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PARLIAMENTARY DEBATES
(HANSARD)

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

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# House of Lords

*Thursday 10 March 2016*

*11 am*

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

## Death of a Former Member: Lord Evans of Parkside

*Announcement*

*11.06 am*

**The Lord Speaker (Baroness D'Souza):** My Lords, I regret to inform the House of the death of the noble Lord, Lord Evans of Parkside, on 5 March. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

## Airports: Expansion

*Question*

*11.06 am*

*Asked by* ***Baroness Valentine***

To ask Her Majesty's Government whether a final decision will be taken on airports expansion before the summer recess.

**The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con):** My Lords, a number of important decisions on airport capacity were taken by the Government in December, including the decision to expand airport capacity in the south-east. However, we must take the time to get the location decision right.

**Noble Lords:** Ha!

**Lord Ahmad of Wimbledon:** It is important. The Government are further considering the environmental impacts, which I am sure all noble Lords recognise, and the best possible measures to mitigate the impacts of expansion. This work will be concluded by the summer.

**Baroness Valentine (CB):** As the Minister will be aware, various Governments have avoided taking a decision on where to put a runway in the south-east since the Second World War, so he is in good company in failing to be too precise about exactly when that decision might be taken. We are all aware of the gathering political storms which may yet blow the Government off course. If we eventually get a decision, given all the work that the Airports Commission has done over the past few years and the further work that the Government have been undertaking on specific issues, might the Minister be in a position to publish a draft national policy statement at the same time as the announcement?

**Lord Ahmad of Wimbledon:** The noble Baroness is quite right to mention the incredible amount of work that the Davies commission has done, which the Government have acknowledged; I have done so several times from the Dispatch Box. Of course—I say this just for clarification on the issue—we will be moving forward in summer 2016. The noble Baroness raised a point about the policy statement. Once the decision is made, there will be a consultation around the policy statement, as I am sure she is aware, and once a development order is laid there are quite specific timelines that will be followed in line with the Planning Act 2008.

**Lord Soley (Lab):** Is the Minister aware that the runway would be built by now if the Government had accepted the recommendation of the last Labour Government? Is he also aware that if you go to any aviation conference in this country or overseas there is utter amazement that we cannot make a decision on such a key infrastructure project?

**Lord Ahmad of Wimbledon:** It was really for the Labour Government to act on the Labour Government's own policy. The Conservative Government are very clear. My right honourable friend the Prime Minister, David Cameron, launched the Davies commission. It has reported. We have accepted the principles behind the report. We have accepted the work done behind the report. The noble Lord mentioned conferences around the world. In my capacity as Minister for Aviation Security, I attend such conferences, and I find utmost respect for British aviation and the Government's considered position on this issue.

**Lord Higgins (Con):** My Lords, as far as the position of the Labour and Conservative Governments are concerned, will my noble friend note that in 1974 the Conservative Government had all the legislation, planning permission and so on for an airport at Maplin, and Labour came in and dropped it on the grounds that the forecast had been exaggerated? If it had not done so, we would have had an airport at Maplin for many years.

**Lord Ahmad of Wimbledon:** My noble friend makes a very valid point. This Government have been very clear that we have accepted the principle of expansion in the south-east, and we are committed to that. In summer this year we will report back on the important environmental considerations, which must be considered as part of this important decision.

**Baroness Randerson (LD):** Is the Minister aware that 69% of pre-orders for new planes are for so-called hub-busting models? In the light of this, does he still think that Britain needs a new hub airport, or is the hub model rapidly becoming yesterday's plan?

**Lord Ahmad of Wimbledon:** Not only does Britain need a hub airport, Britain has hub airports and they play an important part in aviation capacity around the

[LORD AHMAD OF WIMBLEDON]
world. In terms of orders for planes, it is really for airlines themselves to decide on a commercial basis what type of aircraft they require.

**Lord Brooke of Alverthorpe (Lab):** My question is on the same theme as that of the noble Lord, Lord Higgins. Will the Minister assure the House that, if perchance the referendum says no, the Government will still make the decision to press ahead with expansion in the south-east and Heathrow?

**Lord Ahmad of Wimbledon:** We should not convolute the issues here. In terms of the referendum specifically, it was the previous Government under our current Prime Minister who gave the commitment that the people of this country would decide, and they will decide on 23 June.

**Viscount Trenchard (Con):** My Lords, the Minister has not said clearly whether the Government will make a decision by the Summer Recess. He may know that the CBI has estimated that Britain will lose £31 billion in trade by 2030 with the BRIC countries if our airport capacity is not expanded. I ask him to be clearer and confirm that the Government will make a decision, on whichever option—we will never find an option that keeps everyone happy. The Government must now confirm that they are going to decide by the Summer Recess.

**Lord Ahmad of Wimbledon:** The Government have been very clear that the reasons why we are taking further consideration are the issues of environmental mitigation, which the Davies commission mentioned, and community engagement and noise and air pollution, which we are considering very carefully. It is right that we are taking the time to consider the decision. We will conclude those further considerations by the summer. The Government are acutely aware of the point my noble friend makes about the £31 billion loss and of the need to progress on this decision.

**Lord Harris of Haringey (Lab):** My Lords, we all enjoy the Minister scurrying around in the long grass on this issue, but could he give a clear definition on behalf of the Government of what period "summer" covers?

**Lord Ahmad of Wimbledon:** Some would define it by when the sun shines, but I am certainly not going to say that. I think we are quite clear when we talk about the summer period: often it is when noble Lords enjoy their Recess.

**Lord Marlesford (Con):** My Lords—

**Lord Broers (CB):** My Lords, on a slightly different angle, I understand that Heathrow has increased its capacity by spacing aircraft by time, not by distance. Is this practice being extended to Gatwick and Stansted?

