog owner. In 2013, I had the privilege not only of joining your Lordships' House but of bringing in my then guide dog Lottie as the first guide dog ever in the history of the House of Lords.

I give this Bill my full-throated support. It is neither a dog's dinner nor a pig's breakfast but clear, concise and effective, if given effect. It is the natural follow-on to Finn's law, which was so skilfully steered through your Lordships' House by my noble friend Lord Trenchard.

I ask the Minister about education. What part does animal welfare play in the citizenship agenda? Will he meet with DfE colleagues to see what more can be done to have animal welfare in schools and animals visiting, for the difference that this can make? I also ask if he will be tempted out of his ministerial kennel to say whether there may be an animal welfare Bill coming through your Lordships' House sometime soon, in the next Session.

Other noble Lords have commented on some of the adverse impacts of lockdown on animals and pets. I agree that one of the long negative effects of lockdown will be pets abandoned, abused and harmed. I ask the Minister what the Government will do to ensure that this is covered from a government and ministerial perspective.

The Parliamentary Under-Secretary in another place, Victoria Prentis, said that the Government fully support this Bill. Every noble Lord who has spoken fully

[Lord Holmes of Richmond]
supports this Bill, as do I, and I know that the Minister fully supports this Bill. I entreat him to use all of his good offices and best endeavours to ensure that it secures its place on the statute book, before the end of this Session. Echoing my noble friend Lord Naseby, if that requires us to sit on 30 April, that is the very least that we can do to make sure that this important Bill becomes legislation for the benefit of all our animals.

2.32 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the noble Lord, Lord Randall of Uxbridge, for his introduction to this important Bill, and Chris Loder, who steered it through the other place. It has significant implications for animals and those attempting to ensure their safety and well-being. The whole thrust of the Bill is the length of sentences for cruelty to animals. I am grateful to the RSPCA and Blue Cross for the briefings provided.

It is obvious that current legislation is inadequate, with the maximum sentence under the Animal Welfare Act 2006 standing at six months' imprisonment. This compares to five years in Australia, Canada, India, Latvia, New Zealand and Scotland, and three years in Bulgaria, the Czech Republic, Germany, Hungary, Italy, the Netherlands, Poland and Romania. Others have referred to this. England has always prided itself on its animal welfare ethos, so it is surprising that it does not have more stringent punishment for those who abuse and cause pain and distress to animals. We are lagging behind.

This Bill makes a change to increase the maximum penalty from six months to five years and so that it could attract an unlimited fine. However, fines have been imposed in the past, but are not a real deterrent, as they often remain unpaid and cruelty continues unabated. Occasionally, harm will occur to an animal because of ignorance or an unintended accident. It is not these offences that the Bill seeks to address. Its purpose is to prevent unnecessary cruelty by acting as a warning to others. Those who engage in deliberate, calculated and sadistic behaviour towards animals can expect to receive the maximum custodial sentence and a heavy fine, and I fully support this.

Our current legislation also can administer a lifetime ban on keeping animals. These disqualification orders are difficult and time-consuming to administer and not often monitored. It is occasionally the case that someone who has been served with a lifetime ban is back in the courts for a similar offence several years later. Perhaps they hope that no one will notice. It is these persistent offenders for whom the extension of the prison sentence may be most appropriate, but if a disqualification order is imposed, it must be properly monitored, recorded and enforced.

Organised dogfighting is currently illegal, but very large sums of money can change hands at one of these events. Fining is not likely to deter the most hardened of these criminals in their sadistic practices, but a hefty prison sentence will not only curtail their freedom but will also curtail their illegal income, as the noble Lord, Lord Randall, said.

While I am grateful to the RSPCA for a list of the sentences handed down for a variety of animal cruelty offences, I regret that I am reluctant to read those harrowing offences out and I commend those who have managed to do so. I cannot imagine what motivates people to cause such appalling suffering, often on very small defenceless animals, as my noble friend Lady Parminter said. Those who take pleasure in such activities are a serious threat to animals and children and are likely to be perpetrators of domestic violence. The noble Baroness, Lady Fookes, the noble Lord, Lord Taylor of Holbeach, and other noble Lords referred to this. Research and surveys indicate that 70% of the public wish action to be taken to curtail the activities of those inflicting animal cruelty in its worse forms. This Bill allows this that happen.

Often an elderly person will keep a cat. It will be their only companion and friend. The bond between the two will enrich the life of the elderly person, providing them with company and a one-way conversation. We as society have a duty to ensure that that pet is safe from harm from those engaged in mindless violence for fun, often drink and drug-fuelled. A fine is no deterrent, but a custodial sentence is a very different matter.

There is an extensive range of sections in the Animal Welfare Act 2006, which start with causing unnecessary suffering and move through the more serious to mutilation and poisoning. It is vital that this Bill should pass and enter the statute book so that adequate protection can be provided for all animals, whether domestic pets, farm livestock or wild animals. All speakers have wished to see this Bill become a statute. I look forward to the Minister's response.

2.38 pm

Baroness Hayman of Ullock (Lab) [V]: My Lords, I congratulate Chris Loder in the other place on bringing this Bill forward and thank the noble Lord, Lord Randall of Uxbridge, for sponsoring it in your Lordships' House, although I regret that it has taken this long to bring this legislation forward considering that it has widespread cross-party support and is supported by the general public.

Personally, I feel a sense of Groundhog Day having first support my friend Anna Turley's Private Member's Bill in 2017, which Conservative Whips objected to at Second Reading. There was never really any explanation of why the Government objected at that time. I then spoke in the debate in the other place following the publication of the Defra Select Committee's excellent report covering maximum sentencing. Then the Government proposed a sentencing and sentience Bill, which came to nothing. In July 2019, I spoke in the other place at the Second Reading of another version of the Bill, when the Minister said it was really important to legislate as quickly as possible. I am sure your Lordships' House can feel my frustration. For four years, the Government have been saying that this legislation is an important priority, but they have dragged their feet time and time again, yet we know from the rapid passage of the Ministerial and other Maternity Allowances Bill that when the Government have a priority they can get legislation on to the statute book very quickly indeed.

I am glad that we are finally in a position where an animal sentencing Bill might actually become law. It is imperative that the Bill should receive Royal Assent and come into force as soon as possible so that our courts can start handing out appropriate sentences to those convicted of inflicting terrible harm on innocent animals. It is absolutely right that we should seek to increase the maximum penalty for animal welfare offences from six months to five years. Britain can be proud of having some of the best animal welfare practices and legislation in the world. As a Labour Member, I am very proud of the landmark Animal Welfare Act, because a Labour Government brought it forward. Now, the Animal Welfare (Sentencing) Bill will build on those foundations.

We support the Bill today, but I will mention some concerns. It is disappointing that there will not be tougher penalties when there are aggravating factors, such as the filming and sharing online of acts of cruelty. The proposals apply only to the Animal Welfare Act and, therefore, do not apply to wild animals in the way that they apply to domesticated animals. Our concern is that this creates a two-tier system. The same sentences should be available for similar or identical crimes, regardless of whether the animal is domesticated or wild. All animals feel pain and all suffer. The people who harm them need to feel the full force of the law, so will the Government look at bringing sentencing for cruelty to wild animals into line with that for domesticated animals?

I will also briefly mention pet theft. Sentences for people who commit it should reflect the distress that they inflict on their victims. Will the Government support a review of the sentencing guidelines to recognise the emotional impact of theft?

A number of noble Lords have drawn attention to the connection between animal cruelty and criminal behaviour. We know that people convicted of animal cruelty are five times more likely to have a violent crime record and that animal abuse is 11 times more likely in domestic violence situations. This legislation will protect not only animals but people. As has been said, the Government should also place a statutory duty on local authorities to enforce the Animal Welfare Act, so that it has proper teeth, and give local authorities adequate resources for enforcement. Can the Minister confirm that sufficient resources will be provided and ensure that disqualification orders on owning animals are properly monitored, recorded and enforced? Will the Government support the introduction of a lifetime ban on owning pets for any person convicted of these offences?

Many have campaigned for this legislation. I will mention a few: the League Against Cruel Sports, the Dogs Trust, Blue Cross, the RSPCA, Battersea Dogs & Cats Home and many members of the public. I commend them for their important work and look forward to the Bill finally becoming law.

2.43 pm

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, I thank the noble Lord, Lord Randall, for his sponsorship of this important Bill and the powerful manner in which he made the case. I also thank other noble Lords for their valuable contributions to today's debate.

