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OFFICIAL REPORT

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

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# House of Lords

Tuesday 24 May 2022

2.30 pm

*Prayers—read by the Lord Bishop of Oxford.*

## Death of a Former Member: Baroness Sharples *Announcement*

2.37 pm

**The Lord Speaker (Lord McFall of Alcluith):** My Lords, I regret to inform the House of the death on 19 May of the noble Baroness, Lady Sharples, in her 100th year. On behalf of the House, I extend our condolences to the noble Baroness's family and friends.

## Court of Justice of the European Union: Comprehensive Sickness Insurance *Question*

2.37 pm

*Asked by Baroness Ludford*

To ask Her Majesty's Government what assessment they have made of the implications of the judgment of the Court of Justice of the European Union on 10 March on comprehensive sickness insurance in case C 247/20 VI.

**Baroness Penn (Con):** My Lords, this is a complex case, and the recent judgment of the Court of Justice of the European Union raises many questions regarding residents' rights and access to benefits under EU law. The Government are carefully considering the impacts of the judgment and seeking further legal advice on the implications.

**Baroness Ludford (LD):** My Lords, I thank the Minister for that reply, but the Government have had two months. The treatment of EU and EEA citizens risks becoming another Windrush, whether from refusal to give physical proof of status or from successive UK Governments' 16-year insistence, now finally judged illegal by the Court of Justice, that some such citizens had to have unnecessary and expensive private health insurance, even though their access to the NHS satisfied the EU law test of comprehensive sickness insurance. When are the Government going to stop demanding private health insurance from all EEA citizens to help them access welfare benefits and British citizenship? What are they going to do to redress the wrongs suffered, including being deported and prevented from getting settled status?

**Baroness Penn (Con):** My Lords, I do not accept the points made by the noble Baroness. Past decisions in which the comprehensive sickness insurance requirement was relevant were taken by the UK Government in good faith according to our understanding of EU law

at the time. As I have said to the noble Baroness, we are reviewing the implications of this judgment for the approach taken by the UK to the sickness insurance requirement while free movement law operated in the UK. I will happily update the noble Baroness and others in this House when we have more detail to provide on that judgment and its implications.

**Baroness Kramer (LD):** My Lords, this is clearly a complex question, but could the Minister, at the very least, give me a complete assurance that EU and EEA citizens who entered this country before December 2020 are now no longer being asked to have private health insurance?

**Baroness Penn (Con):** I can reassure the noble Baroness that comprehensive sickness insurance is not a requirement to gain pre-settled status or settled status under the EU settled status scheme. We are looking carefully indeed at all the other implications of the judgment.

**Baroness Altmann (Con):** My Lords, I realise that this is a very difficult question, but would the Government agree to an inquiry into the private health insurance requirements and their impact on those EEA citizens who are exercising their freedom of movement in the UK?

**Baroness Penn (Con):** Of course, for the vast majority of EU citizens exercising their freedom of movement rights previously under EU law, comprehensive sickness insurance was not a requirement. It is also the case that the comprehensive sickness requirement has been tested in courts before in the UK and found to be completely lawful. As I have said, we will look very carefully at the implications of this judgment and update Peers as we have more information, to ensure they are kept abreast of what the Government are doing on this matter.

**Lord Tunncliffe (Lab):** My Lords, clearly the noble Baroness cannot commit to a formal inquiry, but will she call a meeting of interested Peers? I do not think this is for a 10-minute discussion; we need to have the whole picture, particularly the subtleties of what the Government plan to do about it.

**Baroness Penn (Con):** I am very happy to make that commitment to the noble Lord. I agree with him that there are more details to this case than I have been able to provide today. When we are in a position to have a more detailed discussions, I would be happy to arrange it.

**Baroness Hamwee (LD):** Will the Government liaise with those who have been affected—stakeholders, if you like—so that the Government are thoroughly informed of the impacts they have felt over the years, including deportation, inability to access benefits and so on, so that they have a complete picture?

**Baroness Penn (Con):** I reassure the noble Baroness that the Government will indeed want to have the complete picture when it comes to the impact of this

[BARONESS PENN]  
 judgment and its implications. I am sure that will include hearing from those who have been impacted directly by it.

**Lord Pannick (CB):** My Lords, the Minister will know that Article 86 of the withdrawal agreement says:

“The Court of Justice of the European Union shall continue to have jurisdiction to give preliminary rulings on requests from courts and tribunals of the United Kingdom made before the end of the transition period.”

Can she tell the House how many more of these transitional cases are pending in the Court of Justice?

**Baroness Penn (Con):** I do not have that figure for the noble Lord. I will happily go away, see if we have the figure and write to him with it. However, he is absolutely correct that the CJEU continues to have jurisdiction to make rulings on preliminary references from UK courts made before the end of the transition period, as happened in this case.

**Lord Paddick (LD):** The Minister said there had been UK court cases where it was found that the requirement to have private health insurance was legally required, but this is a binding judgment of the European Court of Justice. Can the Minister confirm that this overrules any previous UK court decisions?

**Baroness Penn (Con):** My understanding is that we are not disagreeing with the finding of the court in this case; we are just seeking to ensure that we understand fully its implications, and that is what I will update Members on in due course.

## Zoonoses Research Centre *Question*

2.44 pm

*Asked by Lord Trees*

To ask Her Majesty’s Government, further to the Prime Minister’s address to the United Nations General Assembly on 26 September 2020 in which he called for the creation of “a global network of zoonotic research hubs”, what progress they have made towards establishing a zoonoses research centre in the United Kingdom.

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con):** My Lords, the Government are committed to developing the scientific capability needed to protect the UK from zoonotic pathogens as part of the vision for a global network set out by the Prime Minister. In support of this, we are investing in new technologies, such as whole genome sequencing, and supporting our zoonotic and emerging disease research programmes. We also engage international partners on multilateral initiatives that support global health security and surveillance through one-health approaches.

**Lord Trees (CB):** I thank the noble Lord for his Answer and acknowledge what is being done, but is it enough? A critical issue here is the animal-human interface. Past and present emerging human infections which have spilled over from animals to humans include HIV, SARS, MERS, Ebola, various influenzas, Covid-19 and monkeypox. Does the Minister agree that scaling up UK research in a virtual national zoonoses centre with global reach and a one-health approach will not only fulfil the Prime Minister’s pledge but be a significant demonstration of the UK’s commitment to aid the global effort to limit and prevent future pandemics?

**Lord Benyon (Con):** The noble Lord is absolutely right. This is a major threat and was identified as such in the integrated review. We are corralling expertise within government, academia and the private sector, and our priorities are around genomics research, vector-borne disease research and projects to improve the use of surveillance. We think this is the best way that we can abide by not only the Prime Minister’s commitment but the leadership Britain has given in the G7 and G20 to make sure we have a global response to these threats.

**Baroness McIntosh of Pickering (Con):** My Lords, will my noble friend pay tribute in this regard to Fera, the food science facility at Sand Hutton, near York? I commend the work of many universities outside the golden triangle of London, Oxford and Cambridge on this. Does monkeypox not show that just the sort of global framework argued for by the noble Lord, Lord Trees, is needed at this time and that Britain should be at the forefront of it?

**Lord Benyon (Con):** I am very happy to pay tribute to Fera, which does extraordinarily important work and is part of a wide range of different organisations—I apologise to noble Lords; sometimes it is like an alphabet soup—which we are trying to bring together, with their various different strands of expertise, to make sure we tackle all zoonotic diseases. My noble friend is absolutely right that monkeypox is one of them.

**Lord Cunningham of Felling (Lab):** My Lords, when the Labour Government were elected in 1997, we inherited the international beef ban. Bovine spongiform encephalopathy was a zoonosis which wreaked havoc on the British agriculture industry and our reputation, not just in Europe but internationally. I regret that, although we eventually solved the beef ban and the problem of BSE, the Labour Government did not go on to establish the kind of thing that the noble Lord, Lord Trees, talked about. I fear that this Government are making the same error. Does the Minister not recognise that, unless we act in a wholly different way, as the noble Lord, Lord Trees, suggested, we will run the same risks again?

**Lord Benyon (Con):** The noble Lord is absolutely right to point out the impact that these diseases have. Foot and mouth cost this country £8 billion and huge amounts of human and animal misery. Subsequent

diseases, including Covid, have identified that we need to be so much more prepared for this. We are putting enormously increased resources into scientific research and the infrastructure that supports it. Our science capability in animal health, which is centred at Weybridge, has just been voted £200 million to improve its facilities, and there is much more to come in future. That is all part of being a significant contributor to the global effort to tackle zoonotic disease.

**Lord Bellingham (Con):** My Lords, what assessment has the Minister made of the risk of rabies being imported into this country from pets coming in from Ukraine?

**Lord Benyon (Con):** There is a very large number of pets in Ukraine; it has one of the highest pets to human population percentages anywhere in the world. Rabies is an endemic disease there, but the good news is that over 95% of the many pets that have been brought with migrant families showed immunity to rabies when we applied the ELISA test, which indicates that they have been inoculated. We are trying to fast-track a means of quarantining them which is kind to the migrant but also protects our rabies-free status.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, the GB Wildlife Disease Surveillance Partnership focuses on detecting known and emerging diseases in wild animals, such as rabies-like viruses in bats and bovine tuberculosis in badgers. When cases are confirmed, controlled methods can be implemented. There is a need to broaden this surveillance to pathogens found in wild and domestic species. There is currently no funding for non-notifiable pathogens in UK wildlife. Is it not time that the Government took a more holistic view to prevent future outbreaks and provided such funding?

**Lord Benyon (Con):** We are providing funding for diseases that can come from wildlife. One of the worst ones to hit us in recent months and over the last two years has been avian influenza, which is brought by migrating birds. We are putting a huge amount of effort into learning the lessons from both last year's and this year's outbreaks to make sure that we are supporting the industry with as much biosecurity as possible to prevent future outbreaks.

**The Lord Bishop of Oxford:** My Lords, I am sure the Minister is aware that the rapid increase in zoonotic diseases has its roots in the environmental crisis: deforestation, habitat destruction, intensive farming and unregulated trade in wild animals. Therefore, as well as the vital areas of medical research and response to disease, how are the Government focusing their intervention on prevention as well as diagnosis and cure?

**Lord Benyon (Con):** The right reverend Prelate is absolutely right to raise this issue. It was a feature at COP, where we managed to talk about more than just carbon and climate change; we also talked about the impact on nature, and on us, of a depleted environment.

As the right reverend Prelate knows, we cannot address that within these borders; we have to continue to lead on it internationally, and the COP in Kunming at the end of this year is absolutely vital in taking forward the issues he raises.

**Baroness Jones of Whitchurch (Lab):** My Lords, taking animals from the wild for their meat or for other products is a known major source of genetic diseases such as Ebola and HIV. With that in mind, why are the Government not prepared to ban in the kept animals Bill the keeping of primates as private pets in the UK? Surely that would significantly improve these protections.

**Lord Benyon (Con):** The noble Baroness is absolutely right to point out the impact of kept animals in passing on zoonotic disease. Trying to make our borders secure is absolutely vital, and I will get back to her about this issue because the Government still intend to include measures to prevent people keeping the wrong kind of pets in this country. It is wrong for the pets because our climate is not right for them, and we must also consider their welfare conditions.

**The Earl of Caithness (Con):** My Lords, could my noble friend say a little bit more about the “global network” in the Question?

**Lord Benyon (Con):** We are supporting something called the Quadripartite MoU for One Health, which includes the OIE, the WHO, the FAO and UNEP—apologies again for the acronyms. That is part of what we are doing to participate in measures to address the surveillance issues, so that we know about diseases sooner and can react to them, and it is part of the response which we in the UK, as has been already pointed out, are particularly skilled at providing. There are a number of other international bodies of which we are a part.

**Lord Browne of Ladyton (Lab):** My Lords, three-quarters of emerging human infections are zoonoses, and Covid-19 is only the latest example of this. It is therefore surprising that in our biological security strategy there are only fleeting mentions of zoonoses—one in a footnote and one in the glossary, and nothing else. Maybe this is one of the reasons why the strategy is being refreshed. However, unfortunately the call for evidence for the refresh makes only a very generic reference to them. We will need to correct that if we are going to claim to be world-leading on this. Our own national biological security strategy should give this dimension the attention it deserves.

**Lord Benyon (Con):** The noble Lord is very knowledgeable on the wider context of threats, which the integrated review picks up. I point to the leadership that was given in the G7 when Britain had the chairmanship, and subsequently in other fora, to make sure that we are part of a global effort on this and that we are leading where we can add expertise.



## Safeguarding of Young Children Question

2.54 pm

Asked by **Lord Laming**

To ask Her Majesty's Government what steps they are taking to improve the safeguarding of young children against abuse and death caused by adult members of their household.

**The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con):** My Lords, every child should grow up in a stable, loving home but, in rare circumstances, children are harmed by those who should protect them. We have commissioned the Child Safeguarding Practice Review Panel to make recommendations about how local and national safeguarding practice should change to protect children in future, and the panel reports on Thursday this week. We will carefully consider its recommendations, alongside the reforms in the care review, with an ambitious and detailed implementation strategy later this year.

**Lord Laming (CB):** My Lords, I am very grateful to the noble Baroness, who has vast experience in these matters, but does she agree that, in these absolutely awful cases, there are three consistent features? The first is that the child was not hidden away but was known to the services; the second is that the dysfunctional nature of the family was known; and, thirdly, opportunities to protect the child had been missed in each case? In these circumstances, will the Government send a letter to each of the key frontline services, reminding them of their duties in law to safeguard children at risk and to work together, sharing information which is vital to the child's needs?

**Baroness Barran (Con):** The noble Lord is absolutely right. I remember in a former role publishing research on this entitled *In Plain Sight*, about abuse of children, so I entirely recognise the issues he raises. He will remember that Ministers from the DfE, the Home Office, and the Department of Health and Social Care wrote to all chief constables, local authority chief executives and clinical commissioning groups' accountable officers at the end of last year, reminding them of their duties in this regard. We are absolutely clear on the importance of this, both locally and in central government.

**Baroness Chisholm of Owlpen (Con):** Does my noble friend agree that one way that safeguarding can be helped is through the family hubs? I seem to keep mentioning family hubs in this Chamber, but I should be interested to know where we are with them. If there are still only the pilot schemes, can we roll them out further throughout the country? They will be a one-stop place where people can go to get help.

**Baroness Barran (Con):** My noble friend is right, and we absolutely intend, through the almost £302 million we are investing in Start4Life and family health services across 75 local authorities in England, to achieve what my noble friend describes. Yesterday, we announced

seven local authorities that will be receiving transitional funding. We will also be carrying out a thorough evaluation and have a national centre for sharing best practice.

**Lord Cunningham of Felling (Lab):** My Lords, there was a very similar case during my time as the Member of Parliament for Copeland, in which a child, a small boy, was murdered by his stepfather. I know that that is not always the case, but it frequently is. I regret to say that successive Governments—Labour, Conservative and even, I may say, coalition Governments—have not grasped this problem. It may be that from the report to which the noble Baroness just referred, we will have some further recommendations about action but, until this problem is resolved, we might as well say that social services are not doing their duty. They are not protecting children in anything like the necessary way to prevent these terrible events. I hope the Minister will report to the House in due course about the report, and then perhaps we can see some progress.

**Baroness Barran (Con):** We will be debating the report in your Lordships' Chamber later this afternoon, but I would say that social workers have some of the hardest jobs in this country and we thank them for everything they do. We continue to invest in those services to address the terrible cases such as that to which the noble Lord refers.

**Lord Singh of Wimbledon (CB):** My Lords, the safeguarding of young children is yet another important social concern alongside violence against women, racism in the police and youth crime. They are simply surface sores of an underlying social malady. Does the Minister agree that the long-term solution to such problems is a much greater emphasis in schools on the other three Rs; namely, right, wrong and responsibility?

**Baroness Barran (Con):** I am sure that the noble Lord's suggestion may be part of the solution, but to expect any single thing to resolve these difficult and complex problems will not be sufficient, hence the more comprehensive approach that we are taking.

**Lord McNally (LD):** My Lords, when I became a Minister with some of these responsibilities more than a decade ago, my noble friend Lady Walmsley gave me two pieces of advice. First, she said, "Always remember that social workers do not murder children, although they sometimes get the opprobrium when something wrong happens." The other piece of advice was that the interest of the child comes first.

With that as a background, last year, Emily Dugan, the social affairs correspondent at the *Sunday Times*, ran a series of articles about mistakes being made through either misdiagnosis or misinformation where children were taken away from families with traumatic results. Will the report that we are expecting on Thursday cover this element, because it causes problems for the families affected and puts additional burdens on social workers instead of concentrating on the children in real danger?

**Baroness Barran (Con):** The report on Thursday will focus on the tragic deaths of Arthur Labinjo-Hughes and Star Hobson and the lessons to be learned from them.

**Baroness Armstrong of Hill Top (Lab):** I know that this Minister knows of the importance of voluntary organisations in working with the most disadvantaged, and sometimes the most vulnerable, families. Is she aware, and has she made the review aware, that there are too many examples of the voluntary sector being excluded and not involved in plans for the future of the family and the child once the issue has been referred to safeguarding? This cannot continue. It increases danger for the most vulnerable children.

**Baroness Barran (Con):** Obviously I cannot comment on what will be in the review on Thursday, but in the care review led by Josh MacAlister there is a particular focus on independent domestic violence services.

**Baroness Watkins of Tavistock (CB):** My Lords, can the Minister comment on the shortage of health visitors in many parts of the country and the reduction in investment in them? In the past, they have been absolutely key in identifying at-risk families early and preventing long-term abuse.

**Baroness Barran (Con):** The noble Baroness is right: health visitors play an incredibly important role in identifying families that need support and children at risk. I know that my colleagues in the Department of Health and Social Care are looking at this as part of the wider workforce strategy.

**Baroness Chapman of Darlington (Lab):** My Lords, the Minister is absolutely right to say what she just said, so does she regret the closure of 1,300 Sure Start centres?

**Baroness Barran (Con):** Our focus is on getting effective multiagency support for children, hence our investment in family hubs and all the support that goes with them.

**Baroness Walmsley (LD):** My Lords, is the Minister aware that both Scotland and Wales have banned parents and carers from hitting their children? Is she interested to know that, when I had a meeting with the Minister responsible for this area in another place to ask why England is not considering doing the same, she told me that she was working incredibly hard and that this was not at the top of her to-do list? In the light of some of the most recent dreadful reports, does the Minister think it might have gone up her list of priorities?

**Baroness Barran (Con):** I cannot comment on another Minister's priorities. What I can say is that this Government are prioritising the safety and well-being of children so that they should all thrive throughout their childhood.

## NHS Dental Services Question

3.05 pm

Asked by **Lord Young of Cookham**

To ask Her Majesty's Government what plans they have to improve access to NHS dental services.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con):** The Government are working with NHS England and the British Dental Association to reform the current NHS dental system and to improve access for patients, tackling the challenges of the pandemic. We have also provided an extra £50 million for additional activity and patient appointments. We are working to return quickly to pre-pandemic levels of activity. For this quarter, a new activity threshold for NHS dentists has been set at 95% to increase patient access.

**Lord Young of Cookham (Con):** I am grateful to my noble friend, but with 86% of NHS dentists closed to new patients, do we still have a national dental service? The current dental contract was deemed unfit for purpose 14 years ago by the Health Select Committee in another place. Will my noble friend, as a matter of urgency, introduce a new dental contract which reverses the decline in NHS dentistry? As his fellow Minister has said,

“there is a shortage ... not of dentists but of dentists taking on NHS work.”—[*Official Report*, Commons, 19/4/22; col. 7.]

Will my noble friend negotiate a contract with private dentists in the meantime to address the NHS backlog?

**Lord Kamall (Con):** I half-thank my noble friend for giving me advance notice of one of his questions. I will try to answer that one. Many dentists who provide NHS treatment also already work in a private care capacity, and all dentists who provide NHS care must be registered on the performers list. The NHS uses the list to ensure high quality and safety standards in NHS dentistry.

On the UDA and negotiations, NHS England is in conversations with the BDA concerning both short-term changes and longer-term changes given the concerns that have existed since they were introduced in 2006.

**Lord Harris of Haringey (Lab):** My Lords, I declare my interest as chair of the General Dental Council. The noble Lord, Lord Young of Cookham, has correctly highlighted the importance of the negotiations on the NHS contract for dentists, but there is another element to the problem. That is the long-term expectation in terms of how many of each of the various dental professions and the various dental specialties we need in this country. What is the flow in people leaving and what is the flow in recruiting dentists, including those from overseas? Do we have enough places and enough experience coming in? Does the Minister agree that we should do a proper study of what the long-term requirements are for dentistry and how they are to be met?

**Lord Kamall (Con):** The noble Lord makes an incredibly important point about how we must look at this holistically and not just try to solve one problem or plug one gap while ignoring others. The important thing is what NHS England is doing in conversations about the new contracts. It is looking at how we incentivise dentists to offer services in those areas which are so-called dental deserts. It is also looking at how all the roles have changed over the years. We have certainly seen primary medical care taking on more secondary care. We have also seen pharmacies and others taking on more, so we are looking at different roles around dentists and whether they can take on more of that.

**Baroness Barker (LD):** My Lords, the Government announced £50 million in extra support for dental practices earlier this year. How many of the practices which received some of that money are in rural areas, which are particularly hit and facing a crisis where about 20% of their dentists are due to retire?

**Lord Kamall (Con):** The noble Baroness highlights one of the issues that must be addressed: those areas, particularly low-population areas, but also coastal and some rural areas which are so-called dental deserts. It should also be noted that a person is not necessarily permanently registered with a dental practice. You only have to register for as long as your treatment lasts, and if you cannot get treatment at one practice, you should be able to try other practices. You can try 111. I have heard various reports. Some people have told me that 111 is incredibly effective, while others have told me that there are still dental deserts in their local area.

**Baroness Bull (CB):** My Lords, maternity exemption certificates provide free NHS dental treatment and check-ups for mothers during pregnancy and for a full year after birth. However, mothers who live in so-called dental deserts are denied this right, exacerbating health inequalities between different regions. Will the Government consider extending the duration of the maternity exemption certificate during this crisis of provision, so that more mothers can take advantage of their right to free dental care?

**Lord Kamall (Con):** On the face of it, that sounds a reasonable suggestion, so I shall take it back to the department and see if the people there agree.

**Baroness Merron (Lab):** My Lords, reports of children who can no longer chew food normally and who have never seen a dentist are damning indictments of the lack of NHS dental services. With sugary drinks and snacks contributing to poor dental health, why have the Government decided to delay the introduction of restrictions on advertising unhealthy products? What assessment has been made of how this delay will affect children's teeth and create additional pressure on the NHS?

**Lord Kamall (Con):** I know the noble Baroness has been trying to get that question on the agenda as a Private Notice Question, so I congratulate her on asking it now. Clearly, it is right that we address this

issue. The recent delay was only because of certain promotions, because we wanted to see this holistically with the cost of living crisis. Restrictions or a ban on, for example, where products can be placed will still go ahead in premier areas. Overall, it is right that we get balance to this, as any Government must. There are clearly concerns about affordability, which is why we have delayed those measures, but let us be quite clear that this is a delay; we are not kicking this into the long grass.

**Lord Sikka (Lab):** My Lords, in England, only a third of adults and half of children have access to an NHS dentist. There are reports of people extracting their own teeth because they cannot find a dentist. As a precursor to any reforms, can the Minister explain which government policies have created this dire state of affairs?

**Lord Kamall (Con):** It depends which Government the noble Lord is referring to. I was listening to a podcast today in which there was an interview with the BDA, which said that some of these problems go back to 2006 and the UDA. We have to look at these concerns and what we have learned from the mistakes of the Government at that time, and make sure that we address them, particularly in areas that are dental deserts.

**Baroness Boycott (CB):** My Lords, I want to follow up on the question about the delay to restrictions on "two for the price of one" sales and advertising. The prime reason that children under 10 go into hospital and have anaesthetics is to have all their teeth out, due to sugary drinks and too many sweets. Does the Minister not agree that this is a false idea, from the point of view of both obesity and dentistry? Could he clarify what he means by "delay"?

**Lord Kamall (Con):** "Delay" means not the same date that was originally proposed. We clearly understand the children's issues. During the pandemic, NHS dental practices were asked to meet as many priority needs as possible. One of the reasons that £50 million of additional funding was put in was to target them at those most in need of urgent dental treatment, including children.

**Lord Brooke of Alverthorpe (Lab):** My Lords, is it not true that many of these deserts are in fact areas that need levelling up? I come from one of those areas originally and, when I was a child, a dentist visited the school to check all the children annually. Why do we not have a programme to ensure that schools in these deserts are visited by a dentist per annum?

**Lord Kamall (Con):** It is important for any review to look at out-of-the-box thinking and to learn from the past. The suggestion made by the noble Lord may indeed be sensible and affordable, so I will take it back to the department. There are clearly concerns about the dental deserts, some of which may be resolved by negotiations with the British Dental Association, work practices, incentives and training. Can you train dentists and dental technicians close to those dental deserts, so that they stay there afterwards?



**Baroness Uddin (Non-Aff):** My Lords, access to dental services for those with learning and other disabilities has been dire. What assessments and actions will the Government take to ensure that clear pathways are laid for them to access those services? They are not getting the kinds of services they rightly deserve.

**Lord Kamall (Con):** The noble Baroness is absolutely right that everyone—not just people from deprived areas—should have as much access as they can to dental care. As I said, we are looking at the picture at the moment. During the pandemic, 700 urgent dental care centres were set up. As more dentists have come back on stream after the pandemic, the number has been reduced to 550. If someone is not getting care, they can ring 111 and be signposted to an NHS dentist.