**Lord Ahmad of Wimbledon:** I will write to the noble Lord on the issue of Gatwick and Stansted, but he is right to point out that existing capacity has been increased. Again, that is down to the world-beating talent and expertise that we have at NATS. Other Governments—indeed, recently I had discussions with the Government of Singapore in this respect—are also looking at deploying the expertise of NATS.

## Sexual Offences: False Accusations

*Question*

*11.14 am*

*Asked by* ***Lord Campbell-Savours***

To ask Her Majesty's Government whether they intend to review the law concerning those making false accusations in relation to sexual offences.

**The Minister of State, Ministry of Justice (Lord Faulks) (Con):** My Lords, there are no plans to review the law in this area. It is a very serious matter to make a false allegation relating to a sexual offence and there are strong sanctions against those who do.

**Lord Campbell-Savours (Lab):** My Lords, should we not now consider the reform of the law which allows someone like this man, Nick, who, hiding behind a wall of anonymity, makes allegations of a sexual nature against reputable public figures such as Lord Bramall, the late Lord Brittan and the late Mr Edward Heath, the former Prime Minister, and others, with not a shred of forensic or corroborative evidence whatever? It is simply unjust. Is it not now time that the whole issue of anonymity for the accused, and in particular the defence of the falsely accused, was put back on the national agenda and considered here in Parliament?

**Lord Faulks:** My Lords, I am sure that the noble Lord will accept that this is a very delicate issue. Parliament in 1976 decided that there should be anonymity both for complainant and for defendant. Parliament then abolished that in 1988. In 2010, the coalition Government considered the matter and decided, in balancing the various public interests, not to take further action. The noble Lord refers to a well-known case, and of course legitimate criticisms can be made about the handling of that matter, although we must allow the police some operational freedom. But I can say that Sir Richard Henriques, a retired High Court judge, is looking into the matter, an IPCC complaint has been made, and in due course the Government will respond to any recommendations or publications on that matter. But one must remember how difficult it is to make these allegations, and while I entirely accept what he says about those people in high places, of course no one is above the law.

**Lord Geddes (Con):** My Lords, to follow on from my noble friend and enlarge on his point about whether the accusation is ultimately proved true or false, and referring back to the 1988 decision, would it not be far more equitable if either both parties had anonymity or neither did?

**Lord Faulks:** I accept that there is a superficial attraction about that symmetry. But I suggest that one of the important things that the public policy demands is that making a complaint should not be discouraged. It is no easy thing to make a complaint about, for example, rape or sexual offences. The possibility not only that you will be cross-examined and traduced in court but will have your name emblazoned on newspapers or other means of communication is a considerable inhibition in making that complaint. That is one of the difficult factors that Parliament took into account when deciding to retain anonymity.

**Lord Armstrong of Ilminster (CB):** My Lords, I have stated elsewhere the reasons for my conviction that Sir Edward Heath was not a child abuser. The allegations that have been published in the media to that effect have no shred of credible corroboration. Wiltshire Police are conducting an investigation, which is forecast to last for 12 months or more and which involves interviewing an extensive range of Sir Edward's friends, colleagues, staff and former crew members and searching through 4,500 boxes of his archives. I have suggested to the chief constable of Wiltshire Police that there can be no conclusive or satisfactory outcome to this investigation. Even if, as seems likely, the police find that there is insufficient evidence to have justified a prosecution, the cloud of suspicion which has been hanging over Sir Edward's memory would not be definitively dispelled. In the unlikely event of a finding that there is sufficient evidence, that evidence could not be tested in a court of law because Sir Edward is dead and cannot be prosecuted. It seems as if Wiltshire Police are arrogating to themselves the role not only of investigator but also of prosecutor, judge and jury in this matter. Does the Minister not agree that the investigation is a travesty of justice and a prodigious waste of police time and resources?

**Lord Faulks:** I am sure that there will be a lot of sympathy around the House and elsewhere for what the noble Lord says. Of course, we must not interfere with police operational independence. However, the points that he eloquently makes about proportionality in view of the death of Sir Edward and the likelihood of any significant evidence one way or another being unearthed at this stage are valuable, and I take them on board.

**Lord Thomas of Gresford (LD):** My Lords, there are sound public policy reasons for keeping the anonymity of a complainant throughout the trial and beyond, but are there not also sound public policy reasons for giving the trial judge the discretion, after an acquittal, to consider whether the identity of the complainant should be released if he is satisfied that it is a false accusation and not tainted by mental illness?

**Lord Faulks:** The noble Lord makes an important point. But of course, he will know only too well that someone who has had a false complaint made against them is vulnerable to prosecution for perjury, perverting the course of justice or wasting police time, and that an individual has the right to sue for malicious prosecution or defamation. So remedies do exist.

**Lord Fowler (Con):** My Lords, is not the noble Lord, Lord Campbell-Savours, absolutely right in what he said? Is it not quite clear that the present system of protecting the innocent from having their names plastered all over the media has broken down? Does justice not require that the Government take a fresh look at this whole issue and not just leave it to the police?

**Lord Faulks:** At the moment, as my noble friend will appreciate, this is a matter for the police, who consider that only in exceptional circumstances will it be appropriate to name suspects. Sometimes it is true that naming a suspect provokes people to come forward who they have kept quiet about allegations for fear that they will not be believed when they accuse prominent members of the so-called establishment. However, I accept my noble friend's point. Clearly it is a matter to which any Government will give anxious consideration in weighing up these very difficult, conflicting issues.

## Arts: Business Rate Relief

*Question*

*11.21 am*

*Asked by* ***The Earl of Clancarty***

To ask Her Majesty's Government whether they plan to maintain the 80 per cent mandatory business rate relief for charitable bodies, including arts organisations and museums.