The Bill represents a government manifesto commitment to increase sentences for the worst acts of animal cruelty and it has the full support of the Government. It is just one element of the continued action that this Government are undertaking to improve animal welfare. Last year, we prohibited the commercial third-party sale of puppies and kittens in England. We launched an awareness-raising campaign to help to tackle low-welfare and illegal supply of pets. We have taken steps to ban the keeping of primates as pets and we have consulted on the compulsory microchipping of cats—the Government's response will be published in due course. We have changed the law to require CCTV in slaughterhouses and will introduce measures soon to end excessive journeys for slaughter and fattening. We have also acted to understand the potential short-term animal welfare impacts related to Covid-19 controls by commissioning the Animal Welfare Committee to provide us with its independent advice.

These are just some of the actions that we are taking that build on our previous policies, including the support that we gave to the Animal Welfare (Service Animals) Act, otherwise known as Finn's law, which has been raised by a number of speakers today, including the noble Lord, Lord Dodds of Duncairn, and the noble Viscount, Lord Trenchard—it received Royal Assent in April 2019.

As I am sure noble Lords will be aware, this Bill is complementary to Finn's law. It will strengthen the penalties available where Finn's law is applied, increasing the protections for our service animals. In short, the Bill extends the maximum penalty for the worst cases of animal cruelty in England and Wales from the current level of six months and/or an unlimited fine to five years' imprisonment and/or an unlimited fine. The noble Lord, Lord Randall, and the noble and learned Baroness, Lady Butler-Sloss, made the point that the Bill introduces one of the highest punishments for animal cruelty in the world. It is simple but vital, as it will allow courts to deliver a more proportionate punishment to those who perpetuate unspeakable cruelty towards animals.

I shall now reply to the important points made by Members of this House. We heard from the noble Lord, Lord Randall, of some truly awful cases of animal cruelty. As he said, in some cases of cruelty the judges involved stated that they would have handed down a higher sentence than six months had the law and guidelines allowed. The noble Baroness, Lady Mallalieu, mentioned her work as chair of the Horse Trust—I thank her for that—and discussed some of the reasons why people behave appallingly to animals. She, the noble Lord, Lord Taylor of Holbeach, and the noble Baroness, Lady Jones, all made the case for education of pet owners. Clearly, there is a need for education. Indeed, the Government have engaged in one of their most successful ever communications campaigns, Petfished, to try to help prospective owners of cats, dogs and other animals to ensure that they are not providing custom to unscrupulous dealers or shops.

[Lord Goldsmith of Richmond Park]

There is also a place for punishment and deterrents. The time needs to fit the crime, as in various ways the noble Baroness, Lady Boycott, the noble Viscount, Lord Trenchard, and the noble Baroness, Lady Bakewell of Hardington Mandeville, all said. For context, it is probably worth saying that other offences that can lead to up to five years in prison include, for example, abstracting electricity, allowing a dog to be dangerously out of control, causing actual bodily harm and fly-tipping. Against such offences, we consider it proportionate for the maximum sentence of animal welfare offences to be set at five years.

A number of noble Lords mentioned the RSPCA. The Government clearly recognise the enormously valuable work that that organisation does to improve the welfare of animals, including the role of prosecuting those who have breached the Animal Welfare Act 2006. Defra officials and those of other government departments are working with the RSPCA on proposed changes to transfer responsibility for prosecuting animal welfare offences to the Crown Prosecution Service. We are determined to ensure that while we work together in this area there is no reduction in the level of protection given to animals whose welfare has been compromised.

The noble Baroness, Lady Parminter, said that the Government previously had no plans to raise the maximum sentence and that this was in a sense something of a U-turn. With respect, that is not the case. We have had plans for some time—indeed, it was one of my first decisions as Minister responsible for animal welfare nearly two years ago to proceed with this proposal. She and the noble Baroness, Lady Hayman of Ullock, talked about delays to the Bill. They are right that the Bill has experienced delays, but it is wrong to say that that was due to a change in the Government's priorities. Events such as the Covid-19 pandemic and the emergency response work required have affected the parliamentary timetable horribly. The Government are fully behind this Bill and always have been.

The noble Baroness, Lady Fookes, mentioned that there is often a connection between cruelty to animals and cruelty to children, a point repeated by the noble Lords, Lord Taylor of Holbeach and Lord Trees, and the noble Baroness, Lady Eaton, who backed up the assertion with some compelling evidence. The noble Lord, Lord Mackenzie of Framwellgate, further backed up that assertion by using his long experience in the police force, citing in particular the grim case of Ian Brady. It is clearly right to make that connection.

The noble Baroness, Lady Fookes, and the noble Lord, Lord Oates, asked about sentencing guidelines, along with other noble Lords, and about the courts' unwillingness to impose the full penalty. The Government have been in contact with the independent Sentencing Council about the change to the maximum penalty. There is an existing sentencing guideline in relation to animal cruelty offences under the Act, which was reviewed and updated by the council in 2017. The council has since confirmed that, when this Bill has passed, it will consider the need to revise the guideline and any revision will involve public consultation.

The noble Lord, Lord Dodds of Duncairn, raised the idea of a register of animal abusers. Persons convicted of animal cruelty or animal abuse are already captured on the police national computer, which provides a searchable single source of locally held operational police information. It brings together data and local intelligence so that every force can see what is known about an individual, including information relating to animal cruelty. The police have said they worry that a publicly available register of animal abusers could facilitate vigilantism, but I think the noble Lord is right to say these problems could be overcome.

The noble Lord, Lord Khan of Burnley, mentioned that he has been lobbied by pupils from his old school. That is wonderful to hear and testament to the importance that the British public attach to the issue of animal cruelty. It was a point also made well by the noble Lord, Lord Mackenzie of Framwellgate.

The noble Viscount, Lord Bridgeman, asked which types of offences would be included in the scope of this sentencing. Examples include causing unnecessary suffering to animals, carrying out non-exempted mutilation, docking tails except where permitted, poisoning animals, organising animal fights and so on.

The noble Lord, Lord Oates, made the point that this Bill, valuable though it is, is not a panacea. He is right, of course. It is part of a package of measures we will introduce in the coming weeks and months. He also mentioned the 18 weeks given to a person for engaging in unspeakable acts of cruelty to a cat.

The noble Baroness, Lady Jones, suggested that the Government had dropped proposals to recognise sentience of animals. With respect, that is not the case. It is worth remembering that it was the UK that pushed for a recognition of animal sentience to be included in Article 13 of the Lisbon treaty back in 2009. Now that we have left the EU and the transition period has finished, we can go much further than we ever could before. We will introduce legislation on animal sentience that will explicitly recognise the welfare of animals as sentient beings as soon as parliamentary time allows, but soon. It is worth saying that our methods and measures will go much further than those of the EU, which apply to a very limited number of EU policy areas and contain endless exemptions, almost to the point of making them meaningless.

The noble Baroness, Lady Jones, also questioned the Government's commitment to animal welfare generally. The Government are completely committed to animal welfare. We have taken many steps already. I have mentioned requiring CCTV in all slaughterhouses and implementing one of the world's toughest ivory bans. We have introduced new welfare standards for pet selling, dog breeding, hiring out horses, animal boarding and exhibiting animals. We have introduced a ban on the commercial third-party sale of puppies and kittens. There are a number of big, important changes in the pipeline. I cannot think of any Government who have done or are doing more on this agenda.

I thank my noble friend Lord Caithness for raising the SongBird Survival project and the research it has done into declining songbird populations. I will bring

that work to the attention of my officials so that they can consider whether it can inform our work on animal welfare.

Under the Animal Welfare Act 2006, it is an offence to cause any unnecessary suffering to an animal or to fail to take reasonable steps to ensure the needs of an animal are met to the extent required by good practice. The penalty is an unlimited fine, being sent to prison for up to six months or both, but following a conviction for either of these offences the court can also ban the offender from keeping animals, as well as ordering that their animals are removed from them.

The noble Lord, Lord Trees, and a number of other noble Lords talked about the importance of enforcement. Of course, local authorities need the resources to carry out their duties, but every local authority at district level should already have officers able to enforce animal welfare laws.

The noble Lord also raised puppy smuggling, and the Government take this issue very seriously. It is a trade that causes suffering to the smuggled dogs and puts the health of pets and people in the UK at risk. We are working hard to tackle the problem, targeting both the supply and demand of illegally imported dogs. This approach includes enforcement, international engagement, tighter regulation and public communications, as well as collaboration with stakeholders, including the BVA and the Dogs Trust. Now that the transition period has ended, we have the opportunity to manage our own commercial and non-commercial import and pet travel arrangements. The Government will consider our pet travel and import arrangements as part of cracking down on puppy smuggling, in line with our manifesto commitment.