### **Local Authority (Housing Allocation) Bill [HL]**

*First Reading*

3.15 pm

*A Bill to make provision for local authorities to determine their short-term housing needs and housing allocation numbers, and for connected purposes.*

*The Bill was introduced by Lord Mann, read a first time and ordered to be printed.*

### **Domestic Premises (Electrical Safety Certificate) Bill [HL]**

*First Reading*

3.15 pm

*A Bill to require an electrical safety certificate to be provided to a prospective purchaser of a domestic premises in specified circumstances, and for connected purposes.*

**Lord Foster of Bath (LD):** My Lords, I declare the assistance that I have received from the charity Electrical Safety First.

*The Bill was introduced by Lord Foster of Bath, read a first time and ordered to be printed.*

### **Conduct Committee**

*Motion to Agree*

3.16 pm

*Moved by Baroness Manningham-Buller*

That the Report from the Select Committee *Amendments to the Code of Conduct* (7th Report, Session 2021–22, HL Paper 188) be agreed to.

**Baroness Manningham-Buller (CB):** My Lords, I last stood at this Dispatch Box in my capacity as chair of your Lordships' Conduct Committee eight working days ago. That was my first time. I hope to do so as infrequently as possible.

Before I rejoined the committee, it stated that, in proposing changes to both the Code of Conduct and the guide, it should bundle those up and do them in lumps so that we do not get them dribbled at us throughout the year. This is the first such bundle, comprising some quite modest changes, including some which respond to concern expressed by noble Lords and others.

The first set of changes implements the two proposals that the House has already seen in our sixth report of the last Session, which we made following the short debate initiated by the noble Lord, Lord Cormack, in January. In that debate, concerns were expressed from all corners of the House that the right of Peers to express their views frankly and openly could be jeopardised. Our report received a positive response from many noble Lords, and I hope that the House will now agree to our recommendations, which will re-emphasise and strengthen the protection of freedom of speech in this House.

The second set of changes updates the wording of the code and the guide on Valuing Everyone. These changes will require new Members of the House and returning Members who have not attended such a course to attend a new seminar—the content of which is expected to be improved—within three months of their arrival. There will be no requirement for existing Members of the House who have completed that course to repeat it.

The third set of changes relates to the Addison rules. I hope noble Lords will not interrogate me on the Addison rules, because I have to say that my grasp of them is not very strong. This relates to offering guidance to noble Lords employed by public bodies on their participation in the work of the House. The changes are to bring the wording more in line with the wording in the *Companion*, as well as updating the terminology.

The fourth set of changes would introduce a clearer definition of personal service companies, by adopting the excellent wording coined by your Lordships in the Select Committee on Personal Service Companies in 2014. Our committee is quite happy to plagiarise.

The fifth and final change would rectify an anom—anom. Sorry, I should not try to do this too often, but noble Lords know what I am trying to say. It would rectify an anomaly in the guide by ensuring that all organisations listed in the *Register of Lords' Interests* have a brief description of their activities where that is not self-evident from the name. I suggest that there will be very few in this category.

I beg to remove—

**Noble Lords:** Oh!

**Baroness Manningham-Buller (CB):** I am obviously not auditioning to be a government Minister. I beg to move that the report be agreed to.

**Lord Cormack (Con):** My Lords, I will briefly take part in this debate. First, I thank the noble Baroness, Lady Manningham-Buller, for the sensitivity and speed with which she, having assumed the chair of this committee, considered those points made on the Floor of your Lordships' House on 19 January. As she rightly said, Members in all parts of the House, in all political parties and from the Cross Benches made

[LORD CORMACK]

trenchant observations. I briefly remind your Lordships that this came about as a result of four of us who had taken part in a debate being complained about to the commissioner for words uttered on the Floor of your Lordships' House.

We believed that there was a certain ambiguity in the wording of the then rules. The noble Baroness, Lady Manningham-Buller, and her committee have taken this on board. I am grateful, as I am sure are your Lordships in all parts of the House, but I hope that the noble Baroness and her committee will remain vigilant on this. Burke talked about the price of liberty being eternal vigilance, and the price of free speech—an indispensable part of liberty—is also dependent on eternal vigilance. There will be those who seek to get round these rules and complain about what is said on the Floor of your Lordships' House. As we said on 19 January, this is not a case of agreeing with each other. I frequently quote Voltaire: I may not like what you say, but I will defend to the death your right to say it. That has to be our watchword here, and I very much hope that the noble Baroness and her committee will keep this in mind.

I will make just a couple of comments about Valuing Everyone. Most of us who went through this course derived very little benefit from it. I am very glad indeed that it is not to be made compulsory for Members who have already gone through it, but I say to the noble Baroness that I hope the new course will be very different. I will put a suggestion to her, because she said in the report that new Members should automatically be obliged to take this course. I would much rather that new Members of your Lordships' House met with her, the Lord Speaker, and a representative of each of the major parties and of the Cross Benches to have a proper talk about what being a Member of this House entails, and not be put through a course that, if it is anything like the last one, will be largely irrelevant. I want to put that on the record.

There is a final question I would like to ask the noble Baroness. There is a reference in the report to a "steering group". I do not know about your Lordships, but I have never heard of a steering group. We seem to have a lot of rather mysterious bodies in this House. I would like to know exactly who appoints the steering group, who is on it and who is in the driving seat. We ought to make the way this House is run transparent, easy to understand for everybody and responsive to the needs of Members in all parts of the House.

I am very glad that the Lord Speaker has arranged for another forum on 8 June—I give it a free plug—and I hope that it is much better attended than the last one, because we need to know what is being planned for this House in the way of both physical alterations and the rules that are meant to govern our conduct.

I welcome the report, I thank the noble Baroness, Lady Manningham-Buller, very much for what she has done, and I hope we can move forward.

**Lord Forsyth of Drumlean (Con):** My Lords, I shall be very brief. First, I thank the chairman of the committee for having listened to the House and for having made these amendments—but I do have one query. Paragraph 4 states:

"Where the only evidence cited in support of a complaint is the member's expression of views or opinions, the complaint will be dismissed"—

that is great, but it then goes on—

"following preliminary assessment on this basis."

I do not know what that means. Does it mean that if someone complains about something that I have said, a statement will be issued saying that it is being investigated? Why do we need

"following preliminary assessment on this basis"?

Does that mean that, once it is seen that the complaint is about an expression in the Chamber, it will be dismissed?

My second question relates to Valuing Everyone. The report states:

"A failure to arrange to attend a seminar within the specified period is a breach of this Code."

The specified period is three months. We had a very bad experience with the noble Baroness, Lady Boothroyd, who was not able to take part because of illness, and there is no get-out here. So I suggest it should say, "unless there is a reasonable excuse".

**Lord Hamilton of Epsom (Con):** I wish to follow up my noble friend Lord Cormack's remarks about Valuing Everyone. The last course we had was, to be quite honest, absolutely farcical and a total waste of taxpayers' money. I notice that the noble Baroness is introducing a new course. Can I have an undertaking from her that she will attend the first course, so that she can approve what is being put out to other Members of this House?

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I endorse the report before the House, but not everybody takes the view that the Valuing Everyone training was not worthwhile. Many Members of this House thought it was very useful. I think we need to make that clear to the House.

**Baroness Manningham-Buller (CB):** Thank you, my Lords. I assure the noble Lord, Lord Cormack, that I shall remain vigilant, and so shall my committee. I shall just make a correction on Valuing Everybody. The proposal is not that there should be a new course but that there should be more tailor-made seminars, and of course the committee is flexible if people are ill. As the noble Lord, Lord Kennedy, said, the majority of Peers in this House gave positive feedback on the course. While we all aspire to high standards, particularly in the way we treat the staff and other people who work in this building, some Peers do not believe those standards of behaviour apply to them, and therefore alerting them to the way their behaviour comes across is important.

It is not just a steering group; it is the Steering Group for Change. It is appointed by the commission, so it is not directly the responsibility—or indeed, any responsibility—of the Conduct Committee, although we look at the recommendations coming out of it. On the point made by the noble Lord, Lord Forsyth, the preliminary assessment is just looking at what the complaint is. It is as simple as that. I think I have covered most noble Lords' questions, but, as I have noticed Ministers say, if there are any I have not covered, please feel free to write to me.

*Motion agreed.*

## Independent Review of Children's Social Care Statement

*The following Statement was made in the House of Commons on Monday 23 May.*

“With permission, Mr Speaker, I will make a Statement on how the Government are responding to the independent review of children's social care and the Competition and Markets Authority's children's social care report.

This Government believe in a country where all children are given an equal chance to fulfil their potential, but sadly we are not there yet. That is why we made our manifesto commitment to launch the independent review of children's social care in March 2021; its report was published today. The review was commissioned to take a fundamental look at the children's social care system, and to gain an understanding of how we must transform it to better support the most vulnerable children and families. I want to extend my heartfelt thanks to Josh MacAlister and his team for this comprehensive review, as well as thanking the children, the experts by experience board, and the care leavers, families and carers who shared their experiences of the current system and their aspirations for a future one.

The review is bold and broad, calling for a reset of the system so that it acts decisively in response to abuse, provides more help for families in crisis, and ensures that those in care have lifelong loving relationships and homes. I look forward to working with the sector, those with first-hand experience and colleagues in all parts of the House to inform an ambitious and detailed government response and implementation strategy, to be published before the end of 2022. To get us there, I have three main priorities. The first is to improve the child protection system, so that it keeps children safe from harm as effectively as possible; the second is to support families to care for their children, so that they can have safe, loving and happy childhoods which set them up for fulfilling lives; and the third is to ensure that there are the right placements for children in the right places, so that those who cannot stay with their parents grow up in safe, stable and loving homes.

To enable me to respond effectively and without delay, I will establish a national implementation board consisting of people with experience of leading transformational change, to challenge the system to achieve the full extent of our ambitions for children. The board will also include people with their own experience of the care system, to remind us of the promise of delivery and the cost of delay.

I want to be straight about this: too many vulnerable children have been let down by the system. We cannot level up if we cannot make progress on children's social care reform. However, we are striving to change that. Our work to improve the life chances of children is already well under way, and is aligned with the key themes of the review and the CMA report. On 2 April, we backed the Supporting Families programme with £695 million, which means that 300,000 of the most vulnerable families will be supported to provide the safe and loving homes that their children need in order to thrive.

We welcome the review's recognition of this programme as an excellent model of family intervention, and today, with the review as our road map, we are going further. We will work with the sector to develop a national children's social care framework, which will set a clear direction for the system and point everyone to the best available evidence for how to support children and families. We will set out more detail later this year.

I pay tribute to every single social worker who is striving to offer life-changing support to children and families day in, day out. Providing more decisive child protection relies on the knowledge and skills of these social workers, which is why I support the principle of the review's proposed early-career framework. We will set out robust plans to refocus the support that social workers receive early on, with a particular focus on child protection, given the challenging nature of this work.

We will also take action to drive forward the review's three data and digital priority areas, ensuring that local government and partners are in the driving seat of reform. Following the review's recommendation for a data and technology task force, we will introduce a new digital and data solutions fund to help local authorities to improve delivery for children and families through technology. More detail will follow later this year on joining up data from across the public sector so that we can increase transparency, both between safeguarding partners and the wider public.

Recognising the urgency of action in placement sufficiency, we will prioritise working with local authorities to recruit more foster carers. This will include pathfinder local recruitment campaigns that build towards a national programme, to help to ensure that children have access to the right placements at the right time. As the review recommends, we will focus on providing more support throughout the application process to improve the conversion rate from expressions of interest to approved foster carers.

Delivering change for vulnerable children is my absolute priority and, as suggested by the review, I will return to the House on the anniversary of its publication to update colleagues on progress made.

This Statement also provides an opportunity to welcome the recommendations set out in the Competition and Markets Authority report into the children's social care market, which was published in March. As an initial response, I have asked my department to conduct thorough research into the children's homes workforce, engaging with the sector and with experts to improve oversight of the market.

Sadly, we know that too many children are still not being protected from harm quickly enough. This is unacceptable. On Thursday, the child safeguarding practice review panel will set out lessons learned from the heartbreaking deaths of Arthur Labinjo-Hughes and Star Hobson, and the Secretary of State for Education will come to this House to outline the Government's initial response to these tragic cases. For too long, children's social care has not received the focus it so desperately needs and deserves. I am determined to work with colleagues across the House and with



[BARONESS MANNINGHAM-BULLER]

local authorities across our country to deliver once-in-a-generation reform so that the system provides high-quality help at the right time, with tangible outcomes. For every child who needs our protection, we must reform this system. For every family who needs our help and support, we must reform this system. For every child or young person in care who deserves a safe, stable and loving home, we must reform this system. This is a moral imperative, and we must all rise to the challenge. I commend this Statement to the House.”

3.30 pm

**Baroness Chapman of Darlington (Lab):** My Lords, I thank Josh MacAlister and his team for their hard work and commitment on this piece of work. We must recognise the commitment of the social workers, support workers, foster carers, children’s home staff, youth workers and everyone else who devotes their lives to providing safety and stability to children who are in need or whose own families are unable to care for them. We on these Benches welcome the review’s conclusion: a total reset of children’s social care is now needed.

I remember serving as lead member for children’s services in Darlington and spending time with our looked-after children, visiting our children’s homes and, back in 2007, having a very strong sense that these children are a priority for local agencies and that their futures are our responsibility as corporate parents. I do not think there has ever been a golden age for us to look back at, but it is unarguable that pressures have grown and services have come under more and more strain over the last decade.

MacAlister’s conclusions must make us all wake up to what has been going on in every community up and down the country. Looked-after children are our children, and we are failing them. Over the last 12 years, we have seen the number of children living in poverty rise to 4.3 million. We have also seen the number of looked-after children increase continually, up by a quarter since 2010. The number of Section 47 inquiries, where a local authority has cause to suspect that a child is in need, has gone up by 78% since 2011. Half of all children’s services departments have been rated inadequate or requiring improvement. At the same time, vacancy and turnover rates for children’s social workers are increasing and outcomes for care-experienced children and young people are worsening.

There are many reasons for this, of course, but we have to ask ourselves how, against this backdrop of failure, the 10 biggest private providers of children’s homes and private foster care placements made a jaw-dropping £300 million in profit last year. Where have the early intervention and prevention services gone? We warned that the decimation of Sure Start would have deeper, long-lasting impacts that would cost us socially and economically. Other local authority-led services that would have identified problems sooner have faced cuts too.

Time and again, we all agree that these services are vital—yet the Government do nothing to protect them. I must refer the House to the work led by my noble friend Lady Armstrong of Hill Top, who has been

making these arguments for as long as I can remember. Perhaps if she had been heard by the Government, the MacAlister report could have been different and outcomes for children so much better.

We welcome the review’s focus on restoring early help to families so that many more children can be supported to remain and to thrive with their own family, on supporting kinship carers and on seeking to ensure that every looked-after child can build lifelong links with extended family members. We also welcome the review’s clear statement that:

“Providing care for children should not be based on profit.”

The law recognises childhood as lasting until the age of 18, so it is shocking that the Government have continued to allow children to be placed in unregistered children’s homes and other completely unsuitable accommodation. The review says that this must stop, and now.

Nothing the Government have revealed so far answers the review’s demands. Successive piecemeal announcements are yet further indication of what the review describes as “a lack of national direction about the purpose of children’s social care”.

We agree. The Government do not seem to grasp the depth of change that the review requires, at scale, across the whole country.

We would like to see a firm date for publication of a comprehensive response to the review and a detailed implementation plan. Does the Minister think there will be a need for legislation? We note that nothing was suggested in the Queen’s Speech.

How will the announcement of early-help investment in a handful of additional areas ensure that services are available in every single area of the country so that every family needing help can be supported? Will the Minister agree, as the review demands, to investigate profiteering in children’s social care? How will the Government ensure that the voices and experiences of children are always at the heart of children’s social care? Will she guarantee that the workforce, who are the backbone of children’s social care, are fully respected, engaged and involved as reforms are implemented?

This review represents an opportunity to deliver the total reset needed in children’s social care. It is an opportunity that must not be missed.

**Lord Storey (LD):** My Lords, we too very much welcome this review and thank all those involved in presenting it to us. I associate my remarks with all those people involved in working with children and families at all sorts of levels; they do an amazing and fantastic job.

The *Independent Review of Children’s Social Care* provides an opportunity to unlock potential for recognising that loving relationships and supporting kinship networks lead the way to sustainable and ideal solutions for children in social care. Her Majesty’s Government’s response focuses on providing foster carers and social workers with more support but does not address the supporting of children themselves. This review is a wake-up call to Ministers who, after a series of reviews, must finally address the scale and severity of the challenge to provide adequate support to those who rely on us. The report recommends



injecting a minimum of £2.6 billion into the care system over the next four years. Will the Minister reassure us that the Government will commit to this kind of important investment?

The Government's response so far does not address the discrepancy between care-leavers and the continuing success of the individual throughout their life. Every child, no matter where they live or what their circumstances, deserves a great start in life so that they can have the support, relationships, skills and knowledge needed to succeed. We on these Benches believe in young people being allowed to stay in care until the age of 25, as well as increased financial resources through expanding the bursary for those leaving care from £1,000 to £2,000, access to mentors and support networks. We champion bridging the gap between care and a fulfilling adult life in a way that current government policy does not meaningfully address.

Furthermore, Her Majesty's Government's proposed policy places the onus of finding care providers for vulnerable young children on the relevant local authority while underfunding those very same councils. The providers in the private sector are charging exorbitant rates—£4,000 a week—for inadequate care, knowing full well that there is a shortage of care providers. The predictable outcome is that the authority finds care from the lowest bidders, often unregistered providers with no quality assurance of care.

Young people are the future of our nation. How can we be content to allow such a situation to continue? Can the Minister give an assurance that the Government will stop these vulnerable children and young people going into inadequate, unregistered care provision? We welcome many of the review's recommendations, including a renewed emphasis on supporting families, financial allowance to parental and kinship carers at the same rate as foster carers, and providing parental leave to kinship carers. This will support our nation's most vulnerable young people while allocating funds towards those who are best able to support them.

Without the resources and proper structures of support, children will continue to be placed in unregistered care situations, which can of course be incredibly harmful. It is of paramount importance to use this report as a springboard for sustainable and meaningful change for those who deserve a safe and purposeful upbringing.

We talk about levelling up but, if we are actually to make any meaningful changes, we need to deal with the root causes of what these children and families often find themselves in. It is about making sure that we tackle poverty and provide the best educational opportunities. It is about making sure that families in the most disadvantaged communities are supported.

Finally, I remind the House that we have a Select Committee looking at the Children and Families Act, chaired by my noble friend Lady Tyler. Many of these issues are being discussed in that Select Committee, so I welcome that opportunity as well to highlight these important matters.

**The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con):** My Lords, I thank the noble Baroness and the noble Lord for their

remarks. As a Government, we absolutely acknowledge that the children's social care system needed a fundamental report. That is why we commissioned this independent, broad and bold review. We will be publishing an ambitious and detailed implementation strategy later this year that will deliver for our most vulnerable children. The noble Baroness asked for a timeline on that; we can be clear that the implementation plan will be published before the end of the year.

Obviously, a lot of work is already ongoing within government but, in response to the review, we have been clear about three key priorities that we want to focus on initially: first, to improve the child protection system so that children are safe; secondly, to support families to raise their children so that they thrive; and finally, for those children who need to be placed in local authority or foster care, to have the right placements in the right places and in a timely way. On Monday we announced plans to establish a national implementation board, which will challenge us to achieve the best for our children. One of the strengths of this review, as I am sure all noble Lords will agree, was the incredible contribution from people with lived experience of the care system. We commit to ensuring that their voices are also represented on that national implementation board.

We are prioritising work with local authorities to recruit more foster carers, which we think can make a real difference in the short term, and to support social workers, particularly early in their career, and give them additional focus on child protection given its key role in their work. We are developing a national children's social care framework, which will set out a clear direction for the system and provide an evidence base for all those working in the sector. Finally, we are introducing a new digital and data solutions fund, which will help local authorities to improve delivery for children and families through technology.

The noble Baroness, Lady Chapman, commented on the pressures that the social workforce faces. I do not question for a second that those are very real, but I remind the House that the number of social workers has increased by 14% since 2017 to 32,500. One of the points noted in the report was that the average caseload has come down slightly. We are not arguing that every case is the same, but the figures are going in the right direction.

The noble Baroness asked whether we were planning legislation. In response to her question and that of the noble Lord, Lord Storey, about our commitment to funding additional services, I say that we need to wait and see what the implementation panel recommends. We will respond to its recommendations but taking real care with implementation is crucial, because your Lordships will all know very well of examples where implementation has not delivered on the aspirations within such reports.

Both the noble Baroness and the noble Lord referred to the situation with children's homes. This Government are absolutely not against companies making a profit, but we are absolutely against profiteering, which I think was the phrase the noble Baroness used. We are putting funding into local authorities now so that they can expand their provision as quickly as possible while

[BARONESS BARRAN]

we look at some of the longer-term structural issues raised in the Competition and Markets Authority review as well as the care review.

In relation to unregulated provision for children in care, we are investing over £140 million to introduce new standards and Ofsted-led registration inspections for supported education to ensure that young people are safe and have the high-quality living arrangements that they deserve.

The noble Lord also referred to support for care leavers. We are providing £172 million over the next three years to support care leavers as they transition to independence, with better move-on accommodation and practical and emotional support from a personal adviser.

Both the noble Baroness and the noble Lord rightly challenged the Government on how we will implement this. There is real commitment and ambition to try to address some of the tragedies which we have heard about all too often in this House, and the systemic issues that we face in the child protection and care system. We look forward to working with all noble Lords across the House in our attempts to do this.

3.46 pm

**Lord Laming (CB):** My Lords, this is a most important report, and we are grateful for the points the Minister has already made. I commend the Government on commissioning this review, and congratulate Josh MacAlister and his team on producing what I regard as an inspiring report because it focuses so much on the needs of children and families.

By any standards, this is a substantial document, and it will repay very careful study by all of us. The strength of the report is the way in which it focuses unrelentingly on children and families who could and should have been helped through difficult periods in their lives. Too often in recent years, these children and families have had to fit in with the needs of the services—not their needs, yet these very services were created to meet the needs of the children at risk. This is despite the legislation making it clear that the well-being of the child is of paramount importance, and we must hold on to that.

During the last decade, as has already been mentioned, we have witnessed a remarkable reduction in family support and preventive services. I am told that even when a child and family have been identified as being in difficulty and have been referred to the appropriate services, it has sometimes been decided that the crisis is not yet sufficiently serious and therefore they have been denied the opportunity for support and help at that critical time.

Today, we have a crisis-driven set of services. In other words, they wait for the crisis to be apparent before they react. That is contrary to what the legislation and all the practice guidance says. No wonder, therefore, that there has been a large increase in the number of children coming into state care. This report gives us the opportunity to reverse that process. I am very pleased that the decision has been taken to establish a national implementation board and I wish it great success.

I will end with a quote from the report, which I hope will stay with us:

“This moment is a once in a generation opportunity to reset children’s social care”.

I hope the Minister will show the House that she and other Ministers will do everything possible to ensure that this report is fully implemented. I commend the report.

**Baroness Barran (Con):** I am sure that I am not the only person in this House who has been inspired by the noble Lord’s work over decades, and I thank him deeply for that and for the leadership and hope he brings in this area. I will pass on his remarks to my colleagues in the department.

I would say two things in response to his reflections. First, investment in preventive services is absolutely critical and we will be reviewing that in detail. Secondly, we also need to push ourselves to understand the local authorities prioritising those services, how they are making that work and how we can replicate that across the country. The noble Lord will be familiar with the Hertfordshire family safeguarding model; there are other early intervention models in Leeds and other places around the country. We want to understand those too so that we can act on evidence of what actually works in practice. On the commitment from the Secretary of State and the ministerial team, I cannot underline strongly enough how passionately we aim to address this.

**Baroness Armstrong of Hill Top (Lab):** My Lords, I too thank Josh MacAlister, his team and all the people from within the system he worked with. Josh came to the Public Services Committee, which I chair, as part of giving evidence in our review of vulnerable children.

There are so many things I want to put to the Minister today. Maybe she can help me get a debate on the Floor of the House on our report, and then I will not feel as if I am short-changing the vulnerable children I want to argue for. I will concentrate on one issue only: how do we prevent children having to go into the system? However good it normally is, children suffer when they go into the care system. Our committee uncovered that, since 2010, £1.7 billion a year has been cut from early intervention and prevention services. That was largely for two reasons. First, the overall money going in, particularly to local authorities—whether for children’s centres, youth work or other prevention programmes—was under pressure. Secondly, because they were not statutory responsibilities, authorities shifted the money to the statutory responsibility for looked-after children. Therefore, children have become older as they enter the system. I can tell noble Lords that difficult adolescents are much more difficult to deal with than very young children. Will the Government introduce a system which will ensure that money can go to early intervention and prevention services for the long term and will not be allowed to be switched into crisis work?

**Baroness Barran (Con):** The noble Baroness is absolutely right to focus on how we prevent children needing to go into the care system or, indeed, needing a social worker at an earlier stage. I highlighted the Secretary of State’s three priorities in response to this report, the second being supporting families to raise their children effectively, happily and in a way that enables them to thrive. One of the strengths of the report is its emphasis on relationships and whether the

immediate family—or the wider family—can provide those stable relationships, and how we can create them. As the report uses the term “relentlessly focused”, we must ask: how do we have a relentless focus on those relationships?

We will follow up on all those issues, but in the meantime—we were pleased that Josh MacAlister acknowledged the value of the programme—as we announced in April, we will back the supporting families programme with an additional £695 million over the next three years, which will support 300,000 families to provide the safe and loving homes their children need, as well as other investments in family hubs and other early intervention.

**The Lord Bishop of Carlisle:** My Lords, as we have already heard, much is to be welcomed in this review, which clearly has the needs of vulnerable children and young people right at its core. The emphasis on boosting early help to prevent children reaching a crisis point is crucial. I am most grateful for the confirmation we have been given that a detailed implementation plan will soon be forthcoming, with the views and voices of children and young people firmly at its centre. I am also grateful for the comments already made by the Minister about investment in the action plan and implementation. Does she agree with me that, should any further encouragement be needed on investing properly in implementation of early intervention, proper investment should also lead to significant savings in the longer term?