**Viscount Younger of Leckie (Con):** My Lords, the Government are conducting a review of business rates in response to concerns that the system is in need of reform. The system should be fit for a 21st-century economy, and that is why the review, which will conclude at the Budget, is looking at all aspects of the system, including reliefs and exemptions. We recognise the important contributions that the arts and museums make to the culture of the UK, education and the economy.

**The Earl of Clancarty (CB):** My Lords, I thank the Minister for that reply, but will he acknowledge that the loss of all, or even part, of what is in effect a well-established funding stream would significantly threaten the viability of many productive and highly respected arts bodies across the country, including art centres, independent museums, orchestras, and theatres large and small—from those of an international stature to the smallest local organisations—and that in the regions it would simply deepen what is already in some areas a calamitous situation for arts and cultural services?

**Viscount Younger of Leckie:** I note the noble Earl's concerns but it may give him some comfort to know that the Government recognise the importance of the charitable sector and that the stringent management

[Viscount Younger of Leckie]
of costs in managing charities can make a critical difference to their viability. The Government also understand that arts and culture generates 0.4% of the UK's GDP, as highlighted by the Centre for Economics and Business Research. Museums and galleries are a key motivator for encouraging tourism. We committed that from 2017 the business rate system would better reflect our modern economy by providing clearer billing, better information-sharing and a more efficient appeals system.

**Baroness McIntosh of Hudnall (Lab):** My Lords, I declare my registered interests in charities, including membership of the board of the Royal Shakespeare Company, which is currently able to take advantage of tax relief on production costs, as indeed are all other performing arts companies. Is the Minister aware that the benefit of this very welcome and indeed enlightened tax reform will be entirely lost if mandatory business rate relief is withdrawn? Can he reassure the House that the Government are not proposing to give with one hand and take away with the other?

**Viscount Younger of Leckie:** I cannot prejudge for the noble Baroness the result of the review. However, when we launched it, we did say that we recognise that some sectors, such as charities, play an important part in the community and that the Government have no intention of increasing business rates for those deserving of relief.

**Lord Cormack (Con):** My Lords, can we take comfort from the fact that in the Autumn Statement, which was extremely sensitive and very well received, the Chancellor said that cuts here were a false economy? Can we hope that that will be the prevailing philosophy?

**Viscount Younger of Leckie:** I hope that that will be the prevailing philosophy but I emphasise that it is a wide-ranging review that will include a robust analysis of the trends in the use of non-domestic property and property values covering a range of areas.

**Baroness Janke (LD):** Is the Minister aware that many vulnerable communities depend on charitable organisations, particularly in the light of the public service cuts? Will he give an undertaking that before any such measures may be introduced, the impact on the most vulnerable communities will be assessed and taken into account?

**Viscount Younger of Leckie:** I feel sure that those views are already being taken into account, as will the views being expressed by the House today. The noble Baroness makes a good point.

**Lord Berkeley of Knighton (CB):** My Lords, given the parlous state of many of these bodies, as we have heard, have the Government made a precise assessment—or will they—of exactly how much this relief helps these organisations and how they would be affected should it be cut?

**Viscount Younger of Leckie:** I have no doubt that the review will also cover that. However, it is pretty clear that the business rate relief does indeed help those very important charitable organisations. As the noble Earl, Lord Clancarty, mentioned, orchestras and other similar organisations rely on this business rate relief.

**Lord Cashman (Lab):** My Lords, does the Minister agree that organisations including theatres, art centres, galleries and independent museums could be negatively affected by these changes? Therefore, will the Minister agree that a proportion of the business rate relief should be mandatory, considering the tight finances of these very important cultural organisations?

**Viscount Younger of Leckie:** I cannot answer the question directly but, again, I very much take note of the concerns that the noble Lord has raised. I am sure that the review, which is wide ranging and robust, will look at those aspects.

**Lord Wigley (PC):** My Lords, will the Minister clarify the position of the review with regard to arts organisations based in Wales, Scotland and Northern Ireland? Given that the arts are a devolved matter, as are some responsibilities for business rating, will the review consider the circumstances in those three areas?

**Viscount Younger of Leckie:** The review will take account of those areas but, as the noble Lord made clear, there is devolved responsibility, particularly for business rate relief. I am thinking particularly of Scotland but I am sure that it is the same in Wales. There is of course contact with the Governments in Wales and Scotland on this matter, and this will be part of the review.

**Lord Stevenson of Balmacara (Lab):** My Lords, the discussion so far has been about mandatory rate relief, which is about 80% of the rates bill met by the institutions we are talking about. However, a problem is also arising in the discretionary relief for the last 20%, which can be a very substantial amount of money in some areas. Will the Government explain what they propose to do, because over 20% of institutions reported recently that they have had cuts in that area?

**Viscount Younger of Leckie:** It is the same process. The review will cover six key areas, including considering the role of business rates within the wider tax system and their responsiveness to economic conditions.

**Lord Howarth of Newport (Lab):** My Lords, will the Government in the course of this review take a coherent view of the funding needs of arts organisations and museums and ensure that they are not casualties of a broader-based reform that is not focused on their needs?

**Viscount Younger of Leckie:** As I said, the sector covering museums and arts organisations is very much already in the minds of those involved in the review.

## Energy Security: Hinkley Point

*Question*

*11.29 am*

*Asked by* ***Baroness Featherstone***

To ask Her Majesty's Government what actions they are taking to ensure that the UK's long-term energy security is protected, in the light of uncertainty regarding Hinkley Point.