The noble Lord also mentioned the post-EU regime. We are firmly committed to upholding our high animal welfare standards outside the EU. We are co-designing an animal health and welfare pathway with industry to promote the production of healthier, higher-welfare animals at a level beyond compliance with current regulations. We are also looking to replace cross-compliance.

The noble Lord, Lord Naseby, mentioned his own dogs. I too have had the enormous joy and honour of incorporating numerous rescue dogs into my family, including at the moment. However, he mentioned that in England we are out of step with other areas of the UK. The noble Baroness, Lady Bakewell of Hardington Mandeville, made a similar point. I simply say that we are coming into line now on sentencing; it probably goes without saying that in numerous other areas of animal welfare, we are ahead of those other areas of the UK. The plans we have in the pipeline now are more ambitious for animal welfare, as far as I am aware, than those of any Government anywhere.

My noble friend Lord Holmes of Richmond asked whether I would meet Department for Education colleagues to discuss animal welfare in citizenship and education. I can assure him that I will. He also asked whether there will be an animal welfare Bill. I am not at liberty, I am afraid, to make announcements of that sort but I can reassure him that we have a very ambitious pipeline of measures, which we will introduce shortly, on a range of animal welfare issues.

The noble Baroness, Lady Hayman of Ullock, talked first about sentencing for offences concerning animals in their wild state. Such sentencing is already a separate matter and not in scope of the Animal Welfare Act 2006. I think she made the point herself that that Act applies to vertebrate animals

"under the control of man",

including wild animals under "permanent or temporary" control. That could include, for example, where a wild animal is caught in a trap or snare and it means that all animals under the control of man, whether domesticated or wildlife, will be subject to the new maximum penalty.

On the second issue that the noble Baroness raised, the Government take pet theft very seriously. We are concerned by reports that occurrences are on the rise and reviewing what official data is available to help us understand and establish the true scale of the problem. We are working actively across government right now to explore ways to address the issue that will be effective and have a meaningful impact on the problem. In the meantime, if someone causes an animal to suffer in the course of stealing it they are also liable to prosecution under the Animal Welfare Act 2006—and the increased penalty that this Bill provides may be applied.

I hope I have answered certainly most, if not all, of the questions put to me by noble Lords. I conclude on behalf of the Government by thanking noble Lords for their involvement in today's debate, in particular my noble friend Lord Randall for his work in guiding the Bill through this House. We are a nation of animal lovers. The Bill reinforces that by answering the strong messages we have seen from parliamentarians, members of the judiciary, animal welfare organisations and the public on strengthening animal cruelty sentencing.

2.57 pm

Lord Randall of Uxbridge (Con) [V]: My Lords, I take this opportunity to thank all noble Lords for their considered and important contributions. I sincerely thank the Minister for confirming the Government's continued support for the Bill. I look forward to guiding it, I hope, through its remaining stages. Lastly, I extend my thanks to all those many outside the House who have supported the Bill, and the many charities and other organisations which have proven to be long-standing and tireless advocates for animals. I mentioned many of them in my earlier remarks but would like to mention, too, Lorraine Platt of the Conservative Animal Welfare Foundation. I also sincerely thank my noble friend Lord Shrewsbury. He also put his name forward as a potential sponsor for the Bill but graciously deferred to me. I am only a very junior Member of your Lordships' House so it is a great privilege to do this. I commend their effectiveness in supporting this Bill and the increased maximum penalties it will provide.

I recognise the many individual members of the public who collectively fill postbags and sign e-petitions each year concerning animal welfare issues. These supporters of animal welfare ensure that discussion is kept current and moving, and that parliamentarians are kept abreast of emerging issues so that they can be

[Lord Randall of Uxbridge]
raised with the Government. Many of these individuals have been calling for an increase in the maximum penalty for animal cruelty for several years. They will no doubt watch the Bill's progress keenly.

I also thank the officials in Defra and the Government Whips' Office who have helped me with details of procedure. Once again, in expressing my gratitude to all noble Lords who have taken part today, and particularly my noble friend the Minister, I sincerely hope that the House will give the Bill a Second Reading this afternoon.

Bill read a second time and committed to a Committee of the Whole House.

Arrangement of Business

Announcement

2.59 pm

The Deputy Speaker (Baroness Barker) (LD): We now come to Committee on the Education (Guidance about Costs of School Uniforms) Bill. I will call Members to speak in the order listed. During debate on the group, I invite Members, including Members in the Chamber, to email the clerk if they wish to speak after the noble Baroness, Lady Lister. I shall call Members to speak in order of request. Leave should be given to withdraw the amendment. When putting the question, I will collect voices in the Chamber only. If a Member taking part remotely wants their voice accounted for when the Question is put, they must make that clear when speaking.

Education (Guidance about Costs of School Uniforms) Bill

Committee

3 pm

Relevant document: 37th Report from the Delegated Powers Committee

Clause 1: Guidance about the costs of school uniforms: England

Amendment 1

Moved by ***Lord Blencathra***

1: Clause 1, page 1, line 15, at end insert—

"(4A) The Secretary of State must lay the guidance and any revised guidance before Parliament, and when he or she has done so he or she may bring the guidance or revised guidance into operation by order.

(4B) A statutory instrument containing an order made under subsection (4A) is subject to annulment in pursuance of a resolution of either House of Parliament."

Lord Blencathra (Con): My Lords, my amendment would ensure simply that the statutory guidelines could be scrutinised by Parliament in the lowest form of scrutiny we have: namely, the negative procedure. My amendment could not be more simple or reasonable. It says simply that the Secretary of State must lay the guidance before Parliament and may bring it in by the negative procedure. That procedure, as we all know, allows the guidance to take immediate effect, but would permit parties in Parliament, if so minded, to debate it. Just as with the thousands of other SIs which pass through here every year, there would probably be no debate, no objection and no vote—but at least our excellent Secondary Legislation Scrutiny Committee would get a chance to have a look at the regulations. That is all my amendment seeks.

I criticised the Bill at Second Reading on these grounds, and also because we had not seen a draft of the guidance that we were being asked blindly to rubber-stamp. Well, I am able to give some mild praise to the Minister before I start on some mild criticism. The department has now published the draft guidance, which is very helpful for all of us. I appreciate that it may change and that more people and organisations may have input into it, but this House has usually demanded, and rightly so, to see any draft guidance or draft regulations that we are being asked to take on trust.

For the avoidance of any doubt, I thoroughly approve of the Bill and am not opposed to it. Indeed, if there was an opportunity to have the other place deal with our amendments before the end of this Session, I would push this amendment to a vote, and I would put down another amendment insisting that all schools create, either by themselves or through parents or a charitable trust, a system for used and second-hand uniforms. As a soldier in a Highland regiment, the only bit of new kit I had, out of scores of items, was boots and socks. Everything else was used, cleaned, repaired, refurbished and reissued—and by God we were proud to wear it. The only thing I rejected was second-hand long johns—I assure noble Lords that they do not want to wear second-hand long johns from a Scottish soldier.

When I spoke at Second Reading, I said that I was speaking in a personal capacity and not as the chair of the Delegated Powers Committee. Since then, the committee has met and published a report on the Bill, and it has identified, in its usual and meticulous way, the inappropriate delegated powers in the Bill that my amendment seeks to address. I can tell the Committee that I had no part in those decisions or discussions. I was absent when the Delegated Powers Committee approved the report, so I have not influenced its decision. However, I am informed that the committee wholeheartedly approved of the line that I took at Second Reading: namely, that the guidance should be subject to some simple parliamentary scrutiny.

Since Second Reading, the department has produced a delegated powers memorandum, and I am grateful for that. It should have been done in the first place, but the Department for Education is not unique in that failing—not by a long shot. The department makes four justifications for the guidance not being subject to the negative resolution procedure. First, it says that the guidance will be drafted after consultation with parents, schools and stakeholders, and taking into account comments made by parliamentarians as the Bill progresses through Parliament. But the Delegated

Powers Committee says, "That is all very jolly good, but there is no justification for the finished guidance not then being scrutinised by Parliament if Parliament wishes to do so".

Secondly, the memorandum states:

"The Department produces a large amount of detailed and technical statutory guidance to support schools and the wider education sector",

and, since that has not been subject to parliamentary scrutiny in the past, the new guidance is simply consistent with past procedure. The memorandum uses the phrase:

"Parliament has already determined that guidance should not be subject to Parliamentary scrutiny."