**Baroness Barran (Con):** The right reverend Prelate’s final point is right; Josh MacAlister’s review has set out very clearly the scale of the challenge we face and has worked through the financial impact of getting this right. However, none of us is in any doubt that our primary focus is getting it right for children.

**Baroness Sanderson of Welton (Con):** My Lords, I also welcome this review and its focus on supporting families earlier in the process. To echo an observation made by the author and journalist Polly Curtis, the word “love” was used 42 times in this review and “loving” 50 times. As she says, this is pretty radical for a set of formal proposals. It is most welcome, because is that not what the system is for—making sure that children are loved and cared for when their parents cannot take on that role? As has been mentioned, kinship carers play a fundamental part in this, so will my noble friend reassure us that, as the review proposes, there will be increased legal, practical and financial support for kinship carers to match the scale of what is offered to foster carers and adoptive parents?

**Baroness Barran (Con):** My noble friend is right to pick up on all the “love” and “loving” in the report. Kinship carers are an incredibly important part of providing that to children, and I send them my thanks for everything they do. The department already works with the charity Kinship and supports it in creating more support groups for kinship carers. There are some very important recommendations in the report and I can absolutely say to my noble friend that we will consider each of them and they will be part of our report at the end of the year.

**Baroness Finlay of Llandaff (CB):** My Lords, following on from the question just asked, do the Government recognise the need for a legal definition of kinship care? It should be in legislation, because that will improve the rights of these very important family members who take on the care, often in extremely difficult circumstances, of very traumatised children. Will the Government also consider the recommendation from the Royal College of Paediatrics and Child Health that there is a need for a single unique identifier so that, as the noble Lord, Lord Laming, said, rather than responding to crises, there is an ability to respond to early warning signs? Several yellow flags will add up to a really screaming red flag if they are left to develop.

**Baroness Barran (Con):** In relation to the noble Baroness’s first point, I can only say that all those issues, including whether the definition should be covered in legislation, will be in our implementation report. In relation to the single unique identifier, we have committed to coming to a decision on the best way forward by next summer.

**Baroness Butler-Sloss (CB):** My Lords, may I say how much I am comforted by the response of the Government to the excellent report and hope that all that the Minister is saying in good faith will actually take effect? As a family judge over very many years, and as the writer of the Cleveland report, there are two points I would like to raise with her. The first relates to children. My experience is of many children asked to see me. From the age of about six upwards, those children gave me extremely valuable advice as to what should happen to them. I do not think that social workers listen enough to what the children have to say. You cannot necessarily do what the child wants, but at least the child has a right to be heard, however young, if they are sensible enough to give a good example.

The other thing, which I found extremely sad when listening to the evidence of social workers, was that the social worker on the ground knew the family very well, but she or he did not make the decision; the decision was made higher up the ladder by a social worker who no longer had any individual cases to look at. I cannot imagine why they do not still keep a caseload to keep their hand in. They make decisions totally contrary to what the girl on the ground who knows the situation is saying. Can the Minister do anything by way of guidance to deal with that issue?

**Baroness Barran (Con):** The noble and learned Baroness makes very important points, first in terms of a child’s right to be listened to and have their views respected. On the point about caseload, one of the 80 recommendations in the report is that, just as in the medical profession senior doctors will keep a caseload, so in social work senior social workers should keep a caseload and there will be teams with senior and less experienced social workers working together on cases.

**Baroness Uddin (Non-Aff):** My Lords, Josh MacAlister’s report demands good practice, which actually exists in many parts of our country—I declare my interest as a social worker who worked with child protection and disability services for many decades. I acknowledge all



[BARONESS UDDIN]

that good practice; nevertheless, there were 206 serious safeguarding incidents involving child deaths in just one year, 2020, and we have known other very serious cases, so something is going very wrong. Those of us on the front line have always known what Josh MacAlister has argued, which is about early intervention and the serious impact and ramifications of closing Sure Start and other services, so will the Minister ensure that the national implementation board takes on board not just the voices of young people but those of parents, who have had a terrible time at the hands of inexperienced social workers?

**Baroness Barran (Con):** It is not for me to tell the national implementation board what it should or should not look at: it will have the 80 recommendations from the report. We will bring together a group of real experts with a very wide perspective, including experts by experience, and we look forward to their reflections and advice.

**Baroness Hussein-Ece (LD):** My Lords, I also welcome the report and endorse many of the comments we have heard about early intervention and children being listened to, and families as well. I think we are all agreed on that. I was a cabinet member for social services and care in Islington Council for some years and dealt with child protection. Islington, like many other boroughs, had a bit of a chequered history but improved dramatically. One thing I found very valuable as a corporate parent was listening to children in care and their experiences.

One thing that struck me was a young man who said, “My corporate parent is one of the wealthiest in the borough and the biggest employer in the borough, yet I’m having difficulty in getting training, education and a job. Why is that?” If we think about it, local authorities are in a very good position to give young people leaving care the adequate support that they need—that is, to set aside training and education opportunities. One thing that worked well for us in setting up a corporate parenting board was requiring all departments in the council to set aside opportunities for apprenticeships that led to jobs. Other local authorities also did it. I do not know whether that still happens, as I have not been part of a council for more than 10 years; I just want to put it to the Minister and say that it could be very positive.

Let us not forget the stigmatisation of young people in care. I heard a girl on the radio speaking about the way they are treated and the experiences they have. The discrimination they face must be recognised. I see that one of the recommendations was that such discrimination should be recognised in equality legislation so that these young people are protected.

**Baroness Barran (Con):** One element focused on in the review is the ambition that we should have for children in the care system in relation to setting up their own businesses and having successful careers. All those things will be considered.

**Lord Walney (CB):** My Lords, 13 month-old Poppi Worthington died 10 years ago in Barrow, probably at the hands of her father after being sexually abused.

Of the myriad ways in which she was failed, one was that there was clearly not enough information sharing to allow professionals to see before she was born that she was being born into a very troubled family. That is one of the weaknesses that has been identified. Is it one of the areas that the Government will now push forward with as they improve data sharing across the system?

**Baroness Barran (Con):** The noble Lord is absolutely right and, yes, that is absolutely an area of focus.

**Lord Sandhurst (Con):** My Lords, I want to ask a practical but important nuts-and-bolts question. Can my noble friend the Minister assure the House that it will be a cross-government and multiagency effort and not just for the Department for Education to put the review’s findings into effect?

**Baroness Barran (Con):** My noble friend is right to press on this point. This needs to be multiagency at both the local level—it must include the voluntary sector, as the noble Baroness, Lady Armstrong, highlighted, and statutory partners; we were clear in our guidance on the importance of this—and the central government level. We need to do that across the Department for Education, the Department of Health and Social Care and the Home Office.

**The Deputy Speaker (Lord Duncan of Springbank) (Con):** My Lords, the time allowed for this Statement has now elapsed. I suggest that we take a moment to shuffle the Benches before we continue.

## Social Security (Special Rules for End of Life) Bill [HL] Second Reading

4.08 pm

Moved by *Baroness Stedman-Scott*

That the Bill be now read a second time.

**The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office and Department for Work and Pensions (Baroness Stedman-Scott) (Con):** My Lords, hearing that your illness cannot be cured can be a frightening and devastating experience. It can help people at this stage of their life to talk to their GP, who can signpost to local sources of support and highlight financial support to which their patient may be entitled.

As a Government, we want to do all we can to alleviate the pressures facing those nearing the end of their lives and their families. The main way that the Department for Work and Pensions does this is through special benefit rules, sometimes referred to as “the special rules”, which enable people who are nearing the end of their lives to get fast-track access to disability benefits.

Those eligible under these rules get their claims fast-tracked, which means that they do not have to wait as long to start getting payments. In most cases,



those claiming will qualify for a higher rate of benefit without having to do a medical assessment. The rules ensure that, at this most difficult time, people can receive the financial support they are entitled to quickly and easily.

In 1990, when these special rules were introduced, many people with an end-of-life diagnosis were unlikely to survive for more than six months. Since then, advances in diagnosis and treatment have meant that people with a terminal illness are living longer. In July 2019, the department launched an in-depth evaluation of how the benefits system supports people nearing the end of their lives. The evaluation's findings showed consensus across all groups that the current six-month rule should be extended. They also showed strong support for the DWP to adopt a 12-month end-of-life approach that allows people in their final year of life to claim under the special rules, bringing greater consistency with the definition used within the NHS and across government.

In July 2021, the Government announced that we intended to replace the current six-month criteria with a 12-month end-of-life approach. Last month, the DWP made these crucial changes to the eligibility criteria for the special rules in universal credit and employment and support allowance through regulation changes. This was largely welcomed by the public and parliamentarians. As the special rules definition for the personal independence payment, disability living allowance and attendance allowance is set in primary legislation, the Government need primary legislation to change eligibility under the rules from six to 12 months.

The Social Security (Special Rules for End of Life) Bill is a single-issue, two-clause Bill that makes the eligibility changes for these three benefits. The changes will mean that those expected to live for 12 months or less, rather than the current six months, will receive vital support. It will also mean that thousands more people at the end of their lives will be able to access these three benefits earlier than they currently do. There will be a consistent end-of-life definition across health and welfare services that will be more easily understood by clinicians and end-of-life charities.

Once fully rolled out, the changes the Bill introduces will mean the department is spending over £110 million a year more on people nearing the end of their lives. This will potentially mean that, each year, between 30,000 and 60,000 more people may benefit from these changes to the special rules.

A key policy intention of changing the eligibility is alignment with the NHS's definition of end of life. The NHS considers people to be approaching the end of their lives when they are likely to die within the next 12 months. At this point, clinicians are encouraged to think about the support their patients need, including any financial support.

This alignment of approaches between the DWP and the NHS provides an opportunity for clinicians to have one holistic conversation about a patient's support needs at the 12-month point, rather than several, thus being more responsive to their patient's needs. The new 12-month approach will also mean that clinicians are supported with a straightforward and simple definition.

I end by paying tribute to the many people, groups and charities that have supported the Department for Work and Pensions since the then Secretary of State, in 2019, launched an in-depth evaluation of how the benefits system supports people nearing the end of their lives. Their expertise and personal experiences have been crucial to inform and enable the important changes that this Bill brings forward.

I also pay tribute to the healthcare professionals and welfare rights advisers who support patients at the end of their lives and help them to access the benefits to which they are entitled. It is crucial that they understand the changes that the department is making in this area, which is why we have engaged and will continue to engage with key end-of-life charities, hospices and clinical groups, such as the royal colleges.

I am sure that the shared sentiment of this House is that this support is crucial when someone is at the last stage of their life. By expanding eligibility, we will provide thousands more people with vital financial support, so that they can worry a little less about their finances and focus more on sharing the valuable time they have left with the people who matter to them most. I beg to move.

4.14 pm

**Baroness Brinton (LD) [V]:** My Lords, this short Bill is very welcome. I propose to make a contribution only to ask a couple of questions about it and to raise one other issue.

From working with people with serious life-limiting illnesses and the charities that support them over recent years, I have heard them express real frustration with the inability to access benefits and support that they are entitled to as they face the end of their days. I look forward to the contribution from the noble Baroness, Lady Finlay, because I know that other doctors have said how difficult it is to estimate the six-month period correctly, and that by that stage the individuals have often had to give up work, frequently at short notice. Their family members have found that their lives are impacted too, because many now act as carers for their loved one, which also impacts on their own jobs and any other roles they may have.

It is reassuring that the period for special rules will now be extended to 12 months, and I hope that doctors will find estimating that period easier. I ask the Minister a practical question: how will doctors in both primary and secondary care, who are obviously key to this, hear about these changes?

I will also ask the Minister about how the special rules process is managed. The Government's information page on these rules does not explain for the ordinary member of the public how applications are processed and how long they take under the current rules. I am grateful to the Minister for her explanation in her introductory speech that these applications are expedited, but I have also picked up that there is some concern that extending it to a 12-month period might slow down the decision-making time in the DWP. Can the Minister assure your Lordships' House that this will not be the case? What will the target be for approval of these special end-of-life benefits applications, once the doctor's letter and forms have been received?

[BARONESS BRINTON]

I also want to look at the special rules for end of life as they affect children and young people. Far too often we associate the end of life only with adults. I am grateful to Together for Short Lives for its briefing and for the honour of supporting and working with it over recent years. Children's palliative care, or the slightly different needs of these families facing the end of life of their child, is too often forgotten. Many seriously ill children and young people who need palliative care also need access to disability living allowance, or PIP for those aged over 16.

It is well evidenced that the families of those facing the end of their lives have increased costs compared with other families. Nearly two-thirds of families with severely disabled children say that they have had to give up work to look after their child, and on average they have lost £21,270 from their annual family income. I hope that the new 12-month special rules mean that these families with a child who has a very life-limiting illness will get access to DLA and to PIP.

I also hope that there might be the possibility of giving seriously ill babies and small children access to the DLA mobility component. It appears that there is an anomaly for those aged under three. The children we are talking about often have to use ventilators and other heavy kit, often with the need for other monitors, oxygen supply, spare tubes and tracheotomy emergency bag. These parents rarely get through a night without alarms going off.

My family had to live this life for three years. One of my twin granddaughters had a ventilator and heart monitor until she was three. Only family members trained by the wonderful Evelina London Children's Hospital were allowed to babysit or stay overnight with her. I have to tell your Lordships, the alarms went off most nights. It was an exhausting privilege to be able to help, but I also know from my son and daughter-in-law that getting anywhere with that equipment was close to impossible, let alone going on holiday. Our granddaughter was fortunate in that she grew out of her problems, but sadly many children do not, and parents know that they face a very different type of parenthood that is invisible to far too many people.

The problem is that, although DLA is available to all families who incur extra costs as a result of meeting the additional care or mobility needs of a disabled child, only children over the age of three can receive the higher-rate mobility component of DLA. The Social Security Advisory Committee published a report in November 2020 and recommended that the DWP consider extending the higher-rate DLA mobility component to these children under the age of three.

These families are also grateful for the Family Fund mobility support scheme but the criteria for children under three is different from those over three, in that one parent must be able to drive. The DLA mobility component award to children over the age of three does not depend on a family's ability to drive. These families often have to rely on taxis; they cannot take these children on buses or trains, partly because of the kit and partly because the children are very vulnerable.

I appreciate that the Minister may say that this is out of scope of the Bill, but I would be grateful if she would agree to a meeting with myself and Together for

Short Lives to see if there can be a change for this very small group of disabled and severely ill children aged under three.

Returning to the Bill, I look forward to hearing contributions from other Members of your Lordships' House, and to the Minister's response.

4.20 pm

**The Lord Bishop of Carlisle:** My Lords, from these Benches I am glad to be able to support the Bill, which is welcomed by so many charities and which will bring relief to so many anxious families. It seems to have four significant strengths, the first being clarity. The rules surrounding benefits and healthcare at the end of life are confusing and not always easy to navigate. The Bill goes some way towards making things simpler and more straightforward both for people who are terminally ill and for their families, and that has to be a good thing.

The second strength is consistency. As we have heard, the Bill will put disability living allowance, personal independence payment and attendance allowance on the same footing as universal credit and employment and support allowance. However, it will also provide consistency with the definition of "end of life" currently used by the NHS, as well as providing consistency with other parts of the United Kingdom.

The third strength of the Bill is its concern for the whole person. It takes seriously the fact that a diagnosis of terminal illness brings with it a wide range of emotional, practical and spiritual worries, along with the physical symptoms that may or may not already be evident. By cutting down on bureaucracy and by ensuring a measure of financial assistance, the special rules will at least alleviate some of the distress that people currently experience.

Fourthly, I believe that the provisions of the Bill command fairly widespread cross-party support and I do not imagine that they will be greatly opposed.

However, having made clear my support for the Bill, none the less I will mention two little caveats which need to be borne in mind as we move forward. One has to do with the difficulty of making an accurate prognosis. As Sarah Newton, then the Minister for Disabled People, Work and Health, pointed out in 2018, the longer the prognosis, the less likely it is to be accurate. Making the period longer than six months would therefore make the diagnosis and potentially the conversation between doctor and patient that much more difficult rather than, as we were just hearing, easier. This has obvious implications both for the patient and for the doctor, and for the benefits paid out.

The second caveat concerns palliative care, which is frequently raised here in your Lordships' House—it was mentioned just now by the noble Baroness, Lady Brinton, with particular reference to children. While I welcome the financial provision that the Bill makes more possible, I hope that the Minister may be able to reassure us that it will not be at the expense of better and more widespread palliative care for all those nearing the end of their lives. This must be both/and, not either/or, as we seek to ensure the best possible treatment—physical, emotional and spiritual—for all those who are terminally ill.

4.24 pm

**Baroness Noakes (Con):** My Lords, I wholeheartedly support this short but very important Bill; we should get it on to the statute book as rapidly as possible. I could stop there, because my noble friend the Minister has introduced the Bill with her customary diligence, but I hope that the House will indulge me if I spend a few minutes on the plight of motor neurone disease sufferers. I pay tribute to the tireless campaign waged by the Motor Neurone Disease Association to achieve the changes in the Bill, and indeed the similar changes already made to universal credit and other benefits.

Motor neurone disease is a terrible disease. It involves the degeneration of motor neurones so that muscles weaken, and moving, swallowing, speaking and breathing all become more and more difficult. There is no cure available. Because it does not generally affect the senses, sufferers are only too aware of the way in which their bodies are failing, which is a particularly cruel aspect of the disease.

There is no single test available for motor neurone disease, and its low prevalence means that it can take some time for a diagnosis to be made once the onset of symptoms is noticed. Once diagnosed, one-third of sufferers die within a year, and half die within two years. There are around only 5,000 people living in the UK at any one time suffering from motor neurone disease, which is probably why they have not been seen as a national priority. I am very glad that the DWP has now started to tackle their plight in the benefits system.

The rate of progression of the disease varies considerably, and this has caused huge problems in the past for motor neurone disease sufferers in getting access to benefits on a fast-track basis, because it was hard to pinpoint when the previous six-month horizon for a reasonable expectation of death came into play. The extension to 12 months and to an end-of-life approach is not a perfect solution but it should make it much easier for people to be fast-tracked on to benefits, which will do something to make life easier for them and their families as their lives are inevitably taken by the disease.

I thank the Government for making these changes and the ones already made in secondary legislation. I have just one request for my noble friend the Minister: I hope that she will commit to the DWP monitoring the impact of these changes and standing ready to make further changes if the data show that they do not deliver the benefits expected for MND sufferers and, indeed, any sufferers debilitated by life-ending disease.

4.27 pm

**Baroness Finlay of Llandaff (CB):** My Lords, I declare my interests as a patron of the Motor Neurone Disease Association and vice-president of Marie Curie and of Hospice UK.

I hope that when the Minister responds to this very important short debate she will be able to tell us—if I may pick up on the points made by the noble Baroness, Lady Noakes—what happens if the person outlives their prognosis and the leeway period, which, according to the government website, allows an additional two years before the benefits come up for review. As the form is to inform the claim process, will there be a process of

appeal if the application for benefits is declined at the DWP, and will there be the option of an independent second opinion?

Another area of concern—I will build on the points made by the noble Baroness, Lady Brinton—is how relatives will be informed that the benefit stops as soon as the person dies. This can become particularly important when people have given up their job and have become financially dependent on all the money coming in, because they are the principal carer and acting in a greater role than any of the paid professionals who may be involved in a person's care. There is a real problem in supporting and preparing people.

In addition, as has already been stated, the prognosis of a year is pretty well impossible. Going through the website, I recognise that the Department for Work and Pensions accepts that it is a guess to start the process, and the information on the website implies that the DWP does not attach legal responsibility to the person who is signing the forms. There is no comeback should the person outlive the prognosis—one hopes that they do.

But what if somebody is consistently wrong? What is the threshold for even suspecting that there may be abuse of the scheme? Unbelievable as it may sound, we know that the furlough scheme in the pandemic was, sadly, abused, so we must have monitoring for any system that is put in place.

Some years ago, when we were campaigning for the DS 1500, we had discussions with departmental officials on the difficulty of predicting a six-month life expectancy. Over the years since the DS 1500 has been in place, I have wanted to know how many forms have been filled out annually and the timeframe for which people have received the benefit—but I gather that this data is not kept. Given the changes now, I hope the data will be collected to map whether there are areas of underclaiming and areas where there are particularly high numbers who live for three or more years with diagnoses that would not have been expected to have high survival rates, as it may indicate excellent clinical care or it may indicate an area of inappropriate diagnostic labelling. Modern IT systems should automatically generate useful reports from the data that will be held centrally.

Patients rightly campaigned for the DS 1500 system to be modified—as did the voluntary sector. The change to one year—although prognostication is notoriously inaccurate at that time distance—has some very distinct advantages. The consistency across the Department of Health and Social Care and DWP is welcome, particularly as the government amendment to the Health and Care Bill states that patients must be able to access the palliative care they need. This should help ensure that people are referred for the support they need when they need it, rather than the “too little, too late” scenario that has happened in the past and has led, very sadly, to bad experiences and badly managed deaths.

I hope that this will also lead to more open conversations with clinicians. It is easier for clinicians to help patients plan for the worst and yet maintain hope, and therefore help patients come to terms with living with uncertainty, which is the reality of a prognosis of the last year of life—aware that the prognosis of one year can sometimes be as inaccurate as tossing a coin. For the DS 1500, it was difficult for clinicians to say, “I think that you're in the last six months of life”,



[BARONESS FINLAY OF LLANDAFF]

because that sounded blunt and felt like delivering a death sentence. I think that was sometimes a deterrent to those conversations happening, so I hope the important conversations will trigger advance care planning, which is already an aspiration on the website. Even more useful is to ask the patient is to ask the patient “What matters to you?”, because that can inform best-interest decision-making and prioritisation, whereas planning often fails to match the evolving clinical scenario—particularly when it evolves in a way that nobody could have predicted.

It is absolutely right that there is no age restriction on the process. As the noble Baroness, Lady Brinton, so movingly described, some very young children need a great deal of equipment and skilled attention. But here is the real problem for parents—as has been said. They give up work to care for their child, but when the child dies, all the benefits suddenly stop, so they are left both bereaved and destitute. So I hope the DWP will use careful data analysis of benefits, timelines and time of death to have a better overview and explore ways that, prior to bereavement, the parent is given the anticipatory advice and support that they will need.

Turning to the forms, there are some aspects that I think need revision for clarification, I ask the Minister and her team to meet me to go over some of the detail on the form to iron out potential difficulties. It is in the minutiae of some of the wording, but we need to make this work as well as we can. The website makes it clear that the clinician will not face an adverse consequence if the patient lives longer than expected and that the benefit received under the special rules will have the leeway of a further two years, but will claimants be informed after, perhaps, two and a half years that they should prepare to transfer their claim through the standard route rather than suddenly feel threatened at the end of that leeway period by a potential perception of loss of funding?

Then there are those patients with a catastrophic life-changing illness or injuries who need long-term care and yet do not have a prognosis of less than a year. They also need their benefits fast-tracked early on, which can later be reviewed and applied in the normal way where processes are slower. I wonder how the Government see that we might be able to accommodate somebody who, for example, following a catastrophic accident and catastrophic head injury, needs a great deal of care and attention and will not improve dramatically enough to become independent.

However, with all of those caveats, I welcome all the work that the Government have already put into this—their thought, care and attention—and I commend the charities who have been campaigning for so long to make sure that people get the benefits that really will make a difference to the quality of life and will support clinicians in having those difficult but terribly important conversations.

4.36 pm

**Lord Balfe (Con):** My Lords, I welcome this Bill from the Minister. She has been a Minister now for a good period and has demonstrated a great sensitivity to the problems of people who are dealt with by her department.

Much mention has been made of charities, but the Minister may recall that I first approached her on behalf of the Midlands part of the Trade Union Congress. Mr Lee Barron, who is its regional secretary, took up this case because there were terminally ill people being thrown out of work. I know that this is not a Bill about putting them back into work, but Lee Barron and his assistant, Michelle Kesterton, did a lot of work, part of which was to get the benefits extended, and that has happened. The Minister may recall that we also had representations from the General Municipal and Boilermakers union on the same subject, from Martin Allen, its present representative, and his predecessor, Richard Oliver.

The key thing is that when people are in their final year of life, they should not automatically be deprived of any useful employment because, often, employment is something that keeps people going. I would like an assurance, which I know the Minister can give because she has already given it to me, that the department will in no way try to discourage people who want to try, even if it is only part time, to do a bit of work, because this often keeps them going.

The excellent report by the Marie Curie trust, which the noble Baroness, Lady Sherlock, kindly reminded me yesterday that I had lost yesterday and sent me a copy, makes the point about poverty and old age. Also, many people who are dying do not have these so-called loved ones around them. They are very much isolated and on their own, which is why support groups are so important, particularly to this group. Having read the report overnight, I commend it to all noble Lords who are interested in poverty and old age, as people approach their last time.

I have a couple of points to ask the Minister about. First, can she ensure that the fast track really is a fast track? I am sure that she will but, in her department, everybody wants a fast track. That is one of the problems that the DWP has, but this does need to be fast-tracked.

My second point is that we are debating this because we need primary legislation. I am not a great fan of secondary legislation, but I wonder whether we should not insert into the Bill a clause that would at least give the Minister the power, using a statutory instrument, to extend—or diminish, but I hope it would be extend—the periods in the Bill. If it is now a year and it used to be six months, and if medical technology keeps marching ahead, there may be a need for another change. Do we need primary legislation to do it?

My next point is the need for publicity, particularly for doctors. They need to know what the provisions are, how they can be used and how they can advise their patients. I am sure the DWP may wish to talk to the Department of Health and Social Care about the possibility of posters in doctors’ surgeries. There are quite a few posters in my doctor’s surgery, and they are almost all beneficial because they convey information and, generally, guidance towards a website or telephone number. Could that be done?