**The Parliamentary Under-Secretary of State, Department of Energy and Climate Change and Wales Office (Lord Bourne of Aberystwyth) (Con):** My Lords, good progress continues to be made on the deal so that Hinkley Point can provide clean, affordable and secure energy that families and businesses can rely on now and in the future.

**Baroness Featherstone (LD):** I thank the Minister, but he will be aware that there is a certain amount of coverage in the media: the finance director of EDF has quit; the value of EDF shares is falling; and EDF does not have a legally binding contract with the Chinese. If it does not proceed with Hinkley Point, what is the Government's plan B for the security of our energy supply in future years, given that the support for renewables industries has been completely undermined by the Government and that there is still no commitment to the Swansea Bay tidal lagoon, which would provide energy for 120 years—three times as long as would a nuclear power station?

**Lord Bourne of Aberystwyth:** My Lords, EDF has said that it is working hard to take a final investment decision in the near future with the full support of the French Government. We believe—along with the Minister who took the initial decision, Ed Davey—that the Government negotiated a good deal; he repeated that this week.

**Lord Howell of Guildford (Con):** My Lords, does my noble friend agree that, whatever happens at Hinkley—obviously, there are some serious problems there—we have a perfectly good and better-time nuclear programme in place and in the pipeline for the longer term? Will he accept that the real threat to our energy security, which is leading to humiliating talk for this great industrial nation that we should have to deal with power cuts, comes from the failure to build new gas turbines in sufficient quantities to ensure that our power supply is regular in the 2020s and early 2030s? Will my noble friend finally agree that this arises from the gross mishandling and mismanagement of our energy policy in recent times and in the past and that it must now be corrected? We should all give full support to the Government to get that correction in place.

**Lord Bourne of Aberystwyth:** My Lords, I am grateful to my noble friend for his support. My right honourable friend the Secretary of State, Amber Rudd, has made it clear that energy security is the number one priority for this Government. That is why the project at Hinkley is so important. It will deliver 7% of our energy needs.

**Lord West of Spithead (Lab):** My Lords, does the Minister agree that this is a mess of the Government's own making? We have chosen the wrong type of reactor; costs and timescales are at least doubling and may get even more than that. More broadly, will the Minister confirm that protection is in place to ensure that UK firms keep more than 70% of the supply chain contracts for the third planned reactor and beyond and are not squeezed out by the Chinese supply chain firms, because that is the plan of the Chinese supply chains?

**Lord Bourne of Aberystwyth:** No, my Lords, I do not agree with that. The costs that are increasing are essentially those of EDF. We have a strike price that is agreed, constant and unchanging. I believe that it is a good deal for the Government and that the supply chain is secure. The noble Lord should know that 60% of jobs in the supply chain are already guaranteed for the UK.

**Lord Cunningham of Felling (Lab):** My Lords, is it not sadly clear that the ability to be energy self-sufficient, where nuclear power should be making a significant contribution, is jeopardised because we are unable to build the power stations ourselves? We are dependent on the French, the Chinese and the Japanese. Let me say, in case anyone wants to disagree, I do not hold the present Administration responsible for those circumstances. However, as the Minister will recall, the Chancellor of the Exchequer made an important announcement in the Autumn Statement about support for the development of small modular reactors. Will the Minister tell the House how much support has been given to date, to whom it has gone and for what purpose?

**Lord Bourne of Aberystwyth:** My Lords, the noble Lord is absolutely right about the importance of small modular reactors. He will know that £250 million was announced in the spending review specifically for that purpose in this Parliament. We will bring forward proposals on that early this year—that is, in the spring.

**Baroness Young of Old Scone (Lab):** Is the Minister aware that the Chancellor is making the situation worse by flip-flopping our energy policy from the Treasury and cancelling the carbon capture and storage project, onshore wind, the feed-in tariff arrangements, the zero-carbon homes and the Green Deal, and causing huge investor and company unrest and insecurity? We will not deliver an energy supply that is secure for the future as long as that continues. What are the Government going to do to stop the Chancellor flip-flopping energy policy and to restore investor and market confidence?

**Lord Bourne of Aberystwyth:** My Lords, the noble Baroness is wrong: there is no flip-flopping over energy policy. It is absolutely clear and it was set out in my right honourable friend the Secretary of State's speech that we regard security as the number one proposal. We are ending subsidies. We are moving away from subsidies to a market-based approach, which is the right thing to do. It is important that we balance the

[Lord Bourne of Aberystwyth]
interests of the public purse with the interests of decarbonisation and security, and that is what we are doing.

**Viscount Hanworth (Lab):** My Lords, would the Government be prepared to consider taking a significant share in the equity of EDF? Then the Company might become part of a nationalised industry owned jointly with the French. At present, we are in the process of underwriting all the risks of the Hinkley C project, so surely we should also expect to partake in any profits that might derive from that project.

**Lord Bourne of Aberystwyth:** My Lords, this is a commercial deal, as the noble Viscount should be aware. It is a matter for EDF if the costs increase: they are EDF costs. We have a strike price, as I have indicated, which is firm and unchanging and will guarantee us energy up to and beyond the 2030s—for 60 years from when this comes on stream.

**Lord Marlesford (Con):** My Lords—

**Lord Lea of Crondall (Lab):** My Lords—

**Lord Broers (CB):** My Lords—

**The Lord Privy Seal (Baroness Stowell of Beeston) (Con):** My Lords, my noble friend has been trying to get in on several Questions for several days.

**Lord Marlesford:** My Lords, is not one of the problems that, in negotiating with EDF on the two nuclear power stations at Hinkley and Sizewell in Suffolk—I declare my interest in the latter—the Government were outfoxed by EDF? EDF has shown an astonishingly ruthless determination to get exactly what it wants, lacking, in some cases, in integrity. To give one example, in Suffolk, in order to persuade people that there was support for its local transport plans, EDF summoned a meeting at which £20 notes were handed out and the people were filmed.