Has Parliament actually determined that? Correct me if I am wrong, but did Parliament ever make a decision in principle that it would not scrutinise any guidance from the DoE? Is it not the case that guidance has already been issued, and Parliament has been unable to challenge it—unlike as we are able to do today? It is more an act of omission than a deliberate act of commission not to scrutinise guidance from the department. In any case, as the Delegated Powers Committee report points out, what was done in the past is irrelevant: each Bill should be considered on its own merits, and this Bill deals with nothing other than statutory guidance.

Thirdly, the department's memorandum says:

"The statutory guidance is not equivalent to … Education Codes of Practice",

which are

"broad and extremely detailed texts which … have many aspects which are controversial and may require debate and amendment."

It says that this is a "very limited document". Well, the Delegated Powers Committee says that the fact that the guidance may or may not resemble a code of practice does not mean that parliamentary scrutiny of it should be ruled out. The Bill is concerned exclusively with a certain type of guidance, yet Parliament has been asked to sanction the production of guidance that will never be required even to be laid before Parliament.

It may be a limited document, but it is far from non-controversial. We have all seen the excellent briefing from the Schoolwear Association, and it strikes me that there will be strong arguments made by different parties about branded items and single supplements. Indeed, there were quite firm and differing views expressed at Second Reading in this House on branding and single suppliers—indeed, seeing the noble Earl, Lord Clancarty, in his place, about the fact of having a uniform in the first place. While we may all instinctively think that multiple suppliers will deliver cheaper items, that may not necessarily be the case, and I can envisage legal challenges arising from various quarters. I simply say that it cannot be right that the courts will end up interpreting legal guidance that Parliament will never have seen.

Fourthly, the department says that the guidance will be published in such a manner that it will be accessible to all who need to see it. I should ruddy well hope so, but that has nothing to do with letting parliamentarians have a look at it, even in the most minor of parliamentary procedures, before it is published. If an entire Bill can be dedicated to the cost aspects of school uniforms, the resulting guidance is important enough to be subject to a parliamentary procedure.

I am glad that the memorandum does not seek to make the point, which was made at Second Reading, that the guidance cannot be approved by regulations because it would have to be amended regularly. The department has kindly confirmed, in a Written Answer to me, that the current guidance has not been amended once since 2013, so there is no justification for resisting parliamentary scrutiny on the grounds that the guidance would have to be constantly amended and brought before Parliament.

Finally, I will make one observation—or rather, a political guess. I think the House will want to see more and more of our homegrown regulations and guidance. Until 31 December 2020, the Government could bounce through thousands of regulations implementing EU law and we all knew that it was pointless challenging them, since we had to implement them verbatim. All that has changed. I suspect that the whole voracious judicial review industry is waiting to challenge every regulation made by Ministers, because the Government will no longer have the watertight excuse of saying, "No point taking us to court, my learned friend. It's not us, guv, it's the EU".

As we make our own laws, so this House will want to challenge more of our own laws. The debate on this little Bill and guidance is just a taster of what I foresee, and what I welcome, happening in Parliament when this House is back in full physical mode and our 850 Members are looking for things to do. However, that is a more philosophical debate for another day.

I end with the conclusions of the Delegated Powers Committee report:

"The fundamental problem with the Bill is that the statutory guidance affords the maximum of discretion to the Government with no opportunity for parliamentary scrutiny. Accordingly, we recommend that the guidance should be subject to parliamentary scrutiny, with the negative procedure being appropriate in this instance."

I look forward to my noble friend the Minister's response and I beg to move.

Lord Blunkett (Lab) [V]: My Lords, when a balloon has the air let out of it, it appears to be merely a piece of useless rubber. I have a view about what I call the "Chope approach" to Private Members' Bills—Christopher Chope, as Members will know, has familiarised himself with just about every piece of private Members' legislation going through the House of Commons in order to filibuster or find a way of blocking it. I really hope that the mover of the amendment will respect the fact that this is a very small but important Bill in terms of what happens in real life, out in the school communities that our children, grandchildren, nephews and nieces attend.

I hope that this afternoon we will lay aside this amendment, which is designed to block the Bill if it is pressed; the mover acknowledged that himself, of course. He also talked about the Scottish long johns. My grandchildren's school—Windmill Hill in the north of Sheffield—has a little scheme along similar lines. We were talking only this morning about how important that approach is in helping to ensure that nothing is wasted and that no one feels as though they are disqualified from being able to present themselves effectively because of their income. That is what, in essence, this Bill and the guidance are all about.

[Lord Blunkett]

It has taken 50 years to get to this point, it has to be said. So often, the issue of school uniforms was about class and the quality of the school you went to. It was about grammar schools versus secondary schools; the grammar schools took pride in their uniform and their distinguishing features, and others often felt resentful. Times have moved on—thank God—but I recall that, over 40 years ago, we should have learned in my party about how disastrous referenda can be when you hold them with the distinct intention of ensuring that, if you are defeated, you will carry on regardless.

In Sheffield at the end of the 1970s, just before I became the city council's leader, it decided, because of the enormous cost of school uniforms, the class nature of what was taking place and the fact that poor people were struggling to keep up, that school uniforms should be abolished and put it to a referendum of all parents. The parents were in fact a couple of decades ahead of the city council and voted to keep school uniforms and to develop them in the schools that did not have them. The city council, in its arrogance at the time, decided that it would, on political grounds, do away with school uniforms whatever the vote. We learned a lot from that. I certainly learned that if you are going to ask people their opinion, you respect it.

This afternoon, we are respecting the desire of schools, whether they are local authority schools, multi-academy trust schools, or individual free-standing trust schools, to display the pride of parents and pupils in the school they go to and the quality of the education they receive, so that they can go forward in life not embarrassed at having been unable to afford the uniform, but proud to have been able to adopt it.

The Bill is very simple: in its small way, it allows that possibility by ensuring that the old-style disqualification of competition, availability and access is set aside. I cannot see how anyone, from any political party, could possibly oppose it.

3.15 pm

Baroness Bull (CB): My Lords, I am minded to support the spirit of this amendment for the straightforward reason put forward by your Lordships' Delegated Powers Committee. It says that if an entire Bill can be dedicated to the cost aspects of school uniforms, the resulting guidance should be subject to parliamentary procedure. However, like the noble Lord, Lord Blunkett, I do not want to see this amendment pressed, as it would prevent the passing of this important Bill.

I am grateful to the Minister for ensuring that the House had the chance to review the draft statutory guidance in advance of today, but I would welcome clarification of a number of points in it. First, we know that branded items add cost and reduce choice of suppliers, and I welcome the reference in the draft guidance to branded items being "kept to a minimum". But can she clarify what constitutes "minimum"? Is it a number or a proportion of the total number of items required, or does it mean something else?

The draft guidance is vague on financial support, the provision of support being apparently optional. Does she not agree that all parents in need should have access to school uniform grants and that schools have a duty to promote these funds? Will the Government commit to central provision of the funding required for school uniform grants?

At Second Reading, I asked whether the guidance would include the requirement for parents to be consulted on any changes to uniform specifications. The draft we have seen is relatively soft on this. At 25d, it says that schools

"should consult with parents and pupils on cost issues",

and that the Government

"encourage schools to consult with parents and pupils on other aspects of their uniform when making significant changes to their policy".

What is the rationale for the wording difference here? Why does it not use the stronger "should" or even "must" for policy changes, as well as cost issues?

On that occasion, I also asked the Minister to

"use her powers to ensure that schools are prevented from sending home or excluding children who fail to comply with uniform policies".—[*Official Report*, 19/3/21; col. 553.]

The draft statutory guidance has nothing to say on this. It refers back to the non-statutory guidance, which permits teachers to discipline pupils for breaching rules on uniform in line with their published behaviour policy, and it allows a head teacher or their delegate to ask a pupil to return home to remedy this breach. This entire section of the guidance is drafted according to the starting presumption that the breach is the fault of the pupil; it is seemingly blind to the idea that the pupil may not be wearing the right clothing because the family cannot afford it.

I believe that the most important priority is to have the child in the classroom, where they can be taught. It is what matters most to teachers and it is clearly best for the child, so I ask the Minister again to do everything in her power to ensure that children will not be excluded from school for failing to comply with uniform policy.

Finally, can the Minister confirm what, if any, engagement is still planned with parents on this draft guidance? Has a diverse range of schools been consulted, and will the Government commit to consulting on future iterations of the guidance? There are many theories about the purpose of school uniform, but we can all agree that the intention is to make life more affordable for parents and the learning environment a more equitable place for children. Those twin aims have always been important but, as we head out of the pandemic, they are more important than ever.