Most hospitals have patient care facilities, whether Macmillan nurses or other strategies. These people also need to know how the system works, so that when the consultant or doctor says, “I am now going to ask you to have a chat with Mary or Tom, who is going to



be your principal point of content”, Mary or Tom know how the system works, what to advise patients and how to get them to begin the fast-tracking of the procedure.

In conclusion, I most certainly welcome the Bill. I thank the Minister for the hard work she has put in. It must be at least three years, if not four, since I first raised the matter with her. Of course, there has been the pandemic and many other things to deal with, but I welcome the fact that she has kept an eye on it and brought this to the House, where I am sure it will get a warm welcome and a rapid passage.

4.42 pm

**Baroness Janke (LD):** My Lords, like other Members I welcome the Bill and the changes it introduces. As the noble Baroness said, it is right that we pay tribute to some of the campaigners. The Scrap 6 Months campaign, launched by the motor neurone disease charity and Marie Curie, called for urgent review of the special rules for terminal illness. The campaign identified that more than 100 people a month will die within six months of being rejected for disability benefits, spending their last weeks fighting for these. The noble Baroness, Lady Noakes, described to us the situation suffered by people with motor neurone disease, as well as their specific and intensive care needs.

Dying people were being plunged into uncertainty and a web of complexity in the process of applying for benefits under the SRTI scheme. The DWP’s failure to recognise when someone was reaching the end of their life resulted in benefits being cut, non-medically trained assessors failing to understand the severity of the circumstances suffered by some individuals and, as the noble Baroness, Lady Finlay, identified, the need for an independent procedure for appeal. DWP non-specialist clinicians challenged medical evidence provided by doctors, which resulted in delays and rejected claims or lengthy application processes and untimely decisions, even though a medical examination was not necessary under the fast track.

The APPG for Terminal Illness published a report, *Six Months to Live?*, which also contributed to the policy debate on reform and put forward a number of important proposals. The report highlights some of the difficulties suffered because of long and arduous DWP processes. My noble friend Lady Brinton referred to this and to the frustration of people trying to process their claims. The noble Lord, Lord Balfe, also mentioned the issue of people being able to access the claims procedure properly and identified the need for publicity. The right reverend Prelate the Bishop of Carlisle really welcomed the idea of more clarity and a simpler process that is much more easily understood by claimants.

The changes themselves are welcome: the extension of the definition of “terminal illness” to 12 months and the benefits to be fast-tracked being extended to DLA, attendance allowance and PIP. As many Members have mentioned, consistency with the NHS is also to be welcomed. However, being diagnosed with a terminal illness is already difficult and distressing, not only for the person but for their loved ones. From what I have read, it seems that the benefits system should better support people in that situation, not exacerbate their

distress or place unreasonable burdens on medical professionals. There are other things that could change that could make things easier and apply a much more compassionate approach.

Unfortunately there is plenty of evidence of the lengthy, complicated and often repetitive procedures and practices of the DWP, which obstruct people who have other major pressures in their lives. My noble friend Lady Brinton asked how long the process will take and hoped that the 12-month extension will not lengthen the process and make it more inaccessible. In the light of this evidence, will the Minister say how DWP processes will enable faster decision-making? Will the Government consider some form of special unit to be sure that the additional six months will not result in more delay to decisions on claims? The points my noble friend Lady Brinton raised about eligibility for benefits for children is an area that needs to be examined, and the noble Baroness, Lady Finlay, mentioned the need for more extensive examination of centrally held data to provide a background to policy-making.

The report of the APPG for Terminal Illness makes a number of recommendations that would improve the system. One is that a person who is diagnosed with a terminal illness based on the clinical judgment of a registered medical practitioner should be able to claim benefits through the special rules from the time of their diagnosis. What is the Minister’s response to that? When will the Government consider this more compassionate approach? Given the circumstances at the end of life, when doctors are reluctant to provide evidence that is distressing for the individual and their loved ones, this approach is far more flexible and compassionate.

The report further recommends that the DWP should adopt the same approach as it has taken for severe conditions, with a light-touch review of benefit awards under the special rules for terminal illness only after 10 years. This would provide a more flexible approach and would dispense with the constant need for reassessment and reapplication, which happens in too many cases.

Lastly, it recommends that the DWP ends the practice of non-specialists DWP assessors challenging and rejecting the medical evidence provided by clinicians to support a benefit claim under the special rules. This is another aspect of DWP working that needs review. Will the Minister respond on this?

Will the Minister assure us that there will be a review of DWP practices in the light of this legislation? It will be essential if the fast-track system is to work effectively, so that people at the end of life with special, intense and often costly needs receive the benefits on which they depend in a timely and compassionate way.

4. 49 pm

**Baroness Sherlock (Lab):** My Lords, I thank the Minister for her introduction to this short Bill and all noble Lords who have spoken. We have packed quite a lot into a fairly short time. As we have heard, the intention is to amend the definition of “the end of life” in existing legislation, shifting it from six months to 12 months and then, in effect, to change eligibility for five benefits so that those who are expected to live

[BARONESS SHERLOCK]

for between six and 12 months can get help more quickly. These changes are long overdue and these Benches very much welcome them. I too congratulate Marie Curie, MNDA and all the charities which have campaigned to get us to this point.

We would like to see the Bill on the statute book as soon as possible. The Government have already used secondary legislation to change eligibility for universal credit and ESA, which we welcome, but it means that, for now, there is a different set of criteria for the special rules depending on which benefit you apply for. The sooner we can get them together, the better.

Since we have a legislative process to go through, this is a chance for the Government to bring the House up to speed on how people with terminal illnesses are being supported in our country. So, I have a few questions. The Government offer two arguments for this approach, the first of which is to align DWP's approach with that of the NHS. Some interesting comments have been made: by the right reverend Prelate the Bishop of Carlisle about the importance of this being truly holistic—looking at people's physical, mental, spiritual and financial needs—and by the noble Baroness, Lady Finlay, who, with her characteristic expertise, has helped us to understand the nature of the conversations that might happen.

I pause briefly to say that I think some clinicians find those conversations easier than others. Given that so much hinges on this, it will be important for the Minister to work with colleagues in the Department of Health and Social Care to make sure that appropriate information and encouragement is given to all clinicians to cover the full range of issues at the 12-month point. For reasons that the noble Baroness, Lady Finlay, explained, this can be a little complicated because of the imprecision of diagnoses at that distance.

The second argument given by the Government is that, when the six-month rule was introduced in 1990, many people with a life-limiting diagnosis were unlikely to survive for more than six months, but that advances in diagnosis and treatment have since moved on and now people live for much longer. The question of how long people live is pertinent to the way the special rules are framed. The right reverend prelate the Bishop of Carlisle raised questions of prognosis. The noble Baroness, Lady Noakes, gave a brief but very helpful tribute to the MNDA and highlighted the challenges for people living with motor neurone disease.

As the MNDA has pointed out, some people will of course outlive their prognosis. They could find that they are still alive after the three years for which the special rules award is offered, but are very ill—perhaps ventilated, completely paralysed or unable to speak. At that point, they will be asked to make a new application for fresh benefits. The MNDA argues that, since motor neurone disease is incurable and progressive, the benefits awarded under special rules should be lifelong. It points out that, if you apply under the normal rules, you could end up with an ongoing award with only a light-touch review at the end of a 10-year point, but you do not get that under special rules.

Did the Government consider making some categories of special rules awards lifelong, or doing something of the kind mentioned by the noble Baroness, Lady Finlay,

by considering whether someone in that circumstance might be better off in a normal rules process? Can the Minister tell the House how many people are in this position under the current rules? I am assuming that it will not be very many. How many people could outlive their diagnosis at the moment and therefore bump up against the three-year problem? Has the department estimated what figure this might be under the 12-month rule?

The noble Baroness, Lady Brinton, the noble Lord, Lord Balfe, and others asked how people will get to know about these rule changes; that is incredibly important. I understand that any third party can make a claim for benefits on behalf of someone who is terminally ill, even if they do not have a power of attorney or an appointeeship. Given that, it will be extremely important that clinicians know about this change, but also that family, friends and others should get to know that this is available for somebody who may seem some way away from the end of their life, unlike the situation right now. Can the Minister tell the House what the Government will do to make sure this is as widely known as possible?

The good thing about special rules claims is that they are fast-tracked and there is no waiting period. A number of noble Lords have asked how long this will take. The noble Baroness, Lady Brinton, pressed the point to make sure that the time taken to process claims does not increase as a result of expanding the case load. I understand that new PIP claims under special rules are currently being cleared in three working days, on average. That is marvellous but it contrasts with an average of 22 weeks for a normal PIP claim, and this is of course why we need special claims—because it takes such an incredibly long time to process a normal claim.

That means that, if somebody were to die in 18 months, they would be waiting for over five of those months to get their claim for PIP processed. Once they have made an application, if, at some point while they are still waiting to get the claim processed, they are told that they have less than 12 months to live, does that mean—can the Minister confirm—that they would automatically be moved on to the fast track and the claim backdated to when they first made an application? Will the Minister reflect briefly on whether it is really acceptable to take over five months to process a claim for PIP when the people waiting to get it may be severely sick or disabled?

We are also being told by the Minister that, in most special rules cases, the highest level of benefit is awarded, but the noble Baronesses, Lady Brinton and Lady Janke, made the point that that does not necessarily apply to all claimants, including children. As we have heard, children can receive the higher-rate mobility component of DLA only when they hit the age of three, and the lower rate from the age of five. I gather from Together for Short Lives that that is based on the advice to the DWP that only when the child gets to three can you work out whether they are unable to walk as a result of a disability, rather than their taking time to learn to do so.

The case was made by Together for Short Lives and by some noble Lords that this is not simply about mobility in the traditional sense. If children or their

parents depend on a vehicle for bulky medical equipment or on being able to get to an emergency service quickly, they clearly have mobility needs, even if not for those reasons. I too would be interested to hear whether the Government have responded to the SSAC report from 2020 recommending that they revisit this question of mobility, particularly for children under three. Can the Minister also say whether the Government considered that applications made under the special rules for babies and children under three who have 12 months or less to live should allow access to the DLA mobility component?

I will not dwell on this for too much longer, but the question of poverty facing terminally ill people was raised by the noble Lord, Lord Balfé. I am glad he found the Marie Curie report to his profit; it is very interesting and I also commend it to the House. I was quite shocked by its statistic that one in six people who die in the UK every year die below the poverty line. Of those of working age who die, it is one in three; a third of those of working age who die, says Marie Curie, will die in poverty. It is worse for families with kids because they often end up having to give up work, with increased childcare costs.

Marie Curie makes a number of recommendations: early access to the state pension, extra help with childcare, people under 65 getting access to winter fuel payments, and the run-on of carers' support, which was mentioned by the noble Baroness, Lady Finlay. What consideration is being given to those proposals? Will the Minister commit the Government to responding to this report in detail?

Finally, I pay tribute to all those who support people who are approaching the end of life: the medics, nursing staff, healthcare assistants, chaplains, friends and family, those in charities, volunteers, carers, taxi drivers, ambulance drivers and all those who support people through what is one of the most difficult but also important times, which comes to each one of us in due course. How we as a society treat people in the last year of their life is an indicator of our core values. We cannot stop people dying, but we can treat them well and at least ensure that they do not die in poverty. That should be our shared goal.

4.57 pm

**Baroness Stedman-Scott (Con):** My Lords, I thank your Lordships for your contributions to the debate today. I am sure we all agree that this is a matter of huge importance for those at this stage of their life and their loved ones. The Government are committed to improving how the benefits system supports people nearing the end of their lives.

This Bill will ensure that thousands more people at the end of their lives can get fast-tracked access to three disability benefits—the personal independence payment, attendance allowance and disability living allowance—earlier than they currently do. It will change eligibility so that those expected to live for 12 months or less, as opposed to six months, which is the current rule, will receive vital support. The changes ensure a consistent definition of end of life across health and welfare services and introduce easily understood criteria, which will support implementation. The changes will ensure we have a system that works and that gives

those affected the support they need when they need it, and that clinicians and charities can engage in with confidence.

I will try to answer some of the many questions raised by noble Lords. The noble Baronesses, Lady Brinton and Lady Sherlock, asked about the response time for fast-tracked claims. PIP end-of-life claims are fast-tracked: it currently takes three working days for new claims and four working days for reassessments. This compares to the current average end-to-end process for new PIP claims of 22 weeks.

The noble Baronesses, Lady Brinton and Lady Sherlock, raised the mobility component of disability living allowance for children under three. Only children over the age of three can claim the higher-rate mobility component of DLA, as all younger children have substantially fewer mobility needs. This group can however still access other forms of support, including the care component of child DLA. There are no current proposals to change the current age restrictions for the mobility component of child disability living allowance. However, the department recognises the difficulties that some families with severely disabled children under the age of three may face, particularly those whose reliance on bulky medical equipment makes transport difficult. As a consequence, the department has been in discussions with the charities Motability and Family Fund to explore options for helping this group of children. A pilot scheme has been developed and is making good progress. Family Fund is selecting children with a profound disability who are under the age of three and are therefore ineligible for DLA but who would benefit from the use of a vehicle provided by Motability Operations. I am sure that the Minister for Disabled People will be very happy to meet the noble Baroness, Lady Brinton, and Together for Short Lives. I will go back to the department and put the wheels in motion for that.

The right reverend Prelate and the noble Baroness, Lady Finlay, raised the difficulty of accurate prognosis, which gets worse the longer it is. The department recognises that determining a prognosis is not an exact science. The definition in legislation is clear that it applies where there is a reasonable expectation that death in consequence of a progressive disease is expected in the next 12 months. We support this in our guidance for clinicians, where we ask whether they would be surprised if their patient were to die in the next 12 months and to consider the expected prognosis. We expect the new 12-month approach to mean that thousands more people will be able to benefit, and we have already heard back from senior clinicians that the 12-month approach helps clinicians feel more confident when determining whether someone meets the special rules in the benefits where it has already been implemented. The department is clear: we are relying on the best judgment of clinicians, there are no repercussions for clinicians whose patients live beyond the time period, and claimants receive three-year awards in recognition of that fact.

The right reverend Prelate raised the issue of ensuring that financial assistance does not come at the expense of better or more widespread palliative care for all. The department has chosen 12 months to align with the NHS definition of end of life and to link up with



[BARONESS STEDMAN-SCOTT]

existing initiatives for clinicians to identify people in their final year of life. We hope that, as part of clinicians' holistic approach to considering their patients' needs when they enter the final year of life, the financial support available to a patient is considered alongside their physical, spiritual and other support requirements.

My noble friend Lady Noakes raised the point about the DWP committing to monitoring impact and being prepared to make changes based on evidence and data. I have no doubt that this will happen in the department, but I will go back, raise the specific point and write to my noble friend to clarify.

The noble Baroness, Lady Brinton, wanted to know how doctors, who are key to this, will hear about these changes. We have had extensive engagement with health professionals and others. Let me just read a few, because there are pages of them. The Minister for Disabled People led an update call with policy representatives from Marie Curie, Macmillan and MNDA. We have had royal college round tables with the Royal College of General Practitioners, the Royal College of Physicians and the Royal College of Nursing. We had a workshop with Macmillan benefits advisers. We have had the Westminster Health Forum, the next steps for palliative and end-of-life care bulletin in hospice leaders' brief and the Association for Palliative Medicine bulletin. I can assure noble Lords that there has been extensive communication. We are developing a bulletin jointly with the Association for Palliative Medicine, a Hospice UK Project ECHO newsletter, learning models for clinicians, royal college features in their communications, a palliative and end-of-life care information session and further workers' engagement sessions.

The noble Baroness, Lady Finlay, made the important point about claimants being informed when they are coming to the end of their three-year award. A letter is sent ahead of the end of the award inviting them to resubmit information. If they continue to meet the special rules criteria, they will receive another three-year award.

The noble Baroness also asked about doctors signing medical evidence and how we will monitor the evidence received. The medical evidence forms used in support of a special rules claim can be requested only by clinicians and are not publicly available. The DWP's in-house clinical team also undertakes occasional audits of medical evidence and uses feedback from the process to further improve forms and guidance. Where the DWP is unsure about the information provided or needs to clarify, clinicians from the DWP assessment provider can contact the clinician to ensure that the claim can be processed quickly. She asked what would happen to those claims if identified and what AI programmes are being developed. The DWP is also looking at making process improvements for the special rules end-to-end customer journey. I can ask officials to consider this moving forward.

I take fully the points noble Lords have made about engaging with patients and people using the system. The noble Baroness, Lady Finlay, specifically asked to meet Ministers to discuss the guidance and the forms. I can only say that my officials will be very happy to discuss the existing guidance for commissions; where it can be further improved, we will do so.

The noble Baroness, Lady Finlay, asked what financial support we can give parents when children die. Child DLA stops when the child dies because it is an extra cost benefit for the child and not an income maintenance benefit for the family. She also asked for the latest on the severe disability group; we recognise that people who may not meet the special rules criteria may still have severe and lifelong conditions that will not improve and will always need extra financial support to live independently. That is why we want to test an approach for a new severe disability group, or SDG, so that those people can benefit from a simplified process that does not involve a face-to-face assessment. The department will work closely with the MNDA, Marie Curie and other stakeholders to understand how best to orientate claimants to the new SDG application gateway and design a process that best meets their needs.

The noble Baroness, Lady Finlay, asked what happens if a person outlives their prognosis. Where someone makes a claim under the special rules, they are given a three-year award. This recognises that making a prognosis is not an exact science. Where people live longer than expected, they should continue to receive the support provided to them by the benefits system. She also asked how relatives will be informed about the cut-off point, which I believe I have answered, and what we are doing about people with longer prognoses. The *Shaping Future Support: The Health and Disability Green Paper* recognises that people who may not meet the special rules criteria may still have severe and lifelong conditions that will not improve and will always need extra financial support to live independently.

My noble friend Lord Balfe and the noble Baroness, Lady Sherlock, raised the issue of secondary legislation. We are currently in primary legislation. There are no plans to change the law again, so this Bill takes the simplest approach to change to 12 months.

My noble friend raised a really important point about whether terminally ill people can still work. Where work is therapeutic and gives them a purpose in life, in very difficult circumstances, the answer is absolutely yes. Those on universal credit can voluntarily take up work where appropriate.

The noble Baroness, Lady Janke, asked about the specialist unit in the DWP. We are actively considering how we can improve the special rules processes; we will keep all noble Lords apprised of that.

The noble Baroness also raised specific guidance and training being provided. The DWP is working closely with clinicians from charities, royal colleges and, in particular, the ambitious partnership for palliative and end-of-life care, as it has done throughout this process, to consider specific communication and training for clinicians about how to support their patients in claiming under the special rules and raise awareness of the eligibility criteria and process. The department worked with senior clinicians to develop a special rules guide for clinicians and, to support them in this process, will continue to monitor the guide's effectiveness and whether further support is required. My officials would be happy to discuss where the existing guidance for clinicians could be further improved.

The noble Baroness also asked why we are not adopting an open-ended approach with no time limit, based on clinical judgment. The department considered

all the feedback it received from the evaluation and decided to adopt an approach that mirrors the one used in the health system; there was significant support from clinicians for this.

The noble Baroness, Lady Sherlock, raised the fact that charities such as the MNDA have called for award lengths to be extended. Although we have already touched on this, a three-year award strikes a balance around recognising that making a prognosis is not an exact science. Where people do live longer, as I have said, support will be provided to them by the benefits system.

The noble Baroness made a point about the PIP assessment times. I can say to her only that we want them to be much shorter. The Minister for Disabled People is working hard to do that and I am sure that, in due course, an all-Peers briefing session in which noble Lords will have a chance to make their points will be available on this issue. The noble Baroness asked for some stats. We will write to her on that point and place a copy in the Library to share it with everyone.

We have only recently got the Marie Curie report. We are seriously considering it but, having listened to everybody, it seems that it is welcome. We will respond in due course.

The noble Baroness, Lady Sherlock, asked how the benefits system links to the NHS. We hope that, as part of clinicians' holistic approach, financial support is discussed alongside physical, emotional and spiritual needs as a patient enters their final year. The DWP has worked with DHSC and many key stakeholders to create guidance to support clinicians.

The noble Baroness asked what the department's position is on the recommendation in the Marie Curie report that recommends early access to the state pension. We are still considering the report at this early stage, as I have said. We value Marie Curie as a key stakeholder and welcome our ongoing dialogue. The Government are committed to improving fast-track access to benefits for people nearing the end of their lives; I hope we have demonstrated that. The Bill makes similar changes to DLA, PIP and AA collectively; these changes will enable thousands more people thought to be in the final year of their lives to get fast-track access to the benefits they are entitled to.

The noble Baroness, Lady Sherlock, made a point about a SSAC report in 2020. I must confess, I am struggling—

**Baroness Sherlock (Lab):** If I may help, the 2020 SSAC report recommended that the Government review whether children aged under three could be eligible for the higher rate component of DLA.

**Baroness Stedman-Scott (Con):** I thank the noble Baroness; that is helpful. Other questions were raised and I will, as always, go back to *Hansard* and ensure that I answer them in writing and place a copy in the Library.

I again put on record my thanks to the individuals, charities, clinical groups and all the others, including the trade unions, who have supported the Department for Work and Pensions since the then Secretary of

State launched an in-depth evaluation of how the benefits system supports people nearing the end of their lives in 2019. We recognise the vital role they play and are committed to continuing our engagement with them as the changes the Bill will make are implemented. I thank all noble Lords again for their contributions today and I hope I have managed to reply to everyone. As always, I am happy to speak to any noble Lords who want to discuss particular issues further before Committee stage; as ever, the door is open. I beg to move.

*Bill read a second time and committed to a Grand Committee.*

## UK Infrastructure Bank Bill [HL]

### *Second Reading*

5.16 pm

*Moved by Baroness Penn*

That the Bill be now read a second time.

**Baroness Penn (Con):** My Lords, it is a great pleasure to open this Second Reading. The UK Infrastructure Bank Bill is the final stage in establishing the UK Infrastructure Bank as an operationally independent and long-lasting institution.

Before I go into the provisions of the Bill, it may be helpful if I provide some context to the bank. In 2018, the National Infrastructure Commission produced the first national infrastructure assessment—NIA—which recommended that a new UK-wide infrastructure bank be established to manage the loss of funding from the European Investment Bank. In 2019, the Government undertook the infrastructure finance review—IFR—consultation, which found support for a new, enduring body to deliver infrastructure finance support tools in line with the NIC's recommendation.

Responding to the national infrastructure assessment, the Government published the *National Infrastructure Strategy* in 2020, setting out their plans to bring forward a UK infrastructure bank. A policy design document was produced in spring 2021 and the bank was launched at pace in summer 2021. In the design and set-up of the bank, the Government have delivered three crucial requirements from the original National Infrastructure Commission recommendation.

The first recommendation from the NIC was that the bank should be operationally independent. This is something the Government take very seriously, and which is important to support the bank's credibility in the market as a long-lasting institution. Respondents to the infrastructure finance review told the Treasury that independence increases efficiency and ensures commercial decision-making. However, the institution needs to operate in line with the Government's overall infrastructure goals.

One of the reasons we have a Bill today is to protect that operational independence. Noble Lords will note that the bank is already operational but the Government cannot simply sell or dissolve the bank without further legislation. The Government are also unable to change

[BARONESS PENN]

the bank's objectives without further primary legislation, or its activities or definition of infrastructure without further secondary legislation.

Finally, the Bill also gives the market a clear remit as to the extent of the Government's powers over the bank. This builds on the bank's existing operational independence, as set out in its framework document, which provides that the bank has authority to make its own investment decisions within its delegated limits without ministerial approval.

The second recommendation was that the bank should focus on addressing the market failure in economic infrastructure. An assessment from Vivid Economics for the National Infrastructure Commission showed that, in some cases, EIB activity crowded out private investment. Likewise, IFR respondents told us that the private sector would be able to fill some of the lending gap left by the EIB. Therefore, while the bank is designed to take on the role which the EIB previously filled in investing in new green technologies and development, it is not designed to replicate all the previous activities of the European Investment Bank. This is reflected in the two objectives the Government have set for the bank: to tackle climate change and support efforts to meet the net-zero target in 2050, and to support regional and local economic growth.

With regard to the climate change objective, significant public and private investment will be needed to achieve the UK's infrastructure policy goals, and low-carbon investment will need to be significantly scaled up to deliver net zero. This is highlighted by the fact that the UK's core infrastructure—power, heat and transport networks—accounts for over two-thirds of UK emissions. Without the bank, the private sector is likely to focus its investment on lower-risk technologies and sectors. The bank can play an important role by crowding in private finance to invest in higher-risk and nascent technologies, and in scaling subsidy-free business models—both of which will be key to transitioning to net zero. Linked to this, the bank's focus on rapid progress on its net-zero goals overlaps with the Government's renewed focus on energy security.

On the second objective, to support regional and local economic growth, disparity in infrastructure across the country has been identified as a key driver of economic inequalities. Central to the Government's ambitions to level up is setting up new institutions boosting productivity, pay, jobs and living standards by growing the private sector and supporting it to deliver opportunities in parts of the country where they are lacking. Without intervention, the private sector is likely to continue to target geographic areas that have historically received higher levels of private capital. Respondents to the IFR highlighted that any government institution in replacement to the EIB should seek to consider regional balance. The bank aims to remedy geographic inequality and drive improvement in long-term productivity across the country by crowding in private capital to areas that have been left behind, strengthening regional and local economies.

Further, the bank responds to the need identified in the levelling up White Paper to boost local decision-making to allow communities to make the improvements

that are most needed. An additional source of government-backed finance for local authorities will give local decision-makers increased power in deciding which investments in infrastructure will have the most impact on their local economy.