**Lord Bourne of Aberystwyth:** My Lords, I have no knowledge of that particular evening in Suffolk. I wish I had known about it—I could have been there. I return to the point that this is a good deal for the Government. It was a good deal when it was struck and it is a good deal now. It will provide 7% of the energy needs of the country, which is enough to power London twice over when it is fully on stream in the 2020s.

## Arrangement of Business

*Announcement of Recess Dates*

*11.37 am*

**Lord Taylor of Holbeach (Con):** My Lords, with the leave of the House, I will make a short Statement about business.

My noble friend the Leader of the House has today made the usual Written Statement to announce that Her Majesty the Queen will be pleased to open a new Session of Parliament on Wednesday 18 May. Parliament will be prorogued in the usual way on a date to be announced once the progress of our remaining business is certain.

It may also be for the convenience of the House if I make some remarks about recess dates. To save noble Lords clutching for their diaries, a note of the dates will be available in the Printed Paper Office. I stress that I make this Statement with the usual caveat that these dates are subject to the progress of business—they are provisional dates.

We will adjourn for the early May Day bank holiday at the end of business on Thursday 28 April and return on Tuesday 3 May. For the Whitsun Recess, we will rise at the end of business on Thursday 26 May and return on Monday 6 June. Additionally, the House will adjourn at the end of business on 15 June and return on Monday 27 June. The House will rise for the Summer Recess at the conclusion of business on Thursday 21 July and return on Monday 5 September. We will then adjourn for party conferences at the end of business on Thursday 15 September and return on Monday 10 October. That concludes my business Statement.

## Patents (European Patent with Unitary Effect and Unified Patent Court) Order 2016

## Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016

## Register of People with Significant Control Regulations 2016

*Motions to Approve*

*11.39 am*

*Moved by* ***Baroness Neville-Rolfe***

That the draft order and regulations laid before the House on 19 and 25 January be approved.

*Relevant document: 24th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 2 March.*

## Housing and Planning Bill

*Committee (5th Day)*

*11.40 am*

*Relevant document: 20th Report from the Delegated Powers Committee*

***Clause 67: Payments to Secretary of State***

*Amendment 61*

*Moved by* ***Lord Kennedy of Southwark***

**61:** Clause 67, page 29, line 33, at end insert "which shall include—

(i) the repayment of capital debt on any high value properties sold; and

(ii) the cost of replacing any high value properties sold on a one-for-one basis within the same local authority area."

**Lord Kennedy of Southwark (Lab):** My Lords, this morning we are discussing groups of amendments concerning the high-value vacant property levy. This is a damaging mechanism to deliver a policy for the Government. The right to buy should be funded directly by the Government not indirectly by local authorities. Forcing councils to sell off their high-value stock when it becomes vacant will have a devastating and immediate impact on the number of council properties. The Bill of course undermines council housing and seeks to drive people into a narrow group of options—either buy or go to the private rented sector with much higher rents. This policy will have a detrimental effect on people on low or modest incomes who are never going to be in a position to afford to buy. It actually makes the dream of owning your own home only ever a dream. As I have said before, localism, which we heard a lot about when we were debating the Localism Bill, now an Act, in recent times seems to have gone the same way as the big society and is hardly ever mentioned. Certainly the recent actions of the Government are about anything but localism.

This clause will allow the Secretary of State to require regular payments from councils which are to be based on an estimate of income from the sale of high-value council homes. The clause gives the Secretary of State considerable powers in effect to tax councils and to define what they think is of high value in their area. The clause allows for negotiation with individual local authorities, and the negotiations must be based on the impact of the policy as a whole.

Amendment 61 seeks to put in the Bill two very important additional points. These are, first, the payment of capital debt on any property sold and,

"the cost of replacing any high value properties sold on a one-for-one basis within the same local authority area".

If these matters are not taken into account when making a determination about the size of the payments, local authorities will be in an impossible position: having to make a payment to the Government but not being able to repay the debt on the property for the receipt is madness. Amendment 66A places a restriction on this section of the Bill coming into force until the regulations have been approved. This is necessary as these measures are so controversial and we need to be careful about what we are approving, so proper oversight is needed. The Delegated Powers and Regulatory Reform Committee highlighted this issue in its 20th report.

We on these Benches also fully support Amendments 62 and 62A proposed by the noble Baroness, Lady Bakewell of Hardington Mandeville, and the noble Lord, Lord Kerslake. They seek to make similar changes and will be spoken to by both noble Lords shortly. I shall make a further intervention in the course of the debate, but I shall now bring my remarks to a close. I beg to move.

**The Lord Speaker (Baroness D'Souza):** My Lords, I should remind the Committee that if this amendment is agreed to, I cannot call Amendments 62 or 62A by reason of pre-emption.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, I rise to speak in support of this group of amendments, and specifically to Amendment 62. I and my colleagues remain totally opposed to the sale of high-value council properties in order to subsidise the right-to-buy discount for a small number of lucky housing association tenants who may well qualify for the right-to-buy scheme. We are not opposed to housing association tenants having the opportunity to buy their homes, but this should not be at a cost to council tax payers in general. The way the Government have constructed the calculations on the sale of high-value housing is nothing short of a tax on local authorities which is neither transparent nor equitable.

For the vast majority of councils, selling off their high-value homes will mean that they are unlikely to be able to discharge their duty to rehouse larger families. It is not the case that every area has a stock of homes in conservation areas, or in areas where house prices are beyond the reach even of the council officers. We heard from my noble friend Lord Greaves earlier in Committee about the prices the houses in his area are likely to fetch.