This Bill is needed now, and I imagine that achieving that aim rules out the amendment in the name of the noble Lord, Lord Blencathra. Whether it is amended or not, I hope that the Minister does her level best in support of young people, as she always does, to ensure that the necessary time is committed by this House, so that the Bill has the best possible chance of reaching the statute book before the end of this Session.

Baroness Altmann (Con) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Bull. I thank my noble friend the Minister for issuing the guidance for us to look over before this debate.

This is a rather narrow and—in almost all cases—uncontroversial issue. It needs to be dealt with quickly, as the noble Lord, Lord Blunkett, and the noble Baroness, Lady Bull, said; the sooner we can get this

moving, the better. The sooner the guidance is issued, the better the position parents will be in to ensure that their children can comply with any requirements from this narrow Bill.

I sympathise in principle with the aims of my noble friend Lord Blencathra's amendment. Having sat so often in recent months through legislation and statutory instruments that have gone through this House with so little scrutiny—and measures that have been introduced with no scrutiny—in principle I think it is important that the role of Parliament in scrutinising legislation be reasserted. We should make sure in coming years that the experience of the past months is not regularly repeated, but I cannot help but agree, I am afraid, with the noble Lord, Lord Blunkett, and the noble Baroness, Lady Bull, that this Bill is not the right place to impose such a principle at this time.

It is urgent that we make sure that we do everything possible to get the Bill through before the end of this Session. The Government have issued a delegated powers memorandum, and I think my noble friend the Minister has been doing her utmost to make sure that we are moving this forward. Even if we were to accept this amendment and the negative procedure were applied, it is hardly likely that on its passage through Parliament—whether in debate or in the scrutiny committee—any meaningful change would be achieved.

I am delighted to see that the guidance emphasises the importance of keeping costs down for parents and keeping branded items to a minimum, which will also assist with costs. I have a few questions for my noble friend. The guidance mentions that schools should take a "mindful and considerate approach" to resolving problems where children are unable to comply with uniform requirements due to financial hardship rather than wilful non-compliance. Could my noble friend give some indication of what would constitute such a mindful and considerate approach?

I echo the words of the noble Baroness, Lady Bull, on the dangers of excluding children or disciplining them with procedures when it will be very difficult for schools in many cases to differentiate between wilful non-compliance on behalf of the schoolchildren and non-compliance due to unaffordability for parents. Children who keep falling over or who have grown quickly and need new uniforms, rather than having just one set for the year, can often be a problem for parents.

Finally, in terms of a planned timetable, I encourage my noble friend to introduce this as speedily as possible, hopefully in time for the coming school year this September, and at least a clear implementation timing plan so that parents and schools can plan ahead and get the correct amounts of clothing for their children during the summer holidays and suppliers can bring in stock in preparation.

The Earl of Clancarty (CB): My Lords, I was a little taken aback by the reaction to my comments at Second Reading, both from this House and from outside. I seem to have unwittingly struck a nerve. The question that I simply leave your Lordships with is why every country on the continent, with the sole exception of Malta, can get along perfectly well without school uniforms —including, importantly, state schools—while we apparently cannot.

Having said that, school uniforms are currently the norm in this country, and I want to make it clear that what I said at Second Reading was in no way an attack on the Bill. I support it and congratulate the noble Baroness, Lady Lister of Burtersett, on bringing it to this House. School uniforms have become expensive and it is important that costs are kept down in the fight against poverty. I would therefore be very glad if the noble Lord, Lord Blencathra, did not press his albeit justifiable amendment to a vote. I am also glad that we have sight of the draft statutory guidance, as the Minister promised, and which the noble Lord, Lord Blencathra, asked for.

I have two questions for the Minister, of which I have given her advance notice. First, from my own vantage point, can she reassure me that the Bill, or any steps that the Government thereby take, will not affect the right of all schools to which the draft statutory guidance refers to decide whether they will have a school uniform? I appreciate that the Government have a stated preference. Nevertheless, there is a reference in the draft guidance to schools that

"may not have a uniform policy or dress code"

in paragraph 11. Still, I would like to hear that reassurance directly from the Minister.

My second question revolves around the curious fact that there does not seem to be a definition of what a school uniform is. It is perhaps assumed that we know what one is, but the truth is that the composition of uniforms may vary from school to school, and that in itself will affect costs. The draft guidance is fairly detailed, so a definition is implied, but a related concern is the cost of additional sportswear. Here I very much understand the importance of uniform in the practical sense, for team identification and aesthetically, so when paragraph 25(e) asks that additional items should not be used for interschool competitions, that feels disingenuous to me. Here again the cost to parents needs to be kept down. Could the Minister say a few words about that?

I wish the Bill a speedy passage. It is important that it gets on to the statute book.

Lord Flight (Con): My Lords, I follow the remarks that have just been made in wishing the Bill to succeed and to move as quickly as possible to that end. A lot of people care about schools and school uniforms, and many of us may have noted the events in Pimlico of recent weeks.

I strongly support school uniforms. They are effective social levellers, really do help a good ethos and encourage camaraderie. Any good school head ought to make sure that his school has a well-structured, managed regime for second-hand school uniforms. I note that I still have a blazer from my schooldays that was second-hand when I acquired it.

Clearly it is crucial to keep costs down for parents and to review regularly the suppliers and the terms and competitiveness thereof. We need to encourage the second-hand clothing market in school uniforms. As I have just said, heads ought to take a role in leading that. However, if a school wants to retain a school uniform structure in the long term, it needs to achieve success now.

[LORD FLIGHT]

I was a little surprised to get the Department for Education paper. I thought I had read about a "daft cost of school uniform guidance", but the word was actually "draft". That makes the point that this is all far too complicated, and involving statutory elements is questionable. If you give schools too much to do, they will tend not to do the important things. Yes, provide advice to parents about uniforms, especially second-hand ones, but this document virtually envisages civil servants managing children's school uniforms in detail. That is way over the top and I hope that, in due course, the Bill can be thinned down.

3.30 pm

Baroness Wheatcroft (CB) [V]: My Lords, I applaud this Bill and wish it a speedy passage through the House. Hence, although I see some merit in the amendment proposed by the noble Lord, Lord Blencathra, I hope he will withdraw it, because we cannot afford to slow the progress of the Bill. I simply cannot agree with what the noble Lord, Lord Flight, just said. I do not think that this is over-prescriptive; indeed, I fear that I do not find the guidance prescriptive enough, although I am grateful to the Minister that she has made it available to us in advance of today's debate.

Quite simply, the issue is that, at the moment, school uniform is too expensive for many families to afford, and in most cases it could be cheaper. I absolutely applaud the comments of the noble Baroness, Lady Bull, about children being excluded because they do not have appropriate uniform, when very often—although not always—it may well be family circumstances rather than their own strong will which means that this is the case.

I was much struck by an email I received from a mother with two children, both at state schools. She told me that if they have a games lesson now, her son has to wear tracksuit trousers in order to travel to school, because changing is no longer permitted at the school. The tracksuit trousers are specified and cost £54. She says that they are poor quality; we all know that tracksuit trousers can be obtained for a great deal less. In total, her son's uniform for games costs £345, and that is before the cost of a mouthguard, hockey stick, tennis racket and games bag is taken into account. Her daughter's is slightly cheaper. The games uniform is £311 but, again, that is before equipment is taken into account. These are huge sums for families to be confronted with, and they effectively rule children out from taking part in many cases. Indeed, my correspondent points out that many children claim to have forgotten their games equipment when they actually did not have it in the first place.

This Bill is necessary, and its sentiments are correct. It has been a long time awaited; the Government committed to making guidance statutory in 2015. But this is only guidance, and the guidance suggests that there should be sole suppliers only after a competitive tender. I do not think that there should be sole suppliers for anything but the barest of items—perhaps a tie and a sew-on badge. When we applaud competition in other sectors, it seems crazy that we should allow schools to continue with a process which definitely disadvantages some because the obligatory school uniform is unnecessarily expensive. So I was disappointed to see that the guidance does not say that sole suppliers should be phased out for all but a tie and a sew-on badge at the most.

With that exception, I believe that the Bill is required, and I wish it a speedy process through the House.

Lord Moynihan (Con): My Lords, I support the amendment moved by my noble friend Lord Blencathra. I do so as a former member of the Delegated Powers and Regulatory Reform Committee, which he chairs so ably.

I remain a firm supporter of the vision and commitment of all those who have worked to ensure that this legislation reaches the statute book before the end of this Session. Indeed, I would go further and call on the Government to hear the strong case made by many children's organisations that there should be a Cabinet-level Minister for Children to oversee a children's charter and introduce government legislation where appropriate, not least in support of the need for enhanced welfare measures to support children. Should that have been in place already, this Bill is an example of a legislative change that could have been better introduced by government.