Finally, on the recommendation to set up the bank at pace, noble Lords will note that the bank was launched in summer last year, less than a year after the Government announced plans for the bank in the *National Infrastructure Strategy*. Since its launch, the bank has already completed six deals, including financing the UK's largest operational solar farm in south Wales. The bank has also invested in Teesworks, a £107 million investment in Tees Valley Combined Authority's project to transform the former Redcar steelworks site to service the offshore wind sector and support around 800 high-quality jobs. The bank will work towards achieving a double bottom line, whereby investments help to achieve its core policy objectives while generating a positive financial return to ensure the financial sustainability of the institution and reduce the burden on the taxpayer.

On the provisions in the Bill itself, we are legislating for the bank to complete its set-up as an operationally independent institution. The Bill is broadly split across three areas: enshrining the bank's objectives and activities in legislation to provide clarity for the bank and the market as to the bank's long-term purpose as an enduring institution; providing for financial assistance, including, crucially, giving the bank the power to lend directly to local authorities and the Northern Ireland Executive; and, finally, supporting the bank's operational independence by setting out clear accountability for how it is to be run, including reporting and board requirements.

First, on the bank's objectives and functions, Clause 2 sets out in statute the bank's objectives of tackling climate change and regional and local economic growth, and in doing so provides clarity to the market as to the bank's policy objectives. I have already set out the rationale for the bank's two objectives, but it may be worth elaborating slightly when it comes to climate change. I know that questions have been asked as to whether the bank's objectives allow for investment to improve the UK's natural capital. The Government undertook a review of the bank's environmental objectives, which concluded that there is significant scope for the bank to invest in nature-based solutions while achieving the bank's existing objectives. This was further emphasised in the Treasury's strategic steer to the bank, which I will come to shortly.

Clause 2 also sets out three activities that the bank can perform to deliver its two objectives. The bank's activities are: providing a range of financing tools for private sector investment; financing local and mayoral authorities across the UK; and providing an expert advisory service to help local authorities. The bank's activities also allow for it to invest in mixed-infrastructure projects, such as a transport hub that includes some housing.

Finally, Clause 2 also sets out the definition of "infrastructure" for the bank. The bank has been set up to invest in economic infrastructure, as per the recommendation of the National Infrastructure



Commission, as this was where there was greatest need for government-backed lending. The definition of infrastructure has been adapted from that used in previous legislation, but with the social infrastructure aspects of previous definitions removed and the addition of climate change technologies and facilities. This ensures that the bank will be able to invest in a range of economic infrastructure sectors and in emerging new green infrastructure technologies to deliver on its objectives.

Although the bank's objectives will be able to be amended only through future changes to primary legislation, Clause 2(6) allows for the bank's activities and definition of infrastructure to be amended via secondary legislation. The Government believe that this strikes the right balance between ensuring long-term clarity on the objectives of the bank while allowing for the possibility that a future Government may wish to change the emphasis of the bank's activities for policy reasons and may desire to alter the definition of infrastructure to support this change. It also allows for the fact that the bank's approach may need to evolve to reflect changes in the market for infrastructure. Both these powers are taken under the affirmative procedure, in line with the Delegated Powers and Regulatory Reform Committee's guidelines, and to allow for parliamentary scrutiny.

Turning to the financial assistance provisions, Clause 5 allows the Treasury to put the bank into funds, including through the National Loans Fund. As I mentioned previously, the bank has been funded with £22 billion of capital initially, and the level of financing for the bank will be reviewed ahead of spring 2024 to ensure that it continues to meet its objectives in the most affordable way. Within the definition of the bank's activities, the Bill will also, crucially, remove the existing legal barriers that currently prevent the bank lending directly to local authorities.

Finally, I turn to the governance measures in the Bill. Clauses 3 and 4 allow the Treasury to issue a strategic steer and a power of direction respectively. Given that the Government remain accountable to Parliament for the bank and for any element of risk that the activities take, it is right that the Government have some degree of influence over the bank. The Government recently issued their first strategic steer to the bank, in which they set out the expectation that the bank should develop strong relationships with the devolved Administrations and their institutions, for example the Scottish National Investment Bank.

A power of direction is not uncommon in arm's-length bodies and is not designed to be used often. Where the power is used, statute will require that it follows consultation with the bank's directors and is published to ensure ministerial accountability for the content of the direction. The legislation for the Bank of England, in the Bank of England Act 1946, and Her Majesty's Revenue & Customs, in the Commissioners for Revenue and Customs Act 2005, both include a power of direction. This will not interfere with the bank's day-to-day operations or investment decisions.

With a body in statute, it is important to set out how the governance of the bank will work in practice to ensure transparency and accountability to Parliament. As is usual practice, Clause 6 will ensure that the

bank's annual reports and accounts are published in Parliament. Clause 7 sets out the process for appointing directors and other practical aspects such as the size of the board, which is consistent with similar bodies such as the Bank of England. We also think that it is appropriate to have a statutory review after 10 years, and subsequently at least every seven years, to ensure that the bank is still meeting its objectives. This is set out in Clause 9.

I greatly look forward to the debate we shall now have on Second Reading and hearing the expertise of noble Lords in the Chamber. I beg to move.

5.29 pm

**Lord Teverson (LD):** My Lords, I declare my interest as a trustee of the Green Purposes Company, which has custodianship of the green share in the Green Investment Bank. I suppose that takes me on to my first questions: what is the purpose of the Bill, and do we on these Benches welcome it? I suppose we sort of do. It is the right thing to do but what an irony, in a way, that it comes after the Green Investment Bank, from 10 years ago, was privatised a few years later and we somehow have to replace it with another bank that has as its major objective the green purposes that were in the Green Investment Bank, which was then in the public sector to deliver net zero by 2050. I correct myself—I think it was 80% at that time.

I am also interested that the Minister was able to say, without any hint of irony, that one of the reasons for the Bill was that the bank was enduring, as if there was a temptation there of Governments—particularly Conservative Governments—to privatise these institutions and they had to save themselves from doing so again and repeating the activity by making sure it was fully embedded in the Bill.

One of the reasons I think there is an opportunity missed here is that as Liberal Democrats we look across the channel at the KfW, the bank in Germany, which has a much broader remit and is so much more successful in that economy, from the Mittelstand of German companies right the way through to a global objective. This is a very small step. One of the things that came back from the Government in the past, when we were a member of the EU, was that we were not able to extend to that degree because of Commission and EU rules and regulations. Now that we are free of that, here we have a very constrained bank that looks at very specific areas. We welcome those areas, and I will take the argument on from there as it is, with its own restricted remit.

One of the things that comes out, and I am sure will be dominant in our conversations and debates in Committee and on Report, is the fact that the Bill rightly identifies climate change and net zero as objective 1. Clearly, we all welcome that. I accept that the Minister has tried to talk around this, but there is another equal emergency: biodiversity and the decline of nature in this country and globally. Although, as she correctly says, the climate change remit can cover certain things, such as nature-based solutions, it seems strange that in this world now we somehow deny the equal importance of the biodiversity emergency and the objective of improving that. That is one of the key

[LORD TEVERSON]

things that must happen in the Bill. We need to have that biodiversity crisis of an equal stature. They are interrelated in all sorts of ways. We know and have seen in previous debates, particularly during the passage of the Environment Act here last year, that those two crises are interconnected. You cannot solve one without the other, and we need both to be present in the Bill.

From a much more economic point of view, which I know the Bill is about as well because it is about private as well as public investment, we should not forget the circular economy. I would be very upset and find it strange if the bank did not see as one of its objectives to move the UK from a linear economy to a circular one. It seems clear to me that this ought to be an objective that we have nationally and that the infrastructure bank is able to help to deliver, whether it be local authorities or private companies.

One of the biggest challenges in net zero is energy efficiency—making our economy, from households through to commercial properties and infrastructure, much more energy efficient as time goes on, so that we do not need to build more and more energy generation and can manage demand. I would be interested to understand from the Minister how the bank can be involved in that process in particular. It seems to me to exclude building efficiency, which is one of the malaises of the British economy and our built infrastructure. How can we meet that as well?

Although the Minister mentioned the institution, the National Infrastructure Commission is not mentioned in the four pages of the Bill—it is one of the exclusions. I readily accept that the UK Infrastructure Bank comes out of recommendations from that commission, but it seems very strange to me that the Government have this commission, which I think reports to the Treasury, yet somehow this bank's direction is driven purely by the Treasury and there seems to be no connection at all with the National Infrastructure Commission. Surely there needs to be some pathway that is obvious and transparent from the recommendations of those reports, which are high quality and well put together, and should be a long-term way of improving our infrastructure investment in this country. There should be a connection somewhere there as well.

The other major issue is risk appetite. One of the things we learned from the Green Investment Bank—which was not perfect—was that, because there was such pressure from the Treasury that it should, if you like, turn a profit and build up its own reserves in the early years, its actual investment was quite conservative. In fact, you could question how much, in its very early days, it substituted the private sector or found the capacity where the private sector would not come in—providing additionality. I am not sure that it did.

Here too, I am far from convinced that the UK Infrastructure Bank will have a motivation to fill the areas that the private sector is not willing to or, indeed—perhaps more importantly—drive forward slightly more risky innovation in infrastructure, zero carbon and nature-based solutions. I think it will be risk-averse, and I would like the Minister to assure me that there will be a reasonable risk appetite. None of us expects the UK Infrastructure Bank to throw money away

and be in debt, but we surely want it to be a leader in stimulating innovation moving forward, not just replacing private capital. I would be very interested to hear that. All the Treasury controls will mean that this bank is cautious.

Lastly, I will talk about supervisory boards. I was quite shocked that there was going to be a 10-year review; I cannot imagine that there will not be amendments tabled on that. Reviewing an institution after 10 years is ridiculous; it is two Parliaments and is probably beyond the life of half the Members here in the Chamber—I do not know. I am sorry, I should not have said that—but it is not satisfactory.

One of the things I have since learned through my work with the Green Investment Group, which I congratulate on everything it has achieved recently, is that you need some sort of supervisory board or independent body to check, post investment—I am not talking about investment at committee level—that the bank has met its objectives and remit. It is important that there is scrutiny beyond the Treasury and, of course, very loose scrutiny from Parliament, which does not really work. We will certainly bring that forward as one of our amendments, to make sure that the bank meets its objectives.

In 2012, the Green Investment Bank was legislated for, and 10 years later we are starting again. We on these Benches wish the bank good luck. I would like to understand, as my noble friend Lord Bruce asks, how it ties up with things such as the Scottish investment equivalent. We would be interested to hear that, but we wish it well. It is limited—we hope that it can broaden its remit—but we start again for success, we hope, in infrastructure and for net zero.

5.39 pm

**Lord Bourne of Aberystwyth (Con):** My Lords, I declare my interests as set out in the register. I am, of course, a member of Peers for the Planet. It is a great pleasure to follow the noble Lord, Lord Teverson. We have been on the legislative barricades on the subject of Cornwall before, but I agree with much of what he said about the Bill, and I will go into that.

First, however, I very much welcome the Bill, although I think it can be strengthened, and I shall be setting out some questions for the Minister. The Bill's aim, as stated, is to put the infrastructure bank on a statutory footing and to ensure that it is an independent institution. I shall have something to say about that, too. It is a company wholly owned by the Government—a registered company under the Companies Act 2006. It has a dual-track approach, to be entirely fair: it is not just about tackling climate change, although that is central; it is also about supporting local and regional growth. I agree with both aims, which are key. Net zero by 2050 is central to everything we need to do as a Government and a country, and for the bank to have a leadership role in that it is important, as it is on levelling up. To have public sector finance with leverage-in of private sector finance is very valuable.

I very much agree with what the noble Lord, Lord Teverson, said, about the need to address the climate change goal on a broader front—by addressing nature challenges. The Climate Change Committee set those

out very clearly in its independent assessment in 2021. We are near an ecological tipping point and we need a nature-positive economy. The report of the Dasgupta review, which the Treasury asked for, is seminal in that regard and much of the principle contained there should be in the Bill, front and centre. A basic difficulty I have with the legislation is that, on the one hand, there is not enough at the front of the Bill and, on the other, we are told that directions are coming forward under Clause 4 from the Treasury, independently of Parliament. We seem to be getting the balance wrong there and I should be interested to hear what the Minister has to say about that.

Moving on, the Bill's definition of infrastructure under Clause 2(5) is not exclusive but, I think, needs to be more all-encompassing. For example, it includes gas and sewerage but not energy efficiency. Why not? It would be simple to include it and I think we should. We need to accelerate what we are doing on energy efficiency to be anywhere near getting to the net-zero goal in 2050 and I cannot see any compelling argument why it should not be in Clause 2(5). We need more detail on that.

I also press the Minister on the nature of the bank's objectives and activities. I understand that the objects are set out in the company's constitution and that can be altered only by primary legislation, as the Bill makes clear—that is absolutely right—and infrastructure can be altered only by an affirmative piece of secondary legislation. I go along with that as well. So far, so good, but Clause 4 allows the Treasury to give a specific or general direction to the bank about how to deliver its objectives. If that were limited to the issue of devolution, to which I will come shortly, all well and good, but I do not think it is. It does not appear to be under the legislation.

What is the interaction between objects, which can be altered only by primary legislation, and directions under Clause 4, which can be altered by the Minister—the Minister, incidentally, who also appoints all the directors? There is double control there, and it seems to me to get the balance wrong, particularly if we are stressing the importance of the bank's independence, as the Minister rightly did. At the same time, Clause 4 says:

“The Treasury may give a specific or general direction to the Bank about how it is to deliver its objectives.”

As I said, that is the same person who was appointing all its directors. It does not look that independent to me.

I will also ask about the financial capacity. Twenty-two billion pounds sounds like a lot of money; it is made up of equity, debt and guarantees. It is a lot of money, but it does not seem as much when compared with other countries, such as Germany. Are we convinced that £22 billion is sufficient? I am also interested in hearing how that sum was arrived at, what evidence was taken and how that was assessed.

As I said, I am also interested—I am sure other noble Lords will be too—in the territorial extent and application, and the interaction with Wales, Scotland and Northern Ireland. I am pleased that the Government are quite clear that there is a devolved aspect to be dealt with. In fairness, Annex A in the Explanatory Notes is helpful in that regard, indicating which matters are reserved and which are devolved. Of course, there

is inevitably a grey area. This is the physics of it. What is also important is its chemistry: what provision are we making for discussion with the Welsh Government in the Senedd, the Scottish Government in Holyrood and the Northern Ireland Executive in Stormont? I hope that there are some measures which will be taken to ensure that, as a union, we protect all parts of the country in relation, not least, to the levelling-up part of the aims of the bank. I would be grateful if the Minister could indicate how she expects the interplay between the four parts of the United Kingdom to play out.

I have just two more points. First, on any potential conflict between aims, the Government have said—understandably and rightly—that energy security is important. We must look at energy security in terms of the operation of the bank. How does that interplay, though, with the need to ensure that we protect against high-carbon projects? Again, this perhaps comes back to the point of needing something in the legislation about a “do no harm” principle so that we can ensure that both aims are protected and one does not prevail over the other—otherwise, there is danger there.

Finally, I very much approve of the levelling-up part of the agenda in relation to the bank. The headquarters in Leeds is very welcome. It is a much more constructive move than the somewhat childish suggestion that the House of Lords goes to Stoke-on-Trent; it seems much more realistic and in line with what we should be doing. I am pleased about some of the earlier decisions on investment, which seem to be spread in south Wales, Teesside and so on—that, too, is valuable.

I am sure there will be many more points as we go through Committee and Report, but that was an overall view of the objectives and some general questions to my noble friend the Minister.

5.48 pm

**Lord Thomas of Cwmgiedd (CB):** My Lords, I too welcome this Bill and agree with much of what has been said by the noble Lords, Lord Bourne and Lord Teverson, on two issues: first, the need to clarify the relationship on devolution and, secondly, the broadening of the objectives so that they really do cover environmental aspects beyond climate change. However, other noble Lords are much more expert than me on those matters, so I want to direct my observations to three specific points.

First, to take up a point made by the noble Lord, Lord Bourne, it is very important that we clarify what is meant by “directions” under Clause 4. I welcome the idea of the Bank's independence. If you are looking after future generations, you must have a body not subject to political pressures. The Climate Change Act, in its balance, has at least provided a mechanism for doing that. What is meant by “directions” and, more specifically, what is meant by a “specific” direction? Does this mean that when the bank wants to invest in a project, it can be told that it must not do it by the Treasury? I very much hope, therefore, that the Minister can clarify this; otherwise one will have to look for some means of defining what is meant by “specific”.

The second point, which again has been touched on, relates to the appointment of directors. I am delighted to see that the Government accept that this



[LORD THOMAS OF CWMGIEDD]

Bill, when enacted, will be part of environmental law. The Treasury loves to appoint people with complete discretion—one can see that in the lack of restrictions on whom it can appoint to various boards—but now that we are dealing with environmental law, can Her Majesty's Treasury not look at the Climate Change Act and the Environment Act and see that the board as a whole needs a range of qualifications? I particularly urge the Minister to have regard to Schedule 1 to the Climate Change Act and Schedule 1 to the Environment Act—I do not want to take up time reading them out—which require the board as a whole to have certain of the qualifications necessary to ensure that it has the expertise to carry out its functions. I do not see how a board that has the twin objectives of dealing with climate change and perhaps broader environmental issues, and the development of regional infrastructure—within that I include development in the devolved nations—can do that without people with specific expertise. It plainly needs financial expertise, but in the case of the non-executive directors, in particular, whom the Treasury can appoint, there should be a model that is consistent with environmental law, not with the Treasury's general attitude, which is that it loves to control everything. I think it ought to realise that there is now a greater force than it.

Finally, I turn to Clause 8. The Explanatory Notes dryly explain that:

“This clause is intended to ensure that the duties imposed upon the Bank by the Bill are technically enforceable as a matter of law.”

In looking at environmental legislation—this is true in every country in the world—we have long learned that there is an inherent conflict of interest between the short-term and the long-term, and plainly in this Bill there is also a potential conflict of interest between economic development, and climate change and environmental protection. Indeed, this is recognised in paragraph 4.2 of the framework document:

“The Company's dual objectives of investing in projects to help mitigate and adapt to climate change, and to support regional economic growth across the UK have huge potential synergies. But occasionally these objectives will be in tension with each other, especially in the near term”,

which is a way of the Government conceding, in careful language, that there is an inherent tension in what is to be done by this bank.

Therefore, I return to the point raised by the noble Lord, Lord Teverson: how do we ensure that the bank meets its legal duties? The Explanatory Notes explain that Clause 8 is to do with ensuring that the articles of the company are consistent with what the Bill provides. I find it astonishing that we need a clause for that purpose, bearing in mind the control the Treasury has over the bank, but that is conceded when the notes state:

“It is not envisaged that these provisions will be needed in practice.”

However, we do need these provisions in practice: we need something to ensure that the duties of the bank are not merely aspirational, which is so much of what is said these days, but enforceable.

There are various mechanisms of enforcement. The Climate Change Act contains one; a legal duty enforceable in the courts is another. For example, one could think of giving the Office for Environmental Protection some

role in enforcing the obligations of the bank. However, one cannot buy a share in this bank and go to a shareholders' meeting, and one cannot bring an action as a shareholder against the directors, because there will not be any shareholders. The only people who can enforce this are Parliament—and I shall not make any observations about that—or the Treasury, which has an inherent conflict of interest: the short-term and long-term considerations.

Therefore, I very much hope that we look particularly at Clause 8. It is a very good clause in one sense, but we need to put something in the Bill to ensure that the bank's duties are not simply aspirational but are actual duties in a legal sense and can be enforced by someone with a motivation to enforce them.

5.55 pm

**Lord Holmes of Richmond (Con):** My Lords, it is a pleasure to take part in this Second Reading debate and I congratulate the Minister on the manner in which she introduced it.

It is often more helpful to look at the practical to see how something works, rather than what is potentially set out on paper. To that end, I ask my noble friend to give the House some details on the offshore wind deal that the bank did recently. What made this deal unattractive to the market and applicable to the UK Infrastructure Bank? Similarly, what analysis sits behind the proposed crowd-in figure of £18 billion. In many ways, it strikes me as somewhat conservative. Also, what analysis sits behind 20 basis points in terms of advantageous lending? Why is 20 basis points considered the sweet spot to attract people to this vehicle rather than others?

The noble Lord, Lord Teverson, rightly alighted on the question of risk. As other noble Lords have commented, this will be critical to how the bank operates, succeeds and is seen in broader circles. So I ask my noble friend to set out some commentary on the risk appetite of the bank; how will it differ from other existing lenders?

On crowding in, how will the bank enable angel investors and other sources of investment to be drawn into this model, as set against existing models? Similarly, what analysis has been done to ensure that crowding out will not be a feature of this approach?

On operational independence, I ask my noble friend to clarify whether the bank is free to lend and conduct other activities, such as guarantees, at any level and that there will be no Treasury involvement in the quantum of any business or deals the bank does.

As other noble Lords have commented, there is a lot to be said on definitions. Would the Minister not agree that having nature-based solutions in the definitions of infrastructure in the Bill would be a thoroughly good thing, not just in light of Dasgupta and COP, but closer to home? I gently direct her to the recent report on nature-based solutions of your Lordships' Science and Technology Committee, on which I was privileged to serve.

Finally, could my noble friend confirm that, if the plan is not clear, there is certainly a possibility that the route to privatisation is already seeded in this legislation? To that end, what is the proposed timeline and what would the bank's book look like at that stage?

We clearly have an infrastructure challenge, and thus opportunity, in this country. If the bank can play a positive role in that, it is all to the good. But does my noble friend not agree that, while economic infrastructure is critical, it fails to achieve a significant part of its objective and transform our nation in the way it might if it is not also firmly and fully tied to social infrastructure?

5.59 pm

**Baroness Noakes (Con):** My Lords, this Bill is about an organisation which has the Treasury's fingerprints all over it. The Treasury will control almost every aspect of what the UK Infrastructure Bank will do. It may well have operational independence, whatever that means, but its whole existence is circumscribed by what the Treasury tells it to do. The Bill features a statement of strategic priorities under Clause 3, and directions issued by the Treasury under Clause 5. Outside the Bill, there are already many documents, including an extensive framework document and a strategic steer letter from the Chancellor. The Treasury will appoint most of the board and will have, as one of those non-executive directors, its own representative on the board, who is to be given significant rights beyond those of a normal non-executive director. We should be in no doubt that this body will be the plaything of the Treasury, and it is surprising that its new chairman, for whom I have very high regard, would agree to be its front man.

Noble Lords will know that I am not in favour of a big state. We should not create new public bodies unless there is a clear problem to which existing institutions, both public sector and private sector, could not provide solutions. I am not convinced that this test has been met. I acknowledge that the Treasury has consulted on the creation of the UK Infrastructure Bank but there are always lots of people who want access to money on soft terms, or to pursue their obsessions. They will be the same people telling the Government that £22 billion is not enough.

The green lobby can be relied on to say that the transition to net zero will cost a very large amount of money. Those who used to access the European Investment Bank want similar access to cheap long-term money and they will doubtless say that it is not enough to compensate for what they used to get from the EIB. The mere mention of levelling up is always accompanied by a begging bowl. We should be very wary of those who just want more access to taxpayers' money. At the end of the day, it is just government expenditure in different clothes.

Noble Lords might have gathered that I do not like this Bill very much, but I am nothing if not a realist. To that end, I will focus on some specific concerns. First, the intention, as set out in the framework document but not in the Bill, is that this so-called bank should achieve additionality, which is expressed in the framework document as prioritising

“investments where there is an undersupply of private sector financing and, by reducing barriers to investment, crowd-in private capital”.

It will not be difficult to crowd in private capital. The UK Infrastructure Bank will sit there with a bit over 40% of its capital in equity form and it will also have access to National Loans Fund debt. That will give it a very low cost of capital compared with proper banks

and it would be very surprising if it failed to attract private money to ride in on the back of that. The bigger issue, which has been mentioned by my noble friend Lord Holmes of Richmond, is whether private capital will be crowded out. This is not even mentioned in the various documents that I have seen.

The arbiter of whether there is an undersupply of private sector financing will be the company itself. If the UK Infrastructure Bank gets that judgment wrong, it will take risks and fund propositions which could as easily be delivered by wholly private sector investment. The Economic Affairs Committee, on which I sit with the noble Baroness, Lady Kramer, is conducting an inquiry into the investment required for the transition to net zero. We have had evidence that there is a lot of investment money out there and that the barriers are more about clarity on government policy and on market models. The danger of crowding out is a very real one.

What will the Government do to ensure that the company does not crowd out the private sector? There appears to be no mechanism whereby the private sector can raise issues if they feel that the financial muscle of the UK Infrastructure Bank has been used inappropriately. My noble friend will be aware that if private sector companies want to be crowded into attractive deals, they will be very cautious about complaining too loudly about being crowded out. How will the Government ensure that the private sector is not steamrollered by this new pseudo-bank?

My second concern is the periodic review set out in Clause 9—the noble Lord, Lord Teverson, has already referred to this. I support the need for a review, but the Treasury should not undertake it because, given its very close involvement with the UK Infrastructure Bank, it comes very close to marking its own homework. As the noble Lord suggested, 10 years is just far too long before the first review.

In addition, the review's scope deals with effectiveness in delivering objectives, but additionality, which I referred to a few minutes ago, is described in the framework document only as an operating principle and not as an objective. That implies that crowding in or out of the private sector will not be covered in a review under Clause 9. We will need to look at Clause 9 in some detail in Committee.

I have two specific questions for my noble friend the Minister. The first concerns the role of the Comptroller and Auditor-General and the National Audit Office. As I understand it, the C&AG has been appointed as the company's current auditor. The framework agreement is silent as to whether this will continue or, if a commercial audit firm is appointed as the company's auditor, whether the NAO will continue to have access rights to the company. It is important that the needs of parliamentary scrutiny and accountability are properly set up for all public bodies when they are created, and we have to ensure that the C&AG can examine the economy, efficiency and effectiveness of the way the UK Infrastructure Bank operates at any time. I hope my noble friend will confirm that that is indeed the case for the UK Infrastructure Bank.