*11.45 am*

The truth is that many councils' high-value homes are those intended to accommodate large families. Some of these families will be as a result of previous relationship breakdowns and the coming together of two people, each with their own children. Sometimes a large family will belong to a religious group or culture where large families are expected and the norm. Whatever the reason, it is a personal matter and not for public interference.

The Government should not be discriminating against these families just because they are large. Councils will still have a duty to house these families, yet are likely to have a very limited supply of suitable homes as a result of selling off their larger dwellings. This could lead to increased homelessness or perhaps families being separated as they are offered smaller, separate accommodation. If councils do have high-value homes that they can dispose of they should be allowed to keep a proportion of the proceeds to replace them with cheaper accommodation that will fulfil the function of the properties that have been sold.

Nottingham City Homes tenants have sent me a letter in which they say:

"This proposal was widely seen as 'robbing Peter to pay Paul'. Those losing out would be people seeking to rent affordable council-owned homes who would see them sold to raise money to facilitate the sale of housing association homes at discounts to people who can afford mortgages. One tenant said 'it's like Robin Hood ... in reverse'. There was great scepticism that the sales would generate the revenue to meet the shortfalls in housing association finances. As a result, tenants feared:

'High value would just be redefined to include more and more homes, so more and more got sold'.

'I live in a council home that some might consider "high value"—why should someone who comes after me not be able to live in a council house in this neighbourhood?'

It was noted that some of the higher value properties could be bungalows, often in urgent need by people with disabilities, and often specially adapted for those with mobility problems".

Tenants said:

"'Our properties have been adapted for tenants with disabilities. If they are sold then other homes will have to be adapted too, at extra cost'.

[Baroness Bakewell of Hardington Mandeville]

'There will no longer be any affordable council housing in certain neighbourhoods—council housing will be marked out as something that is only in poorer areas.'"

We have probably all received the Joseph Rowntree Foundation briefing that predicts that many of the high-value homes sold by councils will be bungalows. I am not sure about the level of supply of bungalows in cities, but certainly in the Somerset market towns and villages, bungalows come at a premium. Many residents, having lived much of their adult lives and certainly their retirement in villages of their choice, do not wish to move and are desperate to downsize, but have nowhere available on their doorstep to do so. When bungalows come up for sale or for rent they are snapped up. It is extreme folly to force councils to sell off the one asset that allows people to live in their own homes longer without the need for carers or having to resort to care homes.

Last week, following an application from a very forward-thinking developer, a small development of 14 bungalows was agreed in a village. Some of these will be affordable and one is to be specifically built for disabled access. It would be a very retrograde step if these were subsequently forced to be sold off to provide the subsidy for dwellings in a town that might not even be in the same county.

Council budgets are under extreme pressure and are likely to reduce even further in the future. Councils simply to do not have the money to replace the high-value homes sold off. For all the reasons I have given above, I believe that the Government should allow a deduction from the sum realised from the sale of high-value homes to cover the cost of a one-for-one replacement. This would be in addition to the deductions already proposed in the Bill. The Minister indicated earlier in Committee that the Government's intention on replacement was never like for like. However, I have understood that they intend the replacement to be one for one—that is what we are asking for here—and for it to be funded from the sale of high-value homes. I support the amendment.

**Lord Kerslake (CB):** My Lords, I shall speak in favour of Amendment 62A and the wider group in which my amendment sits. I declare my interests as chair of Peabody and president of the Local Government Association. The purpose of this amendment is to put beyond doubt the financial issue on one-for-one replacement. This is a crucial point and in making it I am following the imprecation of the former chair of the Public Accounts Committee, Margaret Hodge, to follow the money. My background, as noble Lords may be aware, is as an accountant by training.

I shall follow up three issues we discussed on Tuesday which are very relevant to this amendment. The first is the nature of the properties we are talking about in relation to forced sale. I acknowledge that it was very late in the evening, but the Minister referred to these as "surplus properties". These are most definitely not surplus properties; indeed, they are the antithesis of surplus properties. They become vacant but there is a massive demand to take up those vacant properties. The reasons are very simple. Higher-value properties—I emphasise the word "higher" because this is a relative concept in different areas, not an absolute concept—are either larger properties, or bungalows, as we have just heard, and they are most commonly in areas of higher demand. Anybody who has worked in a local authority, as I have, will know that these are keenly sought after, to the point that tenants who are desperately in need of bigger properties will spot somebody who has left a property and come and say, "Is it possible for me to take that one up?". So, we must be very clear that these are absolutely the most in-demand properties. That is why they end up being described as higher value, in almost all cases.

We had a long debate about the possibility of an equity loan, which I am absolutely convinced is technically capable of being done. The resistance to this proposal comes from the fact that it does not accord exactly with the Conservative Party manifesto. I am seriously concerned that we are ending up with what might be called manifesto fundamentalism. John Maynard Keynes said, "If the facts change, I change my mind", and the facts at the time this proposal was developed have now been proved to be palpably wrong. So there is a case for thinking again, creatively and flexibly, to deal with what may be the single most divisive issue in the Bill.

**Lord Horam (Con):** I am with the noble Lord on manifesto fundamentalism: I, too, think that we should not go too far down that path, but he was asking people the other night to accept, not a cash discount but an equity loan. If people have expected a cash discount from the manifesto, I do not think they will be very pleased to get an equity loan. That is the problem, if I may explain it to the noble Lord, in terms of popular understanding.