As a result, my comments in support of my noble friend's amendment are made more for the record than out of any desire to impede the important progress of this legislation, since this important Bill is better than no Bill. Should this amendment be pushed to a Division, thereby impeding the chances of the Bill reaching the statute book, I would not support it. Under no circumstances, I might add, do I believe that the noble Lord, Lord Blunkett, is correct in his assessment that this is in any way a blocking amendment. It is certainly not. For my noble friend Lord Blencathra is right—I hope that the noble Lord agrees—that this House has a duty to consider the balance of powers between the legislature and the Executive. Far too frequently, as has been pointed out, we allow the Executive to take powers and resist parliamentary scrutiny. This is a textbook case.

Full front and central to this Bill is statutory guidance. Personally, I would urge the Government to include keeping branded items to a minimum, provide more parental choice, use enhanced online exchanges for second-hand uniform and address the monopolistic practices of certain single supplier agreements that impact cost-competitiveness; my noble friend Lady Wheatcroft just gave a good example of that. I would also urge the Government to provide financial support for struggling parents, as the noble Baroness, Lady Bull, emphasised.

However, even if all these laudable claims were included in the guidance, there is no strict legislative requirement on anyone to comply with it. The requirement "to have regard to", as set out in paragraph 13 of the Explanatory Notes, does not impose any course of action on schools or appropriate authorities. No one has a legal requirement to comply with the guidance—just to "have regard" to it. As the noble Baroness, Lady Bull, said, the Delegated Powers Committee made it clear:

> "If an entire Bill can be dedicated to the cost aspects of school uniforms, the resulting guidance should be subject to a parliamentary procedure."

That must be correct.

So we are giving the Government maximum discretion. Although I have absolute faith in my noble friend the Minister and her colleagues—I am very grateful to her, as I know the whole House is, for all the hard work that she has put into this issue—unfortunately, she cannot guarantee that a future Government would not ignore the calls made by, for example, the Children's Society and issue revised guidance without ever coming back to this House. That would be the legal position under this Bill and would negate the objectives that so many of us have in support of it, as we set out at Second Reading.

This House does not legislate for good will. We seek statutory responsibilities and accountability because we want to ensure that what is important always has to be tested and assessed by, and made accountable to, Parliament. That is why, even if he does not press this amendment to a vote, my noble friend Lord Blencathra is right.

The Deputy Chairman of Committees (Lord Russell of Liverpool) (CB): The noble Baroness, Lady Garden of Frognal, has withdrawn from this debate, so I call the noble Lord, Lord Watson of Invergowrie.

Lord Watson of Invergowrie (Lab): My Lords, I hope I set out clearly at Second Reading the view of these Benches regarding the need for the Bill, and I have no intention of repeating what I said then. I would like just to recognise the valuable advice that the Children's Society has continued to provide to myself and other noble Lords since Second Reading.

Since Second Reading we have also received the report by the Delegated Powers and Regulatory Reform Committee of your Lordships' House. At paragraph 3 the committee draws attention to the fact that the Bill's Explanatory Notes at paragraph 13 say that the Bill

"sets out who has to comply with the guidance",

yet paragraph 12 of the Department for Education's memorandum to the committee states that the Bill does not impose any particular course of action in terms of compliance. Can the Minister offer clarification as to the at least apparent discrepancy between these two statements?

The draft guidance is welcome, not least paragraph 15, which reminds schools that they should keep branded items to a minimum—although it would have been useful to have an indication of what is meant by a minimum. The guidance also refers at paragraph 39 to local authorities and multi-academy trusts providing school clothing grants to help with the cost of uniforms for less well-off families. That will prove a decisive factor in the Government being able to deliver on their aim of ensuring that disadvantaged parents are not disproportionately affected by the cost of school uniforms. What assurances will the Minister provide to noble Lords that local authorities and multi-academy trusts will be provided with additional funding, ideally ring-fenced, to accompany the new guidance in this regard? Also, on the subject of single-supplier contracts, can the Minister explain how the draft guidance will guarantee transparency in the operation of such contracts, and in particular that there is genuine competitive tendering?

At Second Reading, the Minister said that she

"would like to be in a position to issue the guidance this autumn".—[*Official Report*, 19/3/21; col. 559.]

Can she be more specific today? I have always regarded September as autumn, but with schools usually returning in the first week of that month, that would mean the guidance not taking effect in time for the new school year. Although that would be unfortunate, it may be unavoidable, but can the Minister confirm that it will be possible for the guidance to begin to take effect during 2021-22 school year?

In helpful discussions that I and my noble friend Lady Lister had with the Schoolwear Association, it made it clear that it is seeking a period of 18 to 24 months before the guidance is fully operational. I am not alone in regarding that as excessive. Does the Minister agree that a backstop of September 2022 would be appropriate so as to ensure that families who have been hardest hit financially by the pandemic need not carry the unnecessary burden of excessive school uniform costs beyond that point?

The reason we are here at all today is that the noble Lord, Lord Blencathra, has submitted his amendment, which he moved, typically, in terms as trenchant as those he used at Second Reading. Although, as he explained, he played no part in the committee's deliberations, his amendment very much encompasses the considered view of the Bill as set out by the Delegated Powers and Regulatory Reform Committee. At Second Reading the noble Lord sought both the publication of the draft guidance during consideration of the Bill and that it should be subject to parliamentary scrutiny. The first of those has been met but the second has not—hence his amendment.

At Second Reading the noble Lord said:

"If something is important enough to be made statutory, it is important enough for Parliament to scrutinise it".—[*Official Report*, 19/3/21; col. 550.]

In principle, I cannot disagree with that at all, and I would prefer that it were applied in the case of the Bill. However, I am afraid that the noble Lord cannot dismiss concerns that, were his amendment to pass, it would delay the Bill. He has acknowledged that fact, and I was very pleased to hear that. I am afraid that the Government would neither make time available to allow the other place to consider and debate the amendment and return the Bill to your Lordships' House in the 10 sitting days that remain before Prorogation, nor, perhaps more importantly, include a similar Bill of their own in the Queen's Speech next month.

The reason I am clear on that last point is that, despite the November 2015 HM Treasury document entitled *A Better Deal*, which stated that

"The government will ensure that parents and carers get the best value deals on school uniforms in England",

nothing has happened to bring that about. In the subsequent five and a half years I have seen three Prime Ministers and three Queen's Speeches, but nothing has been done to bring forward provisions such as those in the Bill we are discussing today. So I have little faith in the Government expending any more effort than they are demonstrating with this Bill—merely giving it a fair wind at a time when they do not have what they regard as more important business to schedule.

[Lord Watson of Invergowrie]

However, the focus must be on the Bill and it is important that it becomes law. That is why I was relieved to hear the noble Lord, Lord Blencathra, say that he does not intend to press his amendment. That will allow this important Bill to complete its journey to Royal Assent, and I, together with many young people and families, look forward to it coming fully into effect at the earliest possible date.

3.45 pm

The Parliamentary Under-Secretary of State, Department for Education and Department for International Trade (Baroness Berridge) (Con): My Lords, first, I thank the Delegated Powers and Regulatory Reform Committee for its detailed examination of the Bill. Both the committee and my noble friend Lord Blencathra have raised some noteworthy points about the importance of parliamentary scrutiny. I thank him for his mild praise and mild criticism of the response of the Department for Education.

Although the Government do not agree that the amendment tabled is the right approach in this instance, I reassure the Committee that the Government agree that guidance should not be used to circumvent scrutiny and should only be used where it is proportionate.

I welcome the approach that the honourable Member for Weaver Vale took when drafting this Bill. It is done in a straightforward and sensible way to ensure that our approach can be flexible to adapt to the sector's needs. There is a great deal of support for this Bill, as noble Lords have outlined this afternoon, because of the importance of affordable school uniforms for families.

The amendment before the House would require the uniform guidance to be laid before Parliament with it only coming into force by an order subject to the negative resolution procedure. However, that process is better suited to a broader and more controversial set of provisions. The approach taken by the Bill is appropriate for this narrow and uncontroversial issue and standard practice for issuing statutory guidance to enable the Government to provide swift and helpful guidance to the sector.

On the points raised by my noble friend Lord Blencathra and the noble Lord, Lord Watson, this guidance will play a significant role for schools when they are determining their uniform policies. The Bill requires the appropriate authorities of relevant schools to have regard to the guidance when developing and implementing their uniform policies. This is standard legal wording used to describe the duty to follow statutory guidance. The crux of this phrasing is that schools must have a good reason if they wish to depart from this guidance and they cannot choose to ignore it. Nevertheless, this does not mean that the guidance requires the level of parliamentary scrutiny which my noble friend's amendment would require. Indeed, the approach taken in the Bill is not inconsistent with our wider approach to statutory guidance.