My second question is on the interaction between the UK Infrastructure Bank and financial regulators. The framework document refers to the possibility that the company's activities will be within the scope of the

[BARONESS NOAKES]

PRA and the FCA. Can my noble friend explain what in practice this is likely to mean? What activities are likely to engage the financial regulators and what are the implications of that? For example, will the company be subject to the rulebooks of the PRA and the FCA?

The Green Investment Bank lasted only a few years before it was sold off to Macquarie. That reflected a sound Conservative principle that the state should not do what the private sector can do equally well or better. In that light, I wish the UK Infrastructure Bank success so that a future Chancellor of the Exchequer can privatise it.

6.08 pm

**Baroness Young of Old Scone (Lab):** My Lords, I always like following the noble Baroness, Lady Noakes, who I have disagreed with—I was just working it out on the back of an envelope—for 44 years. I declare my interests as chair, vice-president or commissioner of a range of conservation and environmental charities as listed in the register.

I welcome the establishment of the UK Infrastructure Bank and the opportunities it provides for building back better across the UK regions. As many noble Lords have said, the dual mission to enable investment for net zero and for the levelling-up process is good, but I agree entirely with the noble Lord, Lord Teverson, and others that the Bill is lacking, since it fails to task the bank with supporting wider environmental goals, specifically the Government's environmental flagship target of recovering species by 2030. I call on the Government to add this vital third objective of species recovery to the bank's objectives in the Bill and to ensure that it is strategically equipped to help deliver the Government's nature recovery objectives.

Giving the bank a role in broader environmental delivery would also help support the other two objectives that it already has. It is universally recognised internationally and in the UK that climate change and biodiversity decline are two sides of the same coin and need to be tackled in an integrated way; net zero cannot be achieved without fixing biodiversity decline and biodiversity decline cannot be reversed without fixing net zero. Investment in both net zero and biodiversity recovery projects delivers jobs and improvements in the quality of place that are necessary for the levelling-up agenda. The whole thing is inextricably linked, and we need these three objectives to work together.

I will give noble Lords some examples of where biodiversity improvement and climate change action help with the levelling-up agenda. Projects to improve woodland, peatland and parks could not only deliver climate change and biodiversity benefits but support over 16,000 jobs in the 20% of UK constituencies with the worst labour market outcomes, such as Copeland, County Durham, Wolverhampton and Ashfield. Restoring the UK's coastal environment could result in benefits, both in adaptation and mitigation, worth £50 billion by 2050 and create over 100,000 new jobs. We need all those objectives to be part of the bank's role. The Bill's Explanatory Notes mention opportunities for investing in nature, but Explanatory Notes are not enough. This needs to be not just in the background as a hope but in the foreground as a third statutory objective.

The Minister kindly arranged a briefing with the chief executive officer and staff of the bank yesterday, for which I thank her, although I took part from a Costa café at Blackfriars, which was slightly unsatisfactory. At the briefing, we were told that the Treasury did not want to give the bank such a third objective on the grounds that the bank's task was to fill gaps in the market and at the moment there is no established market in biodiversity delivery. The Minister said there might be a reconsideration of objectives if natural capital markets emerged, but she has just told us that that would require primary legislation—so I put that in the “too difficult” box. We need the objective now. The Bill is clear that the bank will have a role in crowding in private funding, developing markets where they are insufficient and applying covenants and conditions in its lending to help drive markets, so I believe that it should have a statutory role in market development in tackling biodiversity decline as well as climate change.

We also heard about the Treasury's strategic steer. I must admit that I am slightly nervous about strategic steers from the Treasury. It mentions natural capital and biodiversity, but, if that is important enough to be in a strategic steer, why is it not important enough to be a statutory objective? It is intended that the strategic steer will be revised approximately once per Parliament and will be used by the bank to inform its strategic plan. Steers can alter from time to time and from Government to Government, while statutory objectives are less easy to quietly lose sight of. The bank is due to publish its strategy next month. We will be able to judge from that strategy the proof of the bank's reflection on the Treasury steer in its commitment to biodiversity. Can the Minister gee up the publication of the strategy a bit to allow the House to judge the effectiveness of the steer process so far, before the House needs to reach a final view on whether such a third statutory objective is vital, as I believe it is? Let us see the strategy and what it says about biodiversity.

We also heard at yesterday's briefing that the bank already has a principle of doing no net harm to climate change objectives in fulfilling its levelling-up objective. That is another reason why having biodiversity under broader environmental objectives is important. Can the Minister assure us that the bank will have a principle of doing no net harm to biodiversity and the broader environment in pursuing its statutory objectives? It must not fund projects which impede the delivery of the Government's climate change or biodiversity targets, as enshrined in the Climate Change Act and the Environment Act. I believe that these no net harm principles should be statutory rather than just reliant on Treasury guidance or the bank's sense of duty, which could evaporate. In the light of all this, should the Bill's definition of “infrastructure” also be reviewed, as other noble Lords have said, to include nature-based solutions and enable the bank to consider these types of investments as part of its strategy to meet climate change and adaptation goals?

The Bill also raises other questions in my mind. It has already been raised that there is a big hole in the Government's energy policy and energy security strategy, in the lack of focus and funding on energy efficiency measures, especially the retrofitting of the current housing stock. This is a vital element in meeting the



net-zero challenge, but the Bill is absolutely silent on whether the bank will be able to focus on energy efficiency. Can I urge that the bank has a clear role in developing the market and funding for this major retrofit programme, with its significant contribution to jobs and warmer homes, which are also vital for the levelling-up agenda?

Lastly, the Bill requires periodic reviews of the bank, as other noble Lords have said, but the first one is required only

“within 10 years of the Act coming into force”.

That is too long. I would not go as far as the noble Lord, Lord Teverson, and say that I want it reviewed before I die, but noble Lords will kind of get the gist. I know that the bank will need a little time to establish itself and demonstrate impact, but 10 years is a bit of a stretch of the imagination.

I was very interested in the concerns of the noble and learned Lord, Lord Thomas, about the appointment of directors. I must admit that I was a bit concerned that, as far as I can see, none of the current non-executive directors of the bank has an environment or climate change background whatever—so the noble and learned Lord has a point.

In summary, the Government have elsewhere committed to clear objectives for net zero and halting biodiversity decline, as well as to the levelling-up programme. The three are interlinked, with natural capital projects, ecosystem services markets and nature-based solutions all capable of contributing to jobs, improvement in place and social justice. It is illogical that this important bank is tasked with only two of these three interlinked objectives. We should have a greater ambition for it.

6.16 pm

**Baroness Hayman (CB):** My Lords, it is a pleasure to follow the noble Baroness, Lady Young of Old Scone, and to speak in this debate. I declare my interests as co-chair and a director of Peers for the Planet.

It is also a welcome change to be discussing legislation where we do not have to argue the need to put net zero and the Climate Change Act on the face of the Bill. This is an innovation, and one that I hope will be repeated, but, as the Minister will have understood from the speeches made already today, there is another front opening up: the front of nature recovery and the importance of that being in the Bill. This bank is a central part of the UK’s infrastructure ecosystem and represents an important delivery tool for both levelling up and decarbonising the economy; for helping to scale up the markets for much-needed technology such as battery storage; for supporting new jobs through the circular economy; and, I hope, as others have said, for turbocharging the energy efficiency and retrofit measures that are so necessary, given the dire state of our building stock.

The current objectives set out in the Bill of helping to tackle climate change and promoting regional and economic growth underpin its strategic direction, and the bank’s background documents recognise the “huge potential synergies” between these objectives. But there is, as others have said, another synergy that is not spelled out in the Bill: the key opportunity the bank has to deliver for nature recovery and for the UK to be a world leader in nature-based investment. That investment

could be for natural flood management, peatland restoration and repairing coastal habitats; and it could be for projects which protect and enrich our biodiversity, improve our resilience to climate change and provide opportunities, through the employment they give, to address regional inequalities. Ensuring alignment between the objectives of levelling up, tackling climate change and aiding nature recovery would in fact make it easier to achieve the economic growth we all seek.

There have been estimates that agriculture and nature-based investments could generate financial returns of £4 billion a year by 2050. Investors are starting to seize these opportunities, but there is a huge funding gap, estimated by the Green Finance Institute at £56 billion over the next 10 years. This is referenced in the “strategic steer”—a phrase to which I think we will return during the course of the Bill—given to the bank by the Chancellor, which also identifies

“several barriers to finance that need to be addressed for a mature commercial market to develop”.

To bridge this gap, it notes:

“Private sector involvement in the market will need to scale up significantly”.

I hope that UKIB can be part of and help to drive the development of this crucial market, because the work that government has already undertaken firmly underpins the argument that nature should be more clearly embedded within the Bill. In 2020, the Natural Capital Committee called for

“all publicly-funded infrastructure ... to invest in maintaining and enhancing natural capital.”

The Treasury-commissioned Dasgupta review echoed this, and the Government’s response committed to embedding environmental considerations and a “nature-positive approach” across infrastructure portfolios. Similarly, there is strong evidence that accelerating the development of nature-based projects through UKIB would make a meaningful difference to economic growth and levelling up, as well as climate adaptation. We have an opportunity to secure greater ambition on nature now by including it on the face of the Bill. We need to recognise the urgent need to respond, most recently articulated by the first monitoring report of the Office for Environmental Protection, which advised the Government:

“Do not delay in making the changes necessary to protect, restore and improve our environment.”

Setting natural capital alongside the existing objectives of climate change action and supporting local economic growth—as well as ensuring a robust approach to these objectives in the operational, transparency and governance provisions of the Bill—would not only serve to implement the recommendations of the Government’s experts; it would set a clear trajectory for the bank and a strong example both domestically and globally that infrastructure can help to deliver a nature-positive future, and in so doing contribute to net-zero targets and the regeneration of UK regions, and bring economic growth to the UK.

The Minister set out in her opening remarks the Treasury’s view that support for nature-based solutions can be delivered through the bank’s existing policy framework without the addition of a specific third objective. Like others who have spoken, I am far from convinced that this is correct, so I look forward to exploring at further stages in the passage of the Bill

[BARONESS HAYMAN]

how we can include tackling biodiversity loss and nature recovery as a clear, mandated objective for the bank. Having listened to other noble Lords, I also look forward to the debates that we shall have on the governance of the bank and the role of the Treasury in ensuring its independence.

We have an opportunity to ensure that the UK Infrastructure Bank will be a world leader in supporting nature's recovery, a subject on which I heard the Minister's colleague the noble Lord, Lord Goldsmith, speak eloquently at an event only today. I hope that we will grasp that opportunity; I look forward to future debates, and to strengthening the Bill as it proceeds through the House.

6.23 pm

**Lord Sarfraz (Con):** My Lords, I agree with all that has been said by noble Lords today and I am grateful to my noble friend the Minister for hosting a very useful briefing yesterday. The bank has made its first six investments, two of which are in infrastructure funds managed by third parties. It would be very helpful to get a sense of how much direct investing, versus fund investing, the bank intends to do. Your Lordships will remember how the CDC—now British International Investment—changed its investment strategy several times between direct investing and fund investing; it would be helpful to understand what lessons the Government has learned from that experience.

There are many specific questions around the bank's overall investment strategy: deal sizes, deal types, allocation by stage and geography, and value added after investment. All this is to be made clear in the bank's strategic plan, which we have not yet seen and is to be published in June, but I hope that my noble friend will consider sharing more specific detail on the bank's investment strategy before Committee. For example, the bank has held consultations with over 100 organisations; it would be useful to see a summary of the findings if one is available.

Meanwhile, I have two very specific concerns. The bank's big strategic objective is to help to tackle climate change. This is a wonderful thing but it is important to be clear what methodology, techniques and standards the bank will use to measure its impact. Perhaps the Minister can address this point.

Secondly, as the noble Lord, Lord Teverson, said, Clause 9 means that it is entirely possible that, in 17 years, the bank's shareholder will have reviewed its performance only twice. That is just incredible. I do not know of any individual company, foundation or endowment—not anyone—who would conduct such infrequent reviews of their investments. If this was a private bank, its shareholders would demand a lot more in terms of reporting. There is no reason why the Government should not do so as well.

6.25 pm

**Lord McDonald of Salford (CB):** My Lords, like all noble Lords—with one signal and articulate exception—I too support the establishment of the UK Infrastructure Bank. The Bill to give the bank a statutory basis is part of the essential and, I hope, accelerating effort to put the environment at the heart of everything that the Government do.

The bank has just two strategic objectives. The first is that its investments must help to tackle climate change. I have one point to make—speaking in the middle of the debate, it is not an entirely novel point, but I hope that the Minister will be persuaded by repeated advocacy—but that point needs a strategic context. The context is the massive strain that humankind is putting on the planet where we live.

To expand that context, I cite David Attenborough. A few years ago, he came to address the leadership conference of the Foreign Office. An ambassador asked him what the clearest thing he had learned was, after all his decades of travelling the world and filming nature. Sir David contemplated this, then answered as follows: “It is impossible to exaggerate the impact of humankind on the planet.” He illustrated this with a story from Madagascar. In 1961, he was part of the first expedition to film the indri, the largest lemur in the world. They had to be very patient but, eventually, they got their footage. Sixty years later, two amazing things have happened. First, this shy animal has got completely used to human beings. When guides take you into the mountains now, they whistle and the indri appears for its photo. Simultaneously, people have completely destroyed its environment. The indri is now critically endangered because the mountains it needs to live will not be available to it for much longer.

Although climate change is absolutely vital, I join others such as the noble Baroness, Lady Hayman, in advocating for nature to be on the face of the Bill. Climate change is important but biodiversity loss, plastic in the oceans, air pollution and deforestation are all vital too. Let us put nature and its restoration in the strategic objectives.

6.28 pm

**Lord Ravensdale (CB):** My Lords, I welcome this Bill. I start by declaring my interests as a project director with Atkins and a director of Peers for the Planet.

To meet the Government's strategic objectives of net zero and levelling up the UK, large amounts of infrastructure investment will be required. As a simple example, it is estimated that, to decarbonise our electricity system, we will need to install between nine and 12 gigawatts of new capacity every year—more than double what we have managed in recent years. I will concentrate my remarks today on the objectives of the bank, starting with levelling up.

Today marks the opening of the new Elizabeth line. Crossrail is a fantastic engineering achievement, and it will be an enduring tribute to our longest serving monarch. However, it serves to illustrate the gulf in infrastructure investment between the regions. In my home region of the Midlands—I note here that I am co-chair of the Midlands Engine APPG—spending on transport is £289 per head for the east Midlands and £492 in the west Midlands, compared to £882 in London. The Midlands is a region of 11 million people. In order for the Government to level up and meet the aspirations in their White Paper, these disparities will need to be addressed and vast investment funnelled into the regions. We need a Crossrail for the Midlands and north too. That is me with my begging bowl—in response to the noble Baroness, Lady Noakes.

It was very welcome to see the letter from the Chancellor on his strategic steer to the bank, as indeed were the Minister's opening remarks. This referred specifically to

“the need to end the geographical inequality which is such a striking feature of the UK and it is important that UKIB supports this ambition.”

However, the wording in the Bill that relates to levelling up is somewhat ambiguous, referring only to supporting “regional and local economic growth.”

My reading of this—perhaps the Minister will correct me—is that it leaves much open to interpretation. Almost any infrastructure investment anywhere in the country could be argued to support economic growth in the region or local area in which it sits. A new transport scheme in London, for example, would meet this criterion by supporting local and regional economic growth in the city.

As the Minister highlighted, the effects of agglomeration work against infrastructure spend outside of the metropolis. The economic return is simply much better in areas that already perform well, so those projects have a much better chance of proceeding. Inequality becomes entrenched and self-fulfilling. That is why the recent reforms to the Green Book were so welcome.

Given that the bank will also be working to address these areas of market failure, it is key that its mission is clear in the Bill. Wording such as “regional developments”, or references to “disadvantaged areas” or “geographical inequality” in this objective, would address this issue. I look forward to hearing from the Minister about it in her summing up and will potentially come back to it in Committee.

Secondly, the bank has an objective of helping to tackle climate change, referring to the Climate Change Act 2008. There are some great synergies between these two objectives, as other noble Lords have already pointed out. I highlight the Midlands Engine's industry-led *Ten Point Plan for Green Growth*, which seeks to map out a strategy to level up the region by focusing on our strengths in low-carbon technologies and the natural capital we have in the region.

To strengthen the environmental objective of the bank, there is a great opportunity here for the Government to recognise biodiversity and nature as a specific objective in addition to net zero. To echo what the noble Lord, Lord Teverson, said, placing biodiversity on an equal stature with climate change is absolutely vital. I will not expand on this as it has already been eloquently explained by many other noble Lords. I hope the Minister recognises that this area is important enough to include in the Bill as its own separate objective.

6.33 pm

**Lord Davies of Brixton (Lab):** My Lords, I thank the Minister, the noble Baroness, Lady Penn, for the helpful meeting yesterday, at which we explored the background to the Bill. Unfortunately, I am still not entirely clear as to why we need this Bill to establish an institution that is already up and running. I still think that, to some extent, it is because of what it looks like: “Look: we're doing something.” It is legislation as performance. But no harm is being done and we all support the objectives, so why not? That is what I

wrote here—until I heard the comments from the noble Baroness, Lady Noakes, who presented quite a convincing case from a rather different perspective.

Lying behind this is this concept of market failure, which has been little explored in this debate. It is not a new concept; we can go back to the 1930s and the Macmillan gap. Governments and their advisers have often come up with this concept that the market is failing and that government needs to establish institutions that will fill the gap. With new objectives, this is just another iteration of quite an old idea.

We have been given some examples of the sort of projects this bank will support. There are several, but the two that stick in my mind are emission-free buses for the West Midlands and, as mentioned earlier, the largest solar farm. I struggle with this. Why are we not doing these anyway? Why does it require this bank to achieve these things, which should be happening? I do not think the Minister or the Government as a whole have really told us or explained what the market failure here is. They just use the phrase market failure without identifying what exactly it is. We are told we have the most effective financial market in the world in the City of London, but it cannot provide Birmingham with emission-free buses or build a solar farm without the Government intervening. That seems a pretty fundamental problem.

This is the result of a period of discussion and debate about infrastructure and how it should be financed, but I really do not feel that what we have here has got to the bottom of the issue. The important point, again to quote the noble Baroness, Lady Noakes, is that this is a creature of the Treasury. However you dress it up, the money will be guaranteed by the Treasury, so it will effectively be gilts. However you describe it and whatever the technical structure, the Government will stand behind the money in this bank, so it is effectively gilts. It is just a way of feeding government money into created structures, and it strikes me as a complicated structure to achieve something relatively straightforward in a planned economy. As the noble Baroness said, it is government expenditure in different clothes.

My particular concern is whether there is some relationship or interface with the plans the Government have for pension funds. Last summer we had a joint letter from the Prime Minister and the Chancellor of the Exchequer. They wrote an open letter to those who look after our £2.6 trillion pension fund industry and said they should be investing more in

“the fruits of UK ingenuity and enterprise”.

They called on UK investors to

“back British success stories, and secure higher returns and better retirements.”

We will come back to this issue; we are promised some legislation or government action on these proposals this summer. What is the relationship between this bank and the money in people's pension funds? My strong view is that pension funds are there to provide pensions and that if the Government think that infrastructure is required, it is the Government's job to provide the infrastructure.



6.39 pm

**Baroness Boycott (CB):** My Lords, it is a pleasure to be part of this debate. I add my voice to those saying that we can no longer see biodiversity as separate from climate change. Everywhere you look, the two are not just different sides of the same coin; they are indeed the same. As we acidify the oceans, we lose the phytoplankton that absorbs carbon, which then affects the whole system. Each thing compounds the other, so while of course it is a fantastic opportunity to deliver some of the Government's key strategic ambitions, it is incredibly important that delivery on nature is included as one of the bank's strategic objectives.

The World Economic Forum recently said that global annual investment in nature-based solutions will need to quadruple to avoid the planet's environment being pushed literally to the point of no return—it will not be able to regenerate. In the UK, we put very little investment into nature-based solutions, which is very unimaginative. We can find good examples but they are small. Most of the Government's focus is on a few solutions such as tree planting. Wider nature restoration is so underinvested, with just 0.02% of UK GDP spent on restoring nature in 2018-19. Fantastically that, according to Wildlife and Countryside Link, was less than was spent on pothole repairs. Given that roads caused the problem in the first place, this is a bad state of affairs.

Like every other noble Lord in this House, with one exception, I welcome this bank. I am sorry we need it; we should be doing this stuff in the Treasury anyway, as has been promoted by Dasgupta and others. It is very important to see how many co-benefits come from linking up our delivery on tackling climate change and levelling up with delivery on nature. There are jobs and opportunities, and the restoration of all the beauty around us.

The Government's response to the Dasgupta review, which many noble Lords in this House have debated over the last three years, recognised that

“more needs to be done ... if we are to deliver a nature positive future.”

They are committed to

“ensuring economic and financial decision-making, and the systems and institutions that underpin it”.

So it is disappointing that, in view of the catastrophic decline in nature, as highlighted by the OEP, the Government have not taken the opportunity, following their review, to add a third natural capital objective to the bank's overall objectives. Will the Minister reconsider this decision and help the UKIB to be a world leader in driving investment on this? Certainly, many noble Lords will be tabling amendments on this crucial point.

The Chancellor provided a strategic steer to the bank in March, setting out the detail of the Government's priorities. He said:

“I'd encourage you to prioritise opportunities that align with the government's renewed focus on energy security. Examples of relevant opportunities may include helping to bring forward low carbon energy projects that accelerate the UK's transition to clean energy and improve the energy efficiency of buildings and homes.”

This is great. He also said:

“The Bank should work closely with central government to ensure its activities are complementary to ... Net Zero”.

However, the Bill's definition of infrastructure includes gas and roads, so I am concerned that these projects will be those that are actually funded and that they will cut across many commitments to net zero.

Nature investments have a much higher cost-benefit ratio than traditional infrastructure, with £4.60 returned for every £1 invested in peat-land and £2.80 returned from woodland, as highlighted by Green Alliance. The WWF reports that agriculture and nature-based investments could generate financial returns of £4 billion a year by 2050. Will the Minister consider including natural capital projects within the definition of infrastructure in the Bill? The returns speak for themselves, as does the commitment we need to bring. This is part of levelling up; these are projects in which communities will be involved. They are obviously more complicated to administer, so everything about the structure and directorships of the bank, or the questions of experts on its board, is crucial. If we miss this opportunity, however, we will ultimately fail in our goals towards net zero.

6.43 pm

**Baroness Bennett of Manor Castle (GP):** My Lords, it is a great pleasure to follow the noble Baroness, Lady Boycott. I declare my membership of Peers for the Planet and my position as vice-president of the Local Government Association.

I start with the irony highlighted by the noble Lord, Lord Teverson. To anyone listening to our debate from the outside, welcome to the see-saw. Today, we have a powerful demonstration of the utter failure of our system of governance. One Government set up the UK Green Investment Bank plc in 2012; a few years later, it is sold off to an Australian investment bank, Macquarie, with an extremely dubious reputation, through a process that the Public Accounts Committee concluded was deeply flawed. Now, we are essentially re-creating that thing that we destroyed a few years ago. We come to this debate having considered earlier today a report on children's social care, which highlighted that one Government created an extensive network of Sure Start centres. They have now been destroyed and we are looking to re-create something similar again.

We have an archaic, dysfunctional constitution, delivering governance that see-saws between creation and destruction, taking with it jobs, knowledge, skills, institutions and infrastructure. We talk a lot about the failures of the British economy, sometimes blaming British workers. Why do we have a productivity problem? Perhaps we have an extremely unproductive, ineffective system of governance. It is easy to blame individuals but the underlying problem is the structure.

I have focused on that point—some noble Lords may feel that I have laboured it—because the Minister highlighted the problem in her introduction. I wrote down some of the adjectives she used; she said that they are aiming to create something “long lasting”, “long term” and “enduring”. There is a positive point to be made here, because if there is any part of our government structure that can engage in an act of co-creation, see different sides of politics get together and, I hope, agree on something that will endure for the long term through different Governments, weirdly enough, in our constitution, the House of Lords might

just be the place where it can be done. I hope and am confident that the Minister will approach Committee and Report in that light.

We have possibly seen a positive sign in getting a perhaps ideologically unlikely alliance between the noble Lord, Lord Davies of Brixton, and the noble Baroness, Lady Noakes, who are both questioning whether we should be creating a bank to do this at all. Like the noble Baroness, Lady Boycott, I would not want to start from here; I would not want to see the Government putting money into all this and seeing all this happen anyway. Given that we do start from where we are, however, we have a chance to try to do something positive. However, I agree with the noble Lord, Lord Bourne of Aberystwyth: £22 billion sounds nice when you say it quickly, but when you look at the goals being set before it and recall that the 2019 Green Party manifesto talked about spending £100 billion a year on tackling the climate emergency, that perhaps sets the scale for what we are talking about here.

Many noble Lords have already covered—I will not go over the same ground—the essential need to write the biodiversity crisis in alongside the climate emergency. I note pretty much total agreement between the noble Baronesses, Lady Young of Old Scone and Lady Hayman, and many others who have made that point. However, as you might expect from a Green, I would like to go much further, because even just focusing on climate and nature does not go nearly far enough. We have clearly identified and documented nine planetary boundaries that we are breaking, and we need to think holistically and systemically in the way set out by the sustainable development goals that our Government and all global Governments have agreed to—to look at this in a complete, holistic way. The Bill might be a place where we can start to do that. More than that, it might be a place where we can start to do doughnut economics.

I come down to some specifics of how we might look at changing the Bill to do this. When I talk about doughnut economics, I am talking about tackling the huge social crises that we face, as well as the environmental crises. Clause 2(3)(b) says that the objectives of the bank are

“to support regional and local economic growth.”