**Lord Kerslake:** The noble Lord raises a very relevant issue, but just to be clear, what was offered in the manifesto was right to buy on a like-for-like basis, and we are not offering that. This is a sales programme under which housing associations will be able to decide not to make a property available for sale, completely at their discretion. So I am afraid the offer in the manifesto has already been retreated from. What we are seeing now is a very challenging issue. There are two choices for the Government: either they fund this properly through direct funds, or they look for a creative solution. There will be an opportunity to get a cash discount because, of course, right to acquire remains as a policy. If it was felt necessary to move more towards that policy, you could have a mix of the two. However, what we are faced with here is a policy that looked good on paper at the time of the manifesto but simply does not add up. That is why I say that we should be creative and positive about alternatives which address that issue.

My third and final point on the discussion we had relates to our long debate about the fact that, given that we are not losing a property under this scheme, we need to consider what problem arises and what injury is suffered. The crucial point is the change in tenure. The effect of right to buy in its first incarnation in the 1980s, when there was no one-for-one replacement, was effectively a halving of the number of people—between 1980 and now—who live in social rented

properties, with all the consequences that have flowed from that for rents in the private rented sector. The consequence of the shift of tenure involved in losing a social rented property and replacing it with a buy-to-let or owner-occupied property rather than another social rented property is very significant indeed, not just in aggregate but in individual neighbourhoods. Anybody who has been round an estate that has experienced a lot of right-to-buy property being turned into buy-to-let property will know just how significant the impact is on such an estate—trust me.

It is important to be very sure about one-for-one replacement in terms of not just intent but finance. We spoke in a previous debate about the experience of what has been described as the reinvigorated right-to-buy policy, which is the point at which the Government committed to replace one for one. It is important to note that this was part of an extensive discussion at a meeting of the Public Accounts Committee yesterday, which I attended. It was also included in the National Audit Office's memorandum, which I hope noble Lords have now had a chance to look at, which proves beyond doubt the technical difficulty under the current financial regime of local authorities truly keeping up with the one-for-one replacement policy.

Having read the analysis, my personal view is that the barriers in the current model will prevent the delivery of one for one even under the current reinvigorated right-to-buy policy, and most certainly in relation to the extension of right to buy to housing associations. I shall explain why. Under the current policy, local authorities do not get the full value, or the full cost, of the one-for-one replacement; in fact, they get a third of the value of the property sold, and borrow the balance to make up the difference. In some local authorities that is possible; others either hit the cap of their right-to-buy borrowing or have other investment plans for using that funding to fund the maintenance of existing stock. Many local authorities have told me that they already have practical difficulties in delivering one for one. Indeed, a number have handed the money back to government after the three-year period. So unless we can be confident about the financial mechanism that genuinely gives local authorities the wherewithal to replace the property, we are setting this policy up to fail. This is a crucial point for me.

Therefore, the first point to make here is that the current mechanism—we do not yet know what the mechanism is in relation to the one-for-one policy for extended housing association right to buy—will not deliver one for one, never mind like for like. The second point I want to make—again, we are hampered by the lack of detail on deliverability—is that we are dealing with a potentially huge level of purchases. Shelter calculates that 221,000 housing association tenants, out of about 1.3 million who do not already have the right to buy through preserved rights on transfer, would both be keen on buying and have the financial wherewithal to do so. If everyone took up their opportunity, the cost would be more than £11 billion.

*Noon*

As I said the last time we spoke about this, the value of the discounts is now much higher in real terms. If you took the discounts when right to buy was introduced in 1980 and uprated them for inflation, they would be worth just over £30,000 for a house and just over £40,000 for a flat. We are now talking about discounts that cost £78,000 outside London and £103,000 inside London. There is a more-than-doubled value and therefore a more-than-doubled cost. This is an enormous amount of money. Shelter has calculated—again, I am using Shelter's calculations because we have no official figures on which to base this debate—that once you have taken on board receipts from forced sales, repayments on the debt, contributions to the brownfield land regeneration fund, et cetera, the net deficit would be £2.45 billion. Consequently, if we have a deficit, as I said on Tuesday, we will face major dysfunctional issues. The Chartered Institute of Housing has said that the money from forced sales would probably only just about cover the right-to-buy discounts, leaving little or no money for the replacement of the sold council properties.

Something will have to give in the execution of this policy. That is the crucial point. Either we contain demand or we fail to deliver the one-for-one policy. This uncertainty needs to be addressed now because it is already impacting on local authorities' regeneration plans. It seems to me that if something has to give—and I am absolutely with the noble Lord, Lord Porter, on this—it should not be the capacity of local authorities to replace one for one. They should be fully recompensed in order to replace one for one. The purpose of my amendment is to say, given this uncertainty about whether the numbers add up, given the very significant consequences if we do not make one for one work, and given the reality of the current policy on reinvigorating right to buy and the difficulties that is creating in delivery, we must put this issue beyond doubt here and now in the Bill.

**Lord Best (CB):** My Lords, I support my noble friend Lord Kerslake—although he does not need very much support—and the thrust of the amendments in this group. I think it sensible at the beginning of our discussions on this part of the Bill to set out my thoughts on the Government's policy for requiring councils, first, to consider selling their higher-values homes and, secondly, to pay a levy to central government based on the assumption that they actually do sell these properties whenever they become vacant.

Of course, we know few details about the calculation of the levy, which makes our debate problematic. We do not know what limits and exclusions there are on the levy, over what geographical area "high value" is to be assessed, whether the calculation is for homes of different sizes or simply on the basis of highest value, and so on. But we do know that it is intended to raise £4.5 billion per annum, so it represents a significant new tax on councils, which, in almost all cases, could be paid only by fulfilling the Government's assumption and selling the vacant homes. As I understand it, a figure equivalent to around a third of the proceeds from sales is to be retained by councils to pay for the replacement of sold stock and cover the related administration costs, but around two-thirds of the £4.5 billion per annum will go to pay discounts for housing association tenants.