I assure noble Lords that the Department for Education produces a large amount of detailed and technical statutory guidance to support schools and the wider education sector which is not subject to parliamentary scrutiny. No other piece of statutory guidance published under the provisions of the Education Act 1996 is subject to the level of scrutiny which my noble friend's amendment would require. It is important that such guidance is responsive to the needs of the sector and can be updated rapidly to keep pace with events. There is nothing to prevent Parliament from scrutinising guidance at any time.

This Bill is simple and straightforward, as is often the case with Private Members' Bill. However, it does not follow that, just because a Bill is small and deals exclusively with a certain type of guidance, that guidance should therefore be subject to parliamentary procedure. I do not believe that the subject matter of this Bill indicates that it requires additional scrutiny, as it is one which is narrow in scope and on a subject of broad consensus.

The Bill is clear that the guidance issued under it is specific and limited in scope. It relates to one element of a school uniform policy which needs to be addressed—namely, the cost. It is not the only piece of guidance which a school will consider when developing its uniform policy. It will be used in conjunction with other pieces of guidance, such as the current non-statutory guidance and the *Keeping Children Safe in Education* guidance. It is other documents which provide broader or more comprehensive guidance, such as codes of practice, which are often—but even then not always—subject to the negative procedure.

As has been exhibited this afternoon, there has been a remarkable amount of cross-party support for this Bill. The Government have welcomed the valuable and considered debate during the passage of the Bill so far, and we have been keen to take into account the views raised in Parliament in developing the statutory guidance. During debates on this Bill, there has been consensus about the key issues to be covered in the guidance: namely, the use of branded items; the role of single suppliers; and the overwhelming support for second-hand uniform. Even when there is a difference of opinion on the detail, it is understood across the House that these issues are key to meeting the aims of this Bill and ensuring that parents do not struggle to meet the costs of school uniforms.

I reassure the Committee, and especially my noble friend Lord Moynihan, that the Government have clearly set out our position on school uniform and the proposed content of the statutory guidance for the House during this legislative process and that this is a matter of public record. Furthermore, at Second Reading of this Bill, I committed to sharing a draft of the statutory guidance. On Tuesday, it was shared in the Libraries of both Houses so that Members could have sight of it—I double-checked that we have called it the "draft guidance" not the "daft guidance".

I hope all noble Lords will agree with me when I say that the draft statutory guidance already takes into account the views which have been raised by all those involved in the debate so far. It provides a clear framework for schools which enables them to take decisions in the light of their local context and circumstances. I assure all noble Lords that we will continue to engage with parliamentarians and key stakeholders before we finalise the guidance, to ensure that it is as clear and helpful as possible. This of course includes talking to schools and parents, to ensure that the views of those affected by the guidance have been fully considered. As part of

those discussions we will also explore the different measures that can practically be implemented, and we will use this feedback to inform the implementation timetable, which will then be included in the final statutory guidance. My noble friend Lord Moynihan will, I believe, have an opportunity on Monday to talk in more detail about the Children's Minister issue at Oral Questions.

As I have previously stated, subject to Royal Assent and the completion of the aforementioned stakeholder engagement, I hope to be in a position to issue the guidance in Autumn 2021, at which point the department will ensure that all affected schools are aware of the new guidance. While schools will not be required to make sudden changes to their uniform policy for September 2021, we would expect them to start thinking about the changes that they may need to make once the guidance is issued, and potentially introduce some of the more straightforward measures quickly, such as clarifying in their published school uniform policy whether an item is optional or required, so that parents can begin to see some of the benefits quickly. I hope that this has clarified the position for the noble Lord, Lord Watson.

The noble Earl, Lord Clancarty, asked for reassurance that the Bill will not affect a school's right to decide whether they have a uniform. I can reassure him on that. It is for a school's governing body or academy trust to decide whether there should be a school uniform policy at all and, if so, what it should be. This Bill will not change that, but, as the draft statutory guidance makes clear, a school should consider the cost implications if it decides not to have a uniform.

On the question from the noble Baroness, Lady Bull, by "minimum" in the guidance, we mean the smallest number possible.

I would also like to reassure the noble Earl, Lord Clancarty, on his point about the cost of additional uniform items. The draft statutory guidance is clear that, when designing a PE kit, for instance, we want schools to apply the same consideration to cost as they do for the rest of the uniform. Regarding extra-curricular activities, schools should avoid requiring parents to purchase additional uniform and instead use items which are already required as part of the PE kit or everyday classroom wear. No child should feel unable to participate fully in PE, or represent their class or school, because the required uniform is too expensive.

Many noble Lords, including my noble friend Lady Altmann, raised the issue of pupils not complying with a school's uniform policy. Let me be clear that this is a matter to be resolved by the school. We expect schools to ensure that parents and pupils are aware of the school uniform expectations and the sanctions that will be imposed for persistently failing to comply with the school uniform policy. School leaders are best placed to determine whether non-compliance is likely to be as a result of financial hardship and to resolve the issue in a way that is supportive of the affected families and does not deny the pupil an education on the grounds that they are not wearing the correct school uniform. As I have outlined, the PE kit is covered by the statutory guidance.

In response to comments, particularly from the noble Baroness, Lady Wheatcroft, about single supply arrangements, schools should be able to demonstrate that they have obtained the best value for money in their supply arrangements, but we do not intend to ban single supplier contracts. To ensure that there is competition and transparency, we want schools to regularly tender their school uniform contracts, and our draft statutory guidance is clear that exclusive single supplier arrangements should be avoided unless regular tendering competitions are run in which more than one supplier can compete for the contract. The period stated in the guidance is at least every five years. This approach will not diminish the value that sole suppliers can offer; often, they can ensure year-round supply, allowing the supplier to provide a full range of sizes and securing economies of scale.

I assure the noble Lord, Lord Watson, that the draft statutory guidance provides information for schools on what they should consider when they are tendering their school uniform supply contracts. The department provides guidance on procurement for schools. In finalising the statutory guidance, we will continue to engage with stakeholders, as I have said, to ensure that the framework in the guidance supports competition and transparency in the operation of single supplier contracts.

The noble Earl, Lord Clancarty, asked the interesting and most basic question about what a school uniform is. Most people understand that school uniform is the specific clothing that a school requires its pupils to wear, which is why it is important that now, under statutory guidance, it will have to be published on the school website so that parents will know to exactly what the school is referring.

In answer to a further question from the noble Baroness, Lady Bull, the Bill does not cover all aspects of school uniform. It covers only cost, so that is why the mandatory language of "should consult parents" is used in this guidance on costs and the language of encouragement is used for other aspects of uniform covered by the non-statutory guidance. There was a reason behind the change of language in the guidance.

The noble Lord, Lord Watson, and others asked about school uniform grants. Rather than subsidising expensive uniform policies by providing uniform grants, which sometimes happens, we should focus on making school uniform affordable for all families by issuing statutory guidance. However, we would not want to prevent local authorities continuing to offer help with uniform costs in cases of financial hardship or schools offering support where they choose to do so.

It was encouraging to hear many noble Lords, including my noble friends Lord Blencathra and Lord Flight and the noble Lord, Lord Blunkett, talk about the importance of second-hand uniform. It is encouraging to see the internet and a number of apps inspiring a market in second-hand clothing generally, including school uniform.

I thank my noble friend Lord Blencathra for meeting me and Nick Gibb, the Minister for School Standards. It was interesting to reflect on how we have arrived, after five years, at the brink of the end of a Session,

[Baroness Berridge]
and to hear of all the parliamentary sitting time that has been lost in the Commons and the Lords to the pandemic.

I thank all noble Lords for their contributions today. The Bill will help families across the country. I hope that my noble friend Lord Blencathra will not press this amendment to a vote in the light of the points I and many other noble Lords have made about the Bill's importance to families.

Baroness Lister of Burtersett (Lab) [V]: My Lords, I thank the noble Lord, Lord Blencathra, for his amendment. It will be no surprise to him that I do not support it but, like many noble Lords, I have a lot of sympathy with the wider principle about parliamentary scrutiny to which it speaks. It is very important. However, for the reasons given by the Minister and others, I do not think this is the appropriate Bill with which to put a flag in the sand to ensure that that principle is achieved. The Minister gave various reasons for that, with which I agree.