To pick up some points made by the noble Lord, Lord Ravensdale, why are we just talking about growth? Who is the growth for and where are the benefits of that growth going? Surely what we need for levelling up is to tackle poverty and the massive issues of public health—such as the differentials in expected lifespan that we see in different parts of the country—and social infrastructure, as the noble Lord, Lord Holmes of Richmond, who is not currently in his place, said. We need to look at Clause 2(3)(b) and find a way of saying how this delivers for the people of Britain in our most disadvantaged areas. Just saying “growth” does not do that.

Clause 2(5)(a), which I think we will be talking about a great deal, refers to

“water, electricity, gas ... or other services”.

Many noble Lords have highlighted the urgent need to conserve energy, home energy efficiency et cetera—we talk about this endlessly. I am not a lawyer but, at a

stretch, one could perhaps define “services” as including reducing the demand for those services. None the less, it is clear that we need to write that into the Bill.

More than that, one of the huge issues we face socially at the moment is food security—something which the Government are now increasingly acknowledging. This is where we can really start to join up the social and the environmental. Yesterday, I happened to be at the global conference on biocontrol, which was looking at the ways in which we can use biological knowledge to control pests and diseases of crops, getting away from chemical pesticides. This is an industry which is very much dominated by small and medium enterprises, which are significantly undercapitalised and have huge problems getting through regulatory barriers. That might be a great area for the UK Infrastructure Bank to get involved in. Building up the infrastructure of our agriculture and supporting agroecology meets both environmental and social objectives.

On Clause 2(5)(b), we again come to the point about social and environmental impacts. I do not believe that this new bank should be investing in one new road; new roads are not benefits to people, and they are certainly not benefits to the environment. I can guarantee that there will be an amendment coming from me on that basis.

Coming back to a couple of general points—I warn noble Lords that I will get more radical yet—the noble Lord, Lord Teverson, pointed out that the previous Green Investment Bank rather went for the safe, the money-making and the certain. We must ask the question: is this bank here to make money or to deliver for our society? Here I join with the noble Baroness, Lady Noakes, and the noble Lord, Lord Davies of Brixton, both of whom reflected on the dictatorship of the Treasury. Is this the right department to oversee this bank? This Bill is written for the purposes of levelling-up and for environmental improvement. Why not give joint control of the bank to Defra and the Department for Levelling Up, Housing and Communities? After all, that is what this is supposed to be for—I am not sure what the noble Baroness, Lady Noakes, will think about that; I wait to see her response.

I am not going to get into detail about this, but I note the point made by the noble Lord, Lord Bourne of Aberystwyth, and I very much look forward to the contribution of the noble Lord, Lord Wigley, on the issue of ensuring that this is not yet another imposition from Westminster on the other nations of the UK. Failing a level of control being taken away from the Treasury, I think that the points of the noble and learned Lord, Lord Thomas of Cwmgiedd, about the qualifications of the board were really important.

Finally, on climate considerations, I think that we need to include terminology around renewable electricity in Clause 2(5)(a). It is absolutely crucial that this does not include gas and does not go towards funding fossil-fuel investments. We have seen reports that BEIS is trying to define green investments as including gas as a transitional fuel. But that ignores the fact that we must shift to renewables now—renewables are the cheapest and best option. Fugitive methane means that gas must not be included in the activities of this bank.

6.54 pm

**Lord Wigley (PC):** My Lords, I am delighted to follow the noble Baroness, Lady Bennett, and I agree with very much of what she said—although it appears I am so predictable that she was projecting what I might raise in my own contribution. However, she put forward some intriguing ideas which I hope we can explore further in Committee.

This is a very thin Bill, but it has significant implications when linked to earlier legislation and to government guidance over the last couple of years. When this legislation reaches the statute book, it is important that we all understand how the infrastructure bank can be best used, in partnership with relevant authorities—devolved and local—and in tandem with their strategies and initiatives. We shall clearly need to examine what opportunities might arise in relation to the central question of climate change and, equally, what dangers may lie in it, partly from having unclear demarcations of responsibility and partly from real differences of objectives and strategies to achieve those objectives, which may relate to the perceived market failures which the noble Lord, Lord Davies of Brixton, mentioned a moment ago.

The bank is flagged up as a replacement for the European Investment Bank. We in Wales secured considerable benefits from the EIB, which helped finance a range of projects, spanning infrastructure projects of the sort which may well fit into this bank's objectives but also projects in the higher and further education sector and cultural and research projects. I am far from clear from reading the Bill, together with the earlier guidance documents, as to the extent to which this range of activities is one which the Government intend the bank to deliver. Perhaps the Minister could clarify that when she sums up the debate.

I welcome the objectives of the Bill as spelled out in Clause 2(3)(b), namely

“to support regional and local economic growth.”

However, in doing so, what are the responsibilities on the bank to work with the grain of devolved government, regional government and local government, or can the bank launch itself in any part of these islands, following projects that may be totally at odds with the policy of local government in the area? I am aware that *UK Infrastructure Bank: Policy Design*, published in March 2021, in chapter 5 states explicitly that

“The Bank will operate across the whole of the UK, working closely with public and private sectors to support infrastructure investment in every nation.”

It also states:

“Building strategic relationships with the devolved administrations ... will be a priority.”

I assume that our present Bill is intended to build on such sentiments, in line with the statement in that document in the same chapter:

“The UK Government will be engaging with representatives from the devolved administrations in the next phase of the Bank's design.”

Please can the Minister confirm that the provisions of the Bill before us tonight have been thoroughly discussed with the devolved Administrations, that there is agreement on the content of the Bill, and a meeting of minds as to how its powers will be rolled out and applied in practice within the devolved nations?

The policy design also refers specifically to building a strategic relationship with the Development Bank of Wales. Can the Minister confirm how much work—if any—has actually taken place on this aspect, since so much that we hear places an emphasis on providing loans to local authorities? Is there a full meeting of minds between the Treasury and the Welsh Government on these matters?

In this regard, there may be a danger of unnecessary and unhelpful competition developing between Wales's development bank on the one hand, which has been given responsibility for many of these functions, and, on the other hand, the infrastructure bank. I hardly need to remind the House that many of the strategic responsibilities within whose framework the UK Infrastructure Bank will work in England have in fact been devolved to Wales and Scotland, and to Northern Ireland when there is a fully functioning Government there. These include roads, planning, water, sewerage, aspects of rail transport, local government and—of course, of central relevance—environmental matters.

Can we be assured that in regard to its activities in Wales, the infrastructure bank will work in tandem with the Welsh Government's strategic objectives and will neither try to undermine them nor run a competing regime, which would confuse the business sector, local government and the general public? We need clarity as to how the infrastructure bank will work with the devolved nations. Have the Government discussed the Bill's content with the Welsh and Scottish Governments, and have they reached agreement with them regarding its implications for those two nations?

As always, the devil is in the detail. For example, what on earth is the meaning of Clause 2(5)? It reads—and I am selective in this quotation—

“Infrastructure includes ... facilities relating to ... other services”.

Okay, I have left out a couple of words, but that is what it says. What does it mean? Those words could mean absolutely everything or nothing. The Government seem to be uncertain about what aspects of infrastructure they intend to come within the remit of the Bill. In Clause 2(6), the Treasury is given the power to change the meaning of “infrastructure” to anything in the wide world it chooses to deem as infrastructure, subject only to a statutory instrument that can so easily be steamrollered through Parliament. For example, if the bank in its wisdom decided to finance a new trunk road—heaven forbid, I hear the noble Baroness, Lady Bennett, saying—which the local authority supported for economic reasons but the Welsh or Scottish Government opposed for environmental reasons, can the Minister give a categorical assurance that the bank cannot ride roughshod over the policy of the devolved authorities? What guarantee can the Minister give that the bank, by making finance available for one set of projects but denying finance for other projects, is not undermining or distorting the power of the devolved Governments to establish their own priorities?

I have a question relating to the vexed issue of the building of reservoirs in Wales, such as when Liverpool drowned the Tryweryn valley in order to get a supply of industrial water which it proceeded to sell, so profiteering from the transaction. Can we have an assurance that the infrastructure bank could never be



used to bankroll such a project or be associated with it unless it was agreed by the Welsh Senedd and the relevant local authority? What about housing? Does not housing form an essential part of the economic infrastructure of an area, and certainly of the social infrastructure? Does not the retrofitting of old housing stock play a major role in withstanding climate change? Is this within the purview of the bank? Please can we have clarification on whether the infrastructure bank will be entitled to provide finance for building affordable housing and improving existing housing stock, particularly in rural areas threatened by chequebook invasions of retired people who undermine local people who wish to live in their home area, as happens in Wales, Cornwall and the Lake District? There are so many questions that need to be answered if this Bill is to go forward. I am certainly not opposing this Second Reading, but the Bill needs to be clarified when we move forward to Committee. I look forward to the Minister's response with interest.

7.03 pm

**Lord Vaux of Harrowden (CB):** My Lords, I was privileged to be a member of the EU Financial Affairs Sub-Committee when it conducted its inquiry into the impact of Brexit on our membership of the European Investment Bank. One of the key recommendations in our report was that the Government should consult on establishing a UK infrastructure bank to replace our access to EIB finance, so I am delighted that the Government have chosen to do so.

That said, I have some concerns about what the Government are proposing in this Bill. While I am sure that we are all extremely grateful that the Bill does not run to the usual hundreds of pages, it could be improved with a bit more content. I hesitate to use this first sentence after the speech of the noble Lord, Lord Davies, but the principal function of an infrastructure bank should be to correct market failures that prevent a good project obtaining private finance in the market. That might mean the bank taking on new-technology risk, for example, or term risk where a project is longer term than is usually covered by the private sector. It should aim to act as a cornerstone investor, fostering confidence for other investors and facilitating projects that would not otherwise achieve sufficient funding to crowd in private finance, as we heard earlier. There are good examples of this. I think it is generally accepted that the UK offshore wind sector would not be where it is without the EIB investment behind it.

What it should not do, and here I strongly agree with the noble Baroness, Lady Noakes—I hope all this agreement is not going to go to her head—is become a replacement for private sector finance; in effect, competing with and crowding out private sector finance that would otherwise be available. Again, there are examples of this. The EIB's investment in the Thames sewer is almost certainly an example of it and, frankly, the examples of the investments made so far by the UK Infrastructure Bank do not give an awful lot of confidence at this stage.

It also should not, generally, be the sole financier of a project. To have the credibility to crowd in private sector finance, the UK Infrastructure Bank will need to develop real depth of expertise and due diligence

ability—a real strength of the EIB, incidentally. That requires investment. The EIB employs 3,000 full-time staff, including financial professionals, engineers, economists and environmental experts with significant engineering and scientific expertise. If the UK Infrastructure Bank is to succeed, it will need to build similar skills. So, can the Minister provide some information around the resources the bank currently has and what it is intended that it should have?

The effectiveness of the UK Infrastructure Bank should be measured not on how much it has invested, loaned or otherwise provided—anyone can spend money—but on how much private sector finance it has generated or facilitated that would not otherwise have been available, or investments that could not otherwise have been made. That should be specifically included in the review of the bank's effectiveness and impact in Clause 9. Like others, I agree that 10 years is a ridiculous length of time before the first review.

The UKIB policy design and framework documents issued by the Treasury actually cover the crowding in of private sector finance quite well and, given the comments of the Minister earlier, the Government obviously agree with me on this. Perhaps she could therefore explain why this critical objective is not even mentioned in the Bill, despite the importance given to it. The policy design and framework documents are actually quite good, including six pretty sound operating principles and four related investment principles. Again, these are not mentioned in the Bill. In some cases, they are actually contradicted by the Bill. They appear to have no legal status and could be changed at any time without scrutiny. If I may, I will comment on three of the six operating principles.

The first is:

“Achieving policy objectives via sound banking ... whereby investments help to achieve the core policy objectives ... whilst generating a positive financial return to ensure the financial sustainability of the institution and to reduce the burden on the taxpayer.”

This is reinforced further in the investment principles. Again, the Bill does not mention this requirement to generate a positive return, and the definition of “financial assistance” is so widely drafted that it would allow grants and other similar funding that has no return. While the EIB also does not have to make a positive return, it has been consistently successful in doing so. I think making that a requirement for the UK Infrastructure Bank would be a very good financial discipline. Whatever is decided in that respect, I think it is important that the financial requirements that apply to the bank are included within the objectives in the Bill, and that any future change to that principle should be subject to parliamentary scrutiny.

The next operating principle I will touch on is:

“Additionality: the Bank will prioritise investments where there is an undersupply of private sector financing and, by reducing barriers to investment, crowd in private capital.”

Again, I have talked to this before: it is not in the Bill and it really should be there as a key objective.

The next one to look at is “Operational Independence”, which the noble Baroness majored on quite strongly in her speech. The bank

“will operate within a strategic framework set out by government but will have operational independence in its day-to-day activity including investment decisions.”

[LORD VAUX OF HARROWDEN]

The National Infrastructure Commission stressed the importance of governance to safeguard the operational independence of the institution, and it was also a common thread we heard in evidence to the EU Financial Affairs Sub-Committee when we were doing our inquiry. Private sector finance will not have confidence to co-invest if there is a perception that an investment opportunity, or indeed the institution itself, is subject to the whims of political expediency. That is especially important given the long-term nature of infrastructure investment. But the Bill does not include anything that safeguards the bank's operational independence. In fact, it actively undermines it. The Bill allows the Treasury to revise or replace its statement of strategic priorities at any time, with no scrutiny or even consultation. Worse still, the Bill allows the Treasury to give specific or general direction—again, at any time—about how the bank is to deliver its objectives, with which the bank must comply. That would allow the Treasury to direct the making of a particular investment, or on particular terms. The only safeguard is that the Treasury must first consult with the directors, who, I again remind noble Lords, are all appointed by the Treasury.

Operational independence means having the ability to refuse to finance government vanity projects. As currently drafted, for example, the Bill would allow the Government to mandate the financing of ludicrous ideas such as the bridge to Northern Ireland, and the bank would have to comply. That is not operational independence in any sense that I understand it. This area of the Bill really needs work.

Those three operating principles, along with the other three—partnership, impact and credibility, and flexibility; the Government's own principles, not mine—are very important and should be put on a statutory basis in the Bill, with any changes subject to proper scrutiny. Where the Bill contradicts the principles, it should be amended.

I will touch briefly on devolution, as one or two noble Lords have. The bank will operate across the whole UK, which I welcome. However, as usual, the Government have given no role in the Bill to the devolved Governments beyond seeking legislative consent, we are told. Living in Scotland, I am no great fan of the current Scottish Government but devolution is a fact, regardless of one's views of the Government whom the devolved nations have chosen. It would be appropriate for the devolved Governments to at least be able to appoint non-executive directors to the board to reflect their legitimate interests. Could the Minister comment on that?

I have one last question. I have not been able to find anything that would allow the bank to raise finance externally as loans, bonds or equity. Other similar organisations can raise finance on the capital markets, which has the dual benefit of raising greater capital and introducing valuable private sector disciplines. It would also reduce the scope for government meddling. For example, Germany's KfW, which we heard about earlier, funds itself almost entirely from the international capital markets, being able to obtain cheap finance because of its AAA rating due to its government backing. The EIB does the same, relying on the backing of member government guarantees. Its subsidiary, the

European Investment Fund, has minority private sector ownership. What consideration have the Government given to the UK Infrastructure Bank being able to raise external finance alongside government finance?

As I said at the start, I support the creation of the UK Infrastructure Bank, but we have work to do to ensure that the Bill enables it to be successful.

7.12 pm

**Lord Sikka (Lab):** My Lords, I am grateful for the opportunity to speak. Since 2012, the Government have handed £695 billion of quantitative easing to speculators. Can the Minister explain why the QE route and the same volume of money are not made available for investment in UK infrastructure? Labour's 2019 manifesto promised £400 billion over 10 years for investment in clean energy and infrastructure. Germany's KfW, which has already been mentioned, has assets of €561 billion. In contrast, the funding available to UKIB is basically a pale shadow and seems a token gesture to show that the Government are doing something.

Can the Minister explain how much money each year the bank will spend on infrastructure, directly or through third parties? The capital structure of UKIB is £5 billion equity plus £7 billion debt, although another £10 billion may be provided by guarantees, which will not easily be part of the balance sheet. The Bill offers no rationale for this capital structure. Why does UKIB have to start with debt?

The cost of capital for the Government is always lower than the cost of capital for the private sector, yet UKIB will seek a more expensive £18 billion from the private sector, inevitably raising the cost of capital for some projects and making them unviable. Public bodies will end up effectively guaranteeing future corporate profits, in a kind of mini repeat of the PFI experiment we had for many years. Can the Minister explain why the bank is not entirely funded by the Government, especially as they stand behind the bank and will effectively be its guarantor? Would that not be a simpler capital structure?

The Bill is accompanied by just four pages of what is titled *Impact Fact Sheet*. On scrutiny, I could see no analysis of its operations or financing, or anything meaningful. In yesterday's briefing we were told that the bank will be seeking a financial return on each of its projects, but the impact statement provides no clues about what this return means and why a return from infrastructure is desirable. If you are going to measure returns from infrastructure, that would involve measuring things such as social efficiency gains. What meaning do the Government attach to such phrases? There is no explanation given. I urge the Minister to provide a meaningful impact assessment for the Bill.

7.15 pm

**Baroness Kramer (LD):** My Lords, I was not involved with the creation of the Green Investment Bank, but I did have to sit around a table in 2015 to be lectured by Sajid Javid on why the creation of such a bank was, in the view of the Conservatives, a classic Liberal Democrat mistake. Not only did he sell off the Green Investment Bank but he was very clear that he also intended to sell

off the British Business Bank and close down the industrial catalysts. It is interesting to see a Conservative Government today taking credit for a vision for which they had only withering comments not so long ago.

I recognise that the noble Baroness, Lady Noakes, has always been consistent. She did not approve of creating the Green Investment Bank or of a public bank as a mechanism for dealing with market failure. She may be a little disturbed to be joined by the noble Lord, Lord Davies of Brixton, and potentially by the noble Baroness, Lady Bennett of Manor Castle; I suspect a quick stiff drink may be necessary to cope with that new knowledge. However, we are where we are. My party will do everything that it can to make the UK Infrastructure Bank as effective as possible. I agree with the noble Lord, Lord Vaux, that there genuinely is market failure here, and that there is a role to play.

There are a number of areas which I want to explore. The first is not within the legislation but speaks to the issue of how effective this bank can be. It is very small compared with the challenges that we face in climate change and levelling up. In many ways, this replaces not only the Green Investment Bank but the European Investment Bank, and along with the British Business Bank it also has to replace the European Investment Fund. The EIB typically provided more than £5 billion per year of financing for infrastructure in the UK. I am grateful to the noble Lord, Lord Wigley, for testifying that it was effective at delivering infrastructure projects in Wales. The noble Lord, Lord Vaux, referred to its role in offshore wind. I saw quite a number of projects in which investors would co-invest with the EIB. It gave them confidence to go to much longer terms and to do much more subordinated lending, risks that they would not have taken without the engagement of the EIB. The EIF was also putting some half a billion pounds per year into UK equity and VC funds. This new bank has only £22 billion of financial capacity over the next five years, of which £10 billion is guarantees—a far less flexible and useful instrument.

The Government will say that the EIB had a much wider remit than the new bank, but let me say that the need for financing infrastructure development to tackle climate change and levelling up has soared in the time since we left the EU. The markets have failed to deliver on floating offshore wind, EV charging infrastructure, battery storage technology, marine and tidal energy, broadband rollout, carbon storage and capture, insulation—the list goes on. By the Government's own figures, the OBR has said that we need something in the region of £1.4 trillion of investment by 2050 to deliver the climate change objective, and there is general consensus in the Government that we need something like £50 billion a year in additional private financing investment to achieve just the 2030 target for climate change.

We do not have the figures that we need on the huge additional demands of levelling up, especially for transport improvements across the regions. I thank the noble Lord, Lord Ravensdale, for making the point that we must emphasise the regions as we deal with this Bill. Major transport projects have recently been cancelled, including, ironically, the Leeds leg of HS2. That is

now gone, for lack of financing. We have seen many rail electrification schemes cancelled. The noble Lord, Lord Wigley, will be very aware that electrification between Cardiff and Swansea was cancelled, again for reasons of finance.

Let us also talk about the remit. Housing, schools and hospitals are deliberately out of scope, according to the Explanatory Notes. Perhaps the Minister will tell me how the Government intend to achieve regional growth without major financing for housing, schools and hospitals. As so many people have said today, there is no mention of investment in nature, despite the high benefits of investment in agricultural improvement, woodlands and peatlands. We heard a series of helpful speeches on that. My noble friend Lord Teverson talked about the importance of biodiversity being given equal priority to climate change, the two interlinked, strengthened by comments from the noble Lords, Lord Macdonald, Lord Ravensdale and Lord Bourne, who referenced the Dasgupta report, and the noble Baronesses, Lady Young, Lady Hayman and Lady Boycott. I probably have not named everyone in that list.

There is also no mention in the Bill of energy efficiency. I thank the Government for the opportunity yesterday to ask questions of the new bank's CEO, John Flint. He took the view that the retrofit of buildings, including home insulation, to meet climate change objectives could be included in the bank's remit, provided the right investment vehicles could be found. I was rather dismayed that he did not seem to have much idea of what on earth those vehicles could be. We must have clarity on that issue and an emphasis on its importance. I hope that the Government will confirm that approach and inject some urgency into the new bank's activity in this area. We know that to achieve net zero, we must deal with the demand side, including home insulation. This is even more vital given the soaring costs of energy and the cost-of-living crisis. I note that the European Investment Bank has identified energy efficiency as a sector that finds private finance particularly hard to access and is targeting support on the sector.

Of course, resources mean far more than money. We have a dire shortage of skilled workforce in the construction industry and in many aspects of relevant engineering. More than half the medium and small-sized companies in building report that they are struggling to find workers. Construction output has been declining as a consequence. Even R&D in this area is starved.

We no longer have a meaningful industrial strategy. The national infrastructure plan is not statutory and is frequently ignored by the Treasury. Even the *Cycling and Walking Investment Strategy* is statutory. It is unacceptable that the overall national infrastructure plan is not, particularly in the context of its need to work with the bank. The National Infrastructure Commission and the Construction Leadership Council are both pretty toothless. That must be dealt with. None is referenced in the Bill, although they would seem highly relevant. In other words, we have neither a functional strategy nor a credible delivery mechanism.

It is quite instructive to compare the legislation that created the Green Investment Bank with this legislation to create the infrastructure bank. We have moved from



[BARONESS KRAMER]

legislation that protected its purpose through use of primary legislation to a Bill riddled with Henry VIII clauses. There was even a clause in the GIB legislation to ensure its operational independence—it was in the Bill. The noble Baroness, Lady Noakes, cut to the chase when she said that this bank is, essentially, the plaything of the Treasury. The Government can by SI change the bank's activities or the meaning of “infrastructure”—that is extraordinary. The Treasury, not Parliament, sets its priorities. Many noble Lords, including my noble friend Lord Teverson, the noble Lords, Lord Bourne and Lord Vaux, and the noble and learned Lord, Lord Thomas, focused on the Treasury's ability to provide specific or general directions to the bank on how it is to deliver its objectives and then enforce them by injunction.

If the directors are not Treasury placemen before they are appointed, they become so by law as soon as they are appointed. Claims that this bank has operational independence seem completely inconsistent with the powers that the Treasury is given in the Bill.

Let me close with this. As so many here today have said, the infrastructure bank must be successful in crowding in private financing—and doing it by taking risk that the private sector finds unacceptable, so that it sits beneath that private sector financing. It hopes to mobilise something like £18 billion of private money in its first five years. I have already talked about that being inadequate but my question is: can it really take risks when it has only £4.5 billion in capital and a requirement to generate a commercial rate of return? Certainly in the short term—the first five years—it seems that those two parameters will make it very difficult for it to do something innovative that makes a significant difference.

However, Parliament and the public should be able to assess and react to that progress, or the lack of it. The idea that we will not even see the bank's strategy until late June, after Committee stage, strikes me as very frustrating. We do not know what criteria it will use, how it will ensure additionality or how it will remedy market failure. It is, as so many have said today, including the noble Lords, Lord Sarfraz and Lord Vaux—speaker after speaker—completely unacceptable that the Treasury need not report to Parliament on the effectiveness or impact of the Bank for 10 years, and after that only every seven years. Frankly, that is disrespectful to Parliament.

We need a significant UK Infrastructure Bank but this Bill will need a great deal of amendment. As I listen to the House today, I suspect it will receive a great deal of amendment.

7.26 pm

**Lord Tunnicliffe (Lab):** My Lords, I am grateful to the Minister for introducing the Bill. It has received wide-ranging analysis by Members of the House, which I will not comment on directly. Rather dangerously, I think I recently found myself agreeing with the noble Baroness, Lady Noakes, over something. It is good to be on the opposite side again; I feel comfortable.

The Bill formalises not only UKIB's objectives but a range of accompanying governance arrangements and reporting or review requirements. As we have

heard, this process arose from a recommendation by the National Infrastructure Commission in its 2018 baseline report. The bank has been allocated an initial £12 billion in capital and will be able to issue £10 billion of government guarantees, in the hope of unlocking contributions from investors across the private sector. Although this total broadly matches the recommendation of the National Infrastructure Commission, it is, as has been commented on, small compared to the capital available to other national infrastructure banks, particularly that in Germany.

The capital allocated to the bank does not strictly form part of the Bill. Nevertheless, as we accelerate our green transition, there is every possibility that the bank will need additional resources in the future. When responding, can the noble Baroness outline how the level of capitalisation will be kept under review? Will it form part of the Budget process or will there be a separate mechanism? The bank will have to compete with other initiatives for additional funds. It would be interesting to hear the Minister's view of how this may play out in the coming years.

Given some of the Government's infrastructure-related decisions in recent years, it was perhaps unsurprising that the commission called for “a new, operationally independent, UK infrastructure finance institution.”

The privatisation of the Green Investment Bank in 2017 appeared at that time short-sighted. MPs expressed concern then that the Government had not sought stronger assurances about that organisation's future. At the same time as that sale, Ministers were deciding the nature of the UK's departure from the EU. Despite the option of an ongoing relationship with the European Investment Bank—the EIB—they opted to leave that framework.

The Government have been clear that UKIB is not designed directly to replicate the work of the EIB. That is fortunate because, at the current level of capitalisation, it is not clear that it could. Between 1973 and 2017, the EIB invested in the region of €165 billion in UK projects. Its due diligence on projects unlocked billions in private finance too. This new bank may not have the capital to match the EIB's clout or that of Germany's infrastructure bank, but we hope that it will replicate some of those institutions' processes, which will provide confidence to private investors.

I am grateful to the Minister for hosting an initial meeting with officials last week, allowing us the opportunity to discuss the Treasury's hopes for so-called “crowding-in”. Will she comment on the Treasury's target for external investment? Is she confident that private funds will arrive at the expected rate, particularly in the current economic context? The reviews required under Clause 9 of the Bill would help us keep track of progress but, at present, the first is not due for a period of 10 years. We understand the need for UKIB to ramp up its operations and that the impact of individual investments may not be measurable for some years, but is there not a case for accelerating that timescale? Everybody who has spoken on that issue seems to think there is; I am sure we will discuss that in the coming weeks.

However, the most important debates will focus on the Government's definition of infrastructure and the scope of the two core objectives. We must get these

core components right from the off, including a consideration of whether there should be three objectives. If we do not, the bank will be nowhere near as effective as it needs to be to make a genuine contribution to meeting the 2050 net-zero target. I am sure that we will also discuss UKIB's operational independence, as mentioned by several noble Lords. It states over and over again that it will be operationally independent, but a number of noble Lords have commented on power of the Treasury to de facto control this bank.

On definition, we generally welcome the range of technologies and facilities included in Clause 2. We note the inclusion of a delegated power to amend the definition of infrastructure and welcome that regulations to update it will be subject to the affirmative procedure. Of course, not everything is included in the definition. The bank's lending will not, for example, help to address the country's chronic shortage of new housing. Some will be disappointed by that decision, given the Government's ongoing failure to deliver a suitable supply of quality, affordable homes where they are needed most. More needs to be done to support first-time buyers and young families, who find property prices climbing far faster than they can save—a situation that will be exacerbated by the cost-of-living crisis.

While housing is not included in UKIB's remit, it is sensible for its funds to support the rollout of infrastructure associated with residential and other forms of development. If the bank can lower the cost of financing these kinds of projects, that is good news for local authorities and partner organisations as well as the residents who will benefit from new services. However, can the Minister confirm that it is not the intention for this mechanism to replace others, such as the community infrastructure levy, which aim to ensure that developers cover most infrastructure costs arising from their projects?

At first glance, the two objectives outlined in the Bill are sensible. However, as always, the devil is in the detail. The bank itself has acknowledged in a discussion paper that

“occasionally these objectives will be in tension with each other.”

It goes on to say that where an investment is “primarily” focused on growth, it will ensure that it does not do “significant harm” to the climate objective. Does the Minister feel that this safeguard is sufficient?

Although the bank is and should be operationally independent, are the Government satisfied that UKIB will have the expertise needed to make informed decisions, or would the Minister welcome an outside body, such as the Climate Change Committee, having some form of advisory role? It is important that we understand how these potentially competing objectives will interact.

This matters because in the last Session your Lordships' House debated climate-related amendments to what is now the Subsidy Control Act. Those amendments would have required public authorities to include consideration of climate-related issues in the so-called balance test when deciding whether to grant a subsidy. The Government fiercely resisted them. Given the urgency of the challenge we face, why are they not taking a consistent approach across departments? If we expect applications for finance from UKIB to meet

certain green thresholds, why is that not applied to entities seeking taxpayer-funded subsidies from public authorities?

Overall, we welcome this initiative and wish the leadership of the UK Infrastructure Bank well. The institution has the potential to do a lot of good across the UK. However, given the bank's relatively limited capital, and in the context of wider government policy, we should not kid ourselves that this sets us on course for 2050. We look forward to working with colleagues across your Lordships' House to strengthen the Bill, and we hope the Minister will approach the process with an open mind.

7.36 pm

**Baroness Penn (Con):** My Lords, I thank all noble Lords who have contributed to such an interesting and wide-ranging debate. It showed the breadth and depth of the knowledge of this House, but also showed me that I have no chance of addressing all the points raised. I will write a detailed letter to noble Lords who I do not manage to reach.

The only other thing I would say at the outset is that I think there was a broad welcome for the bank and the Bill in the debate, although of course the devil will be in the detail. I am pleased that we were able to have an initial engagement session with my honourable friend the Economic Secretary to the Treasury and the chief executive of the bank, John Flint, yesterday. It is in that spirit of engagement and listening that we want to continue the Bill's progress through the House.

I turn directly to trying to address as many of the points raised by noble Lords in the debate as possible. I start with the size and remit of the bank. The noble Lords, Lord Teverson, Lord Tunnicliffe and Lord Sikka, the noble Baroness, Lady Kramer, and others noted that the bank is small compared with other institutions and cited the KfW development bank in Germany. This might be the case, but I do not think that UKIB and the KfW are quite the right comparison. The KfW is an institution that has existed since 1948. It might be more appropriate to compare UKIB to similar institutions in Canada and Australia: the Canada Infrastructure Bank, which had an initial capitalisation of around £20 billion, and the Australian CEFC, which was capitalised with 10 billion Australian dollars.

However, as I mentioned in opening, we will undertake a review of the initial capitalisation of the bank ahead of spring 2024, as set out in the policy design document last year. The Government took a conscious decision to have a narrower remit for the bank in line with recommendations from the NIC, to address the point raised by my noble friend Lady Noakes, to avoid the high risk of crowding out funding from the private sector that would otherwise be there. There is a higher risk of that with institutions such as the KfW. It is also unclear how successful those kinds of institutions are at co-investing with the private sector. This is a different beast and has been designed to be so.

Many noble Lords, including the noble Lords, Lord Teverson, Lord Tunnicliffe, Lord Vaux and Lord Davies of Brixton, and my noble friends Lord Holmes and Lady Noakes, expanded this into asking about the risk appetite for the bank, what the market failures are that it seeks to address, the role the bank will have in

[BARONESS PENN]

ensuring additionality and the risk of crowding out, as I have touched on. The noble Lord, Lord Vaux, probably put the role of an infrastructure bank better than I am about to, but the Government see their role as maximising the bank's impact to focus on intervening where its additionality to the market is greatest, and will limit its exposure to investments that could already be fulfilled by the private sector. The bank will have a higher risk appetite than the market where it sees that policy outcomes that the private sector has not considered can be achieved. However, it will also have to bear in mind the usual value-for-money considerations in doing this.

To try to answer directly the question about market failure from the noble Lord, Lord Davies of Brixton, infrastructure investment is prone to market failure as it is often complex, large, novel and long term, with risks around construction and technological or government policy changes. Based on historical trends, the most significant market failure is that there is a financing gap around new technologies, where there are high levels of risk for the private sector and unproven financial cases. For example, an analysis by Vivid Economics suggested that early-stage support provided for offshore wind through the European Investment Bank and the Green Investment Bank helped to make the sector more attractive to investors and more viable at scale. Looking forward, the UK Infrastructure Bank has the potential to deliver these benefits to scale up other new technologies.

On additionality, based on figures for similar institutions we estimate that the bank will crowd in an additional £18 billion of private finance from £8 billion of UKIB lending. Based on our internal modelling and analysis of comparable institutions—the Green Investment Bank, the European Investment Bank, the Australian Clean Energy Finance Corporation and the Canada Infrastructure Bank—we think that between two and two and a half times is a reasonable estimate. We have not included any additionality for local authority lending and the guarantee function, although we think there is likely to be some. The risk of crowding out, which I have touched on already, will also be considered as part of the review of the bank's progress and financial performance taking place in 2024.

Also on the bank's remit, the noble Lord, Lord Tunnick, and the noble Baroness, Lady Kramer, noted their disappointment that housing is not included. Homes England is the first port of call for housing projects, and the bank will work closely with Homes England to ensure that projects can access the appropriate support, and with similar bodies in the devolved Administrations—for example, where there may be a mixed-infrastructure project that involves housing. The noble Baroness, Lady Kramer, also mentioned schools. I assure her that the Government are investing more than £19 billion in education up to 2024-25.

On the specific question from the noble Lord, Lord Tunnick, on the community infrastructure levy, I can confirm that the bank is not a replacement for CIL, which continues to ensure that our communities are served with appropriate social and economic infrastructure through necessary developer contributions.

I turn to a point where it is probably easier to mention the noble Lords who did not raise it than those who did, so I may not try to mention everyone by name: the question of a third objective and natural capital. I assure noble Lords that the Government absolutely agree with the Dasgupta review's assessment that tackling climate change and nature loss are two sides of the same coin. As I said in my opening remarks, the Government conducted a review specifically to consider the potential of broadening the bank's objectives to include other areas, such as improving the UK's natural capital. The review recognised the significant potential for increased use of nature-based and hybrid infrastructure solutions, including for the water sector and greenhouse gas removals, and the opportunities for growth of the ecosystem services market. These opportunities will be important to meet our objective to leverage at least £500 million per annum in private finance for nature's recovery by 2027 and more than £1 billion per annum by 2030.

Noble Lords will know that, aside from the bank itself, the Government are supporting the growth of these markets in a number of ways. This includes developing high integrity standards and frameworks for ecosystems services markets, allowing investors to participate with confidence; backing the maturation of the woodland carbon code and peatland code through the nature for climate fund and woodland carbon guarantee; designing our new environmental land management schemes for farmers and landowners to support the crowding in of private finance and ensure farmers are better off when they participate in private finance opportunities; and demand-side regulation to grow these markets—for example, mandating biodiversity net gain for development. The projects undertaken through UKIB financing will be subject to those net gain requirements. The nature recovery Green Paper sets out many of the Government's specific plans in this area. All I can say to noble Lords at this stage is that the Government have considered this very carefully and concluded that the bank is able to invest in natural capital under its existing objectives. However, I am sure that I will hear much more from noble Lords in Committee on this subject.

The noble Lord, Lord Teverson, the noble Baroness, Lady Kramer, my noble friend Lord Bourne and others asked whether energy is excluded or included in the definition of infrastructure. Although the construction of new homes is generally out of scope, projects or technologies that support energy efficiency, including the retrofit of homes and buildings and the decarbonisation of heating in line with the Government's heat and buildings strategy, are very much in scope. I hope that provides some reassurance.

A number of noble Lords asked about the "do no harm" requirement, which we have set out in the bank's framework document. The Government are confident that this requirement will deliver the objectives that noble Lords have talked about in terms of having a clear policy not to invest in fossil fuel projects, as set out in the framework document, with some specific exceptions to the policy—for example, carbon capture usage and storage. Those "do no harm" objectives are set out in the framework document and strategic plans, which can be updated without the need for further primary legislation.



The noble and learned Lord, Lord Thomas, made a point about Clause 8 and the Environment Agency. The Treasury is clear that the purpose of the bank is to invest in a way that tackles climate change. That is set out in the Bill, the framework document and further in the strategic steer issued in March. If ever a scenario happened where the bank was carrying out activities not tackling climate change, the Treasury would use its Clause 8 powers or its powers as a shareholder. If the Treasury failed to do so, Parliament could make its voice heard and it would be subject to challenge in the courts, as the noble and learned Lord, Lord Thomas, recognised. I do not agree that the aims of this clause are only aspirational. The bank is also subject to judicial review on anything it does, including compliance with its climate obligations.

The noble Lord, Lord Tunnicliffe, asked about the expertise of external bodies such as the Climate Change Committee. The UK Infrastructure Bank has already worked with a wide range of stakeholders since its launch, including external bodies and market participants. It is keen to use expertise in its decision-making, including appointing its first lead climate adviser, Professor Andy Gouldson, an internationally recognised expert on place-based climate action, as part of its ongoing work to partner with regional and national experts to shape the work of the bank and ensure its long-lasting impact.

The noble Lord, Lord Teverson, asked about the relationship between UKIB and the NIC. The bank is intended to complement the work of the NIC. The NIC will continue to provide an expert assessment of infrastructure needs. Central government will identify the levers that they can use to meet the needs, and UKIB will provide financing to support projects that meet the needs set out by the NIC.

My noble friend Lady Noakes asked about the regulation of the bank. The bank is not regulated by the FCA or the PRA because it will not perform the functions of a bank ordinarily regulated by those institutions. It does not take deposits, it is only investing—for now—in capital provided by the Government, and it does not engage with retail customers. We are committed to reviewing this decision after three years, at which point we will decide whether the bank should seek authorisation or to continue to remain exempt. However, we have set out our expectation that the bank should abide by the highest standards of good practice, governance and conduct, even though it is not authorised under FSMA, and that it should comply with the spirit of the financial services and markets regulation. The bank has recruited with this obligation in mind. It will submit to the Treasury, for approval, how it has interpreted the principles of the senior managers and certification regime and relevant elements of the FCA principles for business.

**Lord Teverson (LD):** Can the Minister clarify whether that means that the senior managers of the bank need not be approved in terms of financial regulation—the actual individuals, let alone the institution?

**Baroness Penn (Con):** I believe that it means that the bank is not subject to any aspect of the Financial Services and Markets Act and the authorisation under

that, but we expect the bank to operate in line with those obligations—for example, on senior management. The decision not to include it in FSMA regulation will be reviewed after a period of time to ensure that this is the right approach for the bank. I have more to say about whether it should have operated under FSMA regulation, and we can get into that in Committee if it is an area of concern.

My noble friend Lord Bourne, the noble and learned Lord, Lord Thomas, and the noble Lord, Lord Vaux, asked about the circumstances in which the power of direction might be used. As I said, it is intended to be used very rarely and only in circumstances where the Government need to take urgent and necessary action—for example, in cases of national security or to help support a business or sector in direct response to an emergency, as the Government did to direct HMRC to establish the furlough scheme during Covid. It is not intended to be used often and is similar to the power the Government have over the Bank of England, which has never been used.

Many noble Lords, including my noble friend Lord Sarfraz, the noble Baronesses, Lady Young of Old Scone and Lady Kramer, and the noble Lords, Lord Teverson and Lord Tunnicliffe, spoke about the review of the bank, required in Clause 9, after 10 years initially and seven years subsequently. This is not the only review or assessment of the effectiveness of the bank to which it will be subject. As I mentioned, ahead of spring 2024, a review of the bank's capitalisation and effectiveness will take place. We will also undertake a review of the bank as part of the Cabinet Office-led review of ALBs by 2024-25, and the National Audit Office is currently conducting a value-for-money study on the set-up of UKIB which we expect to be published in the coming months. My noble friend Lady Noakes asked about the ongoing role of the Comptroller and Auditor-General and the NAO, and I confirm to her that they will have an ongoing role in scrutinising the bank.

My noble friend Lord Bourne, the noble Lord, Lord Wigley, and others asked about the bank's relationship with the devolved Administrations. I cannot answer all the points raised by the noble Lord, Lord Wigley, but I can say that we have notified the devolved Administrations of the Bill and have requested legislative consent Motions from the Welsh Parliament, the Scottish Parliament and the Northern Ireland Assembly. We have engaged with the devolved Administrations through the set-up phases of the bank. The bank is already operating across the whole UK and has done its first deal outside England—a digital infrastructure deal in Northern Ireland.

The noble Baronesses, Lady Young of Old Scone and Lady Kramer, and my noble friend Lord Sarfraz asked about the publication of the bank's strategy. Either before Committee or before we conclude our consideration of the Bill at this end of the Corridor, I will take that question away and see what can be done. I understand that the strategy is due to be published in June; when in June will be quite an important question in terms of the timing.

The noble Lord, Lord Vaux, asked about resources for the bank. UKIB is ensuring that it has the staff and resources to deliver on its objectives, and is recruiting rapidly. The bank will grow to having up to 300 staff.

[BARONESS PENN]

The noble Lord, Lord Ravensdale, asked how the regional and local economic growth objectives would directly support levelling up. We have chosen not to further define the bank's objective to support regional and local economic growth in the Bill, but we believe that the policy intent behind the objective is clear. This is given further clarity through the use of the strategic steer, narrowing down regional and local economic growth and encouraging the bank to focus its investments in line with the missions set out in the levelling-up White Paper.

The noble and learned Lord, Lord Thomas, the noble Baroness, Lady Young of Old Scone, and others talked about the need for a wide range of directors on the board, reflecting different skills and the interests of different nations and regions in the United Kingdom. Members of the UKIB board are still being recruited, based on the skills that they can bring to it and based on its mandate and objectives. The recruitment process is extremely thorough and will ensure that the right skills mix is in place for the board.

Before closing, I have a couple of points to make. It is the Government's hope that this Bill will establish the bank in the market and ensure its longevity. We have already seen at first hand what the bank can do. Its private sector arm has committed to invest around £300 million, which could potentially unlock more than £500 million of private finance across the UK on a broad range of economic infrastructure, including the rollout of broadband to hard-to-reach areas and subsidy-free solar power. Meanwhile, its local authority arm has invested more than £100 million, supporting green bus routes and a green energy hub that will unlock thousands of jobs.

As I said at the outset, the debate we have had today shows the expertise on infrastructure that we have in this House. I look forward to a more forensic look at the Bill in Committee and on Report.

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

## Nazanin Zaghari-Ratcliffe: Forced Confession

*Commons Urgent Question*

7.58 pm

**The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con):** My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given by my right honourable friend the Minister for Asia to an Urgent Question in another place. The Statement is as follows:

“The treatment of Nazanin by the Islamic Republic of Iran has been horrendous. Her ordeal was extended when Iran made it clear that it would not allow her to leave Tehran airport unless she signed a document.

A UK official was present to help facilitate the departure of both Nazanin and Anoosheh Ashoori, and passed on the message from the Islamic Revolutionary Guard Corps that she needed to sign a confession. Given the situation Iran put Nazanin in at the airport,

she took the decision to sign the document. No UK official forced Nazanin to do so. Iran has a practice of insisting that detainees sign documents before they are released. Nothing about the cruel treatment by Iran of detainees can be described as acceptable, including at the point of release.

We will continue to raise human rights concerns with the Islamic Republic of Iran, including over its detention of foreign nationals. The Government of Iran must end their practice of unfairly detaining British and other foreign nationals. We will continue to work with like-minded international partners to achieve this end.”

7.59 pm

**Lord Collins of Highbury (Lab):** My Lords, I thank the Minister for repeating that Answer. It is hugely welcome that Nazanin is now safely at home with her family, where she belongs, but Morad Tahbaz remains detained in Iran and Amanda Milling said in the other place that the Iranian Government failed to honour the commitment to release him from prison on indefinite furlough and that the UK Government

“urge Iranian authorities at every opportunity to release him immediately.”

Can the noble Lord tell us precisely when the Foreign Secretary last raised Morad's case with her counterpart in Iran and what the FCDO's strategy is to secure his release?

On the forced confession, I hear what the noble Lord repeated: it is an Iranian practice to insist that detainees sign documents before releasing them and that the UK official did not force Nazanin to do so. However, can he tell us exactly what the Government's assessment is of how the confession could be used by the Iranian Government against Nazanin in the future, and what the department's strategy is for dealing with this policy by the Iranian Government in the future more generally?

**Lord Ahmad of Wimbledon (Con):** My Lords, I associate myself with the comments of noble Lord: we all breathed a huge sigh of relief, and rightly so, when Nazanin's ordeal came to an end. My right honourable friend the Foreign Secretary engages regularly on this issue. The noble Lord may be aware that she also met Nazanin directly, as did my right honourable friend the Prime Minister. She spoke directly to the Foreign Minister of Iran about this case in advance of Nazanin's release. I will update the noble Lord specifically on the follow-up contact she has had on the specific issue of Morad Tahbaz. It was very clear in Morad's case that an undertaking was given, as the noble Lord correctly said, on his release under furlough. That was welcomed as the next step and there has certainly been a renegeing on that deal. I add that it is within Iran's remit to release Morad Tahbaz today if it so chose.

The forced confession is, of course, unfortunately yet another example of the coercive practices deployed by the Iranian Government and organisations working within the Government, and we will raise the issue. It is quite obvious that it was a forced confession and any such actions, including the continued detention of other detainees, are absolutely deplorable.

**Baroness Northover (LD):** My Lords, I also thank the noble Lord for repeating the Answer. The interview with Nazanin was very moving. One of the most moving parts was her concern about those who had been left behind. The noble Lord, Lord Collins, raised the case of Morad Tahbaz, and we must ensure that we continue to press for his release. I urge the Minister to continue to do that.

Nazanin rightly protested that she had to sign a false confession. Will the United Kingdom Government agree with Redress, which helped very much in her case, that they should now set up an independent external review of FCDO policies on protecting British nationals overseas from torture and ill treatment? The noble Lord will have heard what Nazanin said about the Prime Minister's words and how damaging they were. Will the noble Lord make a clear apology for those?

**Lord Ahmad of Wimbledon (Con):** My Lords, on the noble Baroness's second question, I believe the Prime Minister met Nazanin and Richard directly, as I said in my earlier answer, and he has previously expressed regret if his statement in any way impacted on Nazanin's continued detention.

I can confirm to the noble Baroness that we have indeed received Redress's most recent correspondence. While we do not recognise all the claims made in the letter, we will respond in due course.

On the issue the noble Baroness raises of British nationals and detainees around the world, I am sure she is aware that the Foreign Affairs Committee has announced an inquiry in this respect, and we will of course co-operate fully with it.

**Lord Lamont of Lerwick (Con):** My Lords, I draw the attention of the House to my entry in the *Register of Lords' Interests*. I express my dismay—indeed, anger—at this extraordinarily cruel treatment of Nazanin after agreement had been reached between the two Governments for her release. Was this not a clear breach of the understanding that had been reached between the two Governments? Is this not the second time in this negotiation for the release of dual nationals after the payment of the tank money had been made that the Iranian Government broke their word, as they had promised to release Morad Tahbaz from Evin prison and then he was rearrested after 24 hours? How on earth can the Iranian Government expect people to accept their word in any negotiation over a nuclear agreement that may or may not be reached? Have we not reached the point of disillusionment?

**Lord Ahmad of Wimbledon (Con):** My Lords, I agree with my noble friend. The IMS debt, a subject which several noble Lords have repeatedly raised, was owed by the United Kingdom Government and it was right that it was paid. While the details of the terms remain confidential, it is clear that the proceeds of those funds are primarily assigned specifically and only for humanitarian causes. Equally, I agree with my noble friend that Iran needs to do some really hard thinking because, when agreements are reached, particularly on sensitive issues such as those around the JCPOA—the deal is now ready and on the table—

every country comes to a negotiation in good faith and once agreements are reached it is incumbent on every country to uphold them.

**Lord Anderson of Swansea (Lab):** My Lords, there is no personal blame attached to the Minister, who is highly respected by all sides of House, but would he, on reflection, agree that the length of custody of the poor, unfortunate Ms Zaghari-Ratcliffe has been lengthened as a result of government action and inaction? I cite first the fact that the Prime Minister when Foreign Secretary misread or misinterpreted the purpose of her visit to Iran, and then the long delay in repaying a loan which everyone agreed was due and owing to Iran at the time. Finally, did the Foreign Office official simply stand idly by at the airport and make no protest or written note of what was happening? Was Ms Zaghari-Ratcliffe warned in advance that she would be asked to sign this false confession? It all sounds very unsavoury.

**Lord Ahmad of Wimbledon (Con):** My Lords, I have already answered the final point the noble Lord raises. On the IMS debt, I am sure that he accepts that it was a complex negotiation and it is important that we reached a settlement. That debt has now been honoured on our part and paid. On the broader issue I agree that, irrespective of where you come from on this issue, Nazanin's detention was wrong, it was flawed, and it had to be addressed. Yes, she was in detention for far too long. She did not deserve any detention, even for a day, and the same applies to those currently detained in Iran, and I again call on the Iranian authorities. It is within their gift to release British nationals who are being detained—and, in the case that the noble Lord, Lord Collins, raised, a tri-national, so there are also sensitivities with the United States, but we will continue to call for the release of all detainees in Iran.

**Lord Campbell of Pittenweem (LD):** My Lords, for a long time Ministers at the Dispatch Box were refusing any suggestion that the £400 million should be paid. Why was there so much delay? That delay cost this woman six years of her life.

**Lord Ahmad of Wimbledon (Con):** My Lords, certainly in terms of what I have said we have always said that we would settle the IMS debt. We have now done so and the payment was made in full compliance with our international obligations, international sanctions and global counterterrorism financing. It was in parallel with the release of the nationals, but equally it was a debt. We have never accepted that our nationals be used as diplomatic leverage and we paid the debt because it was owed.

**Lord Cormack (Con):** My Lords, anybody who saw the programme last night would have been, as the noble Baroness said, deeply moved by the dignity of this woman—it was amazing. Has the Foreign Secretary, since Nazanin returned to this country, summoned the Iranian ambassador and torn him off a strip and told him just how appalling it is that this forced confession should have been a condition of her leaving the country?



**Lord Ahmad of Wimbledon (Con):** My Lords, I too heard the interview and I agree with the noble Baroness, Lady Northover. As someone who campaigns on the central issue of human rights, her detention was not just a challenge beyond belief for her personally but obviously for Gabriella and for Richard, and we pay tribute to their work in this respect. On the issue of engagement with the Iranian authorities, we regularly raise issues specific to different cases. Some work we do privately, because that is reflective of the engagement that those who are detained and their families ask of

us. Of course, we will continue to implore, particularly on the case that the noble Lord, Lord Collins, raised, that when Iran comes to and reaches an agreement, it needs to uphold it.

**Viscount Stansgate (Lab):** My Lords—

**A noble Lord:** Order.

*House adjourned at 8.11 pm.*