When one reads the guidance, it is difficult to see it being turned into the language of statutory instruments. In the cause of accessibility, it is much better presented as guidance. That said, by tabling the amendment, the noble Lord has ensured that the draft guidance has been made available to Peers and parliamentarians generally and that we have had this debate today. That is to be welcomed; I welcome it and thank the noble Lord for ensuring that it happened. We have heard some very helpful comments on the draft guidance and a very full response from the Minister, which I found extremely helpful and look forward to reading more closely in *Hansard*.

4 pm

I will pick up a few of the points—but not many because the Minister has so comprehensively gone through what has been said by noble Lords. On the question of non-compliance, I still wonder whether the guidance could go a bit further than she appears to be willing to consider. As a number of noble Lords pointed out, when talking about a "mindful and considerate" approach where non-compliance is due to questions of affordability—I know how difficult it would be in practice to determine whether that is the cause, but I refer to where it is known that that is the cause—the guidance could make clear that it is not appropriate, mindful or considerate to send the child home or, worse, exclude the child. Perhaps that could be looked at a bit more closely.

I very much welcome the fact that there will be further informal consultation, including with parents and schools themselves. I also welcome the fact that that will include looking at what can be done in the shorter term. My noble friend Lord Watson and others made the very important point that this will be difficult, as we explored at Second Reading, and no one expects schools and parents to change everything all at once—that would not be in anyone's interests—but nor do we want a long delay. However, there are things that could be done in the interim, during the implementation period, and I welcome the fact that what could be possible will be explored with schools and parents. At present, the draft guidance just talks about giving parents "information", which is always good, but it does not butter any parsnips. It could be things like schools reviewing the number of items that are currently badged—perhaps before this go into full implementation. On that question, I am not sure that a minimum number possible gets us any further than the current wording. Clearly, the Government will not give a number—I accept that—but perhaps they could be pushed a bit more on this.

The noble Earl, Lord Clancarty, raised an important question about what we mean by uniform. He might be reassured because the draft guidance does talk about

"all items of uniform or clothing parents will need to provide while the child is at the school."

However, I took "uniform" in that context in the guidance to be broader—not necessarily what we think of as uniform but what children are required to wear or bring with them to school.

I very much welcome the support of the noble Lord, Lord Moynihan, for a Cabinet-level Minister for Children, and I hope that we can explore this further in your Lordships' House over the coming weeks.

What came over strongly to me is that, even though some agreed with the noble Lord's amendment, there was absolute support for the Bill, including from the noble Lord, Lord Blencathra, which I very much welcome. There was also a recognition that, if there is a vote, there is a real danger of holding the Bill up, and, because of the vagaries of the parliamentary timetable, we would probably lose it—my noble friend Lord Watson has spelt out what that could mean. As such, speed is of the essence in terms of getting this through and getting it into schools. Everyone has had briefings about just what this means for parents, who, particularly over the past year—even though children have not always been going to school, although this applies now that they are back in school—have been really suffering as a result of trying to meet the costs of what are sometimes very expensive uniforms.

We are agreed on the importance of the Bill. I thank everyone who has contributed, including the Minister, whom I also thank for having met with me a couple of times to discuss this. I hope that we have all correctly interpreted the noble Lord, Lord Blencathra, in that I believe that he is not going to press this to a vote, and I thank him for that. I hope that he will confirm that now.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): My Lords, I have received a request to speak after the noble Baroness, Lady Lister, from the noble Lord, Lord Watson of Invergowrie.

Lord Watson of Invergowrie (Lab): My Lords, I am grateful to the Minister for doing as she typically does by responding in considered and detailed form to many of my questions and those of other noble Lords. I wonder whether she would elaborate on one point on school clothing grants; I mentioned that the guidance refers to it. Although she said the Government's emphasis was on keeping down the price of uniforms themselves—I welcome that, of course—short of nationalising the

Schoolwear Association and making it the single supplier for the whole country, I am not quite sure how the Government could achieve such an aim.

I am concerned that cash-strapped local authorities—and multi-academy trusts, which are also not exactly well off—will struggle to cope with the many responses from parents to schools in the wake of the Bill's enactment, and with the highlighting of the availability of the grants. Will the Minister again consider providing additional resources to make sure that local authorities and MATs can meet the demands that come their way after the Bill is enacted? I am happy for her to write to me about this.

Baroness Berridge (Con): I will take the opportunity to write to the noble Lord. It is a matter for local authorities whether they choose to make grants available, but we are not proposing to introduce school uniform grants. As I have outlined many times to noble Lords, there has been an increase in general school funding over these three years to enable some schools that want to assist to do that. If the noble Lord requires any further details, I will write to him.

Lord Blencathra (Con): My Lords, naturally I am very grateful to all noble Lords who have spoken in this debate on my amendment, especially to the Minister for her response. I first wish to thank the noble Baroness, Lady Lister of Burtersett, for her kind words to me. I will take some of the credit—indeed, a lot of the credit—for forcing the Government to produce the statutory guidance and the memorandum before this debate, which I think we all found helpful.

I congratulate the noble Earl, Lord Clancarty, on being able to put firmly on the record what he thinks on this matter. He was done an enormous disservice in the press a couple of weeks ago, with gross misreporting of what he had said—indeed, what we had all said. I think the headline was, "All Peers call for complete abolition of school uniform and kids to go around scruffily dressed as from tomorrow". They were appalling headlines. I congratulate the noble Earl on speaking again today.

I am grateful to my noble friend Lord Moynihan for putting on the record that we should pay attention to the comments of the Delegated Powers and Regulatory Reform Committee, which—this is nothing to do with me being chair; it is long before my time—has done tremendous service to this House in producing guidance on what it thinks is inappropriate delegation.

I am also grateful to the noble Lord, Lord Watson of Invergowrie, who said the principle of my amendment is right. I think nearly everyone who spoke today agreed that the principle of my amendment is right; the only thing wrong with it is the timing. If we were to go ahead with it, it would sabotage the Bill. I made it clear that I have no intention of doing that.

I am therefore disappointed that the noble Lord, Lord Blunkett, for whom I have tremendous respect, has inadvertently done me a disservice today in suggesting that my amendment seeks to block the Bill. All I have done is make four points—the same four points made by the Delegated Powers and Regulatory Reform Committee. I remind the noble Lord of those wonderful days between 1997 and 2001 when he was in government and my late friend Eric Forth MP and I were in charge of sabotaging every Friday Bill that came up in the Commons, most often with the connivance of the Labour Whips behind the Chair, who were as appalled at some of these measures as we were. My friend Christopher Chope was just one of our protégés. As the football manager says, "The boy done good. He's coming on well"—but he is not a patch on Eric and me in our prime. If I wanted to block this Bill, there would be 20 amendments on the Order Paper today and I would be filibustering until midnight, but that is not what I intend.

So I shall not detain the House long nor repeat all my earlier arguments, even though I believe that the arguments which I have advanced and those in the Delegated Powers Committee report are superior to the Government's case. There is no right or wrong answer here; it is a matter of belief in how much scrutiny this Parliament should give to regulations, guidance or circulars from the Executive. I have no particular grievance with the department nor with my noble friend the Minister, who is an excellent Minister; there are far worse offenders as far as inappropriate delegations of ministerial power are concerned, and the Delegated Powers Committee, which I am privileged to chair, constantly draws attention to them.

In the past few years, we have seen extensive abuse of Henry VIII powers, now tacked on to every Bill ad nauseam. Bills use only negative and affirmative procedures, and never are they made or draft affirmatives; we see the test for the Minister making laws reduced from necessity to one of "appropriate", or, in this Bill, whatever the Secretary of State considers "relevant". We now see the extraordinary term "protocols" used instead of "regulations" to avoid parliamentary scrutiny, and skeleton Bills are a regular occurrence without any justification for them in the memorandum.

All departments have got into the habit of building in excessive delegated powers and attempting to stop Parliament having a look at them, even through the negative procedure. I am sorry that my noble friend the Minister drew the short straw today to take this general criticism of far too much of our legislation having inappropriate delegations. Having said that the statutory guidance should be introduced by order, this whole Bill is only about making statutory guidance, and it should be judged on its merit and not in comparison to masses of other education legislation.

In conclusion, while my amendment is absolutely right in principle and in practice, and should be passed, I am aware that there is only one argument against it: that this excellent Bill would fall if I went ahead with it. The House should not be in a position to face that unacceptable Hobson's choice in future, but I beg leave to withdraw my amendment today.

Amendment 1 withdrawn.

Clause 1 agreed.

Clause 2 agreed.

House resumed.

Bill reported without amendment.

House adjourned at 4.13 pm.