[LORD BEST]

This robbing of Peter to pay Paul, as it has been described—this taxing of councils to give discounts to housing association tenants—is extraordinarily unhelpful. Instead, government needs to support local authorities as part of the drive to increase housebuilding. The underlying objection to the approach being taken by the Government is that it seeks to support increased home ownership—this time in paying for discounts to enable housing association tenants to buy, just like the earlier policy of building starter homes—but by switching resources from one budget to another instead of injecting new investment.

I see in today's papers that Professor Wren-Lewis, professor of economic policy at Oxford, discusses the reasons why central banks are seriously thinking about setting negative interest rates in a somewhat desperate attempt to get the economy going. He says that economists around the world, including at the OECD and the IMF, are urging investment in infrastructure. Housebuilding is just the kind of infrastructure that makes so much sense while interest rates are so low. Taking money from one part of the housing budget—that concentrating on affordable accommodation for those on lower incomes—and switching it to support the entirely worthy aim of assisting first-time buyers, ignores the economic advantages of substantially increasing investment in housing.

This is not to say that the practice of selling some vacant properties to fund new development is wrong: it already represents an important means of recycling assets to deliver more homes. For example, I know of terraced houses in London that were "municipalised" in the 1970s—bought by the council for a few thousand pounds and modernised—which now need heavy remedial work but are worth about 70 times as much. It may be entirely sensible to sell one of these terraced houses when it becomes vacant and avoid the upgrading costs, using the proceeds to build four excellent retirement apartments on the site of now dilapidated garages on the council estate nearby: the four new homes could accommodate four elderly households from the estate who are struggling to cope with a three-bedroom flat, or are under pension age and need to escape the dreaded bedroom tax. When these older people downsize, four families can move into the previously underoccupied three-bedroom council homes. Encouraging local authorities to make use of the opportunity to sell a vacant property, as some are doing very creatively, is one thing; to force sales and then to remove two-thirds of the proceeds is another matter altogether.

Under the proposed compulsory sales policy in the Bill, local authorities will lose control over most of the funds where they do make a sale, and this change means several are having to rethink their important plans for building new homes accordingly. When we debated the Government's policy for starter homes, I made the point that if subsidies to new buyers were covered by new resources, rather than by taking the resources from affordable housing for rent, the scheme would be greeted with acclaim by many of its current critics. The same considerations relate to the Government's approach to the voluntary right to buy for housing association tenants. If the discounts were funded by central government, the arrangements would be far less contentious. It is the fact that the payment for this support must come from councils, who will lose their best homes to pay for it, that causes the extreme disquiet.

Today's local authority housing departments and arm's-length management organisations are demonstrating high-quality management and are far removed from some of the ineffective operations of yesteryear. The phenomenon of hard-to-let properties on council estates is a rarity today. Many councils, often through those arm's-length management organisations, are using the freedoms now given to spending through the housing revenue accounts to do imaginative work with their local communities, creating apprenticeships and jobs, tackling anti-social behaviour and so on. Yesterday, I was judging entries for the landlord of the year award from *Inside Housing* magazine. I was reminded by the quality of these entries of just how far many councils have come over the past 15 years or so. However, they are now suffering the imposition of a 12% real-terms rent cut over the next four years, and hopes for increasing numbers of new homes to help the crying need for more affordable housing will be disappointed.

At every turn local authorities that have the capacity and aspiration to help in the struggle to get more homes built seem to face blockages. There is the cap—the ceiling on prudential borrowing to invest in new homes; the current restrictions on the use of right-to-buy receipts; the rent cuts over the next four years; and now the confiscation of most of the proceeds from selling vacant homes. Bristol City Council says that,

"loss of these receipts is a further loss of income to our Housing Revenue Account and compounds the impact of lower than planned rents. We have raised £3 million p.a. from the sale of these",

vacant homes,

"and were relying on this income in our business plan. It will impact even further on our ability to build new homes—as these receipts have been a key source of income and one of the few flexible sources"—

that is, without so many government rules. I am afraid those rules have now arrived with a vengeance.

The noble Lord, Lord Porter, expressed the view on Tuesday that, while he strongly supported the right to buy for housing association tenants, the cost of their discounts should not be borne by local authorities. There was support for this view from all sides of the House. He went on to suggest, however, that since housing associations were generating an annual surplus of some £2.5 billion, they should pay for their tenants' discounts from these surpluses. I detect three problems with this suggestion. First, the annual sum required for the discount is estimated at some £3.5 billion, so even if every pound of the housing association surpluses were sequestrated not enough would be raised. Secondly, the Government are already raiding the housing association coffers by requiring the 12% real-terms reduction in rents over the next four years, at a cost to the housing associations of around £1.3 billion per annum. Thirdly, these surpluses are not simply cash bonuses; they must be seen alongside the outstanding debt of some £63 billion that housing associations owe to cautious lenders. The lenders require housing associations to build up reserves in case of future

problems and want to see housing associations making a reasonable margin on their operations instead of just breaking even each year. If associations become less profitable in the eyes of lenders, those lenders will not lend so much and will charge higher interest rates, diminishing the development programmes of these bodies. I know the noble Lord, Lord Porter, shares the view of many of us that the overriding priority is to see more new homes built, especially those affordable to people on average and below average incomes. With that priority, scaling back the output of housing associations would not be wise.

The nub of the problem remains that the imposition of a levy that has the effect of requiring councils to sell their most valuable homes when they become vacant is a bad idea. This wrong cannot be righted by switching the burden to the housing associations. I am very much aware that the Government are keen to have their cake and eat it—to achieve the new right to buy for housing associations, but without any cost accruing to the Exchequer. But just as with starter homes, they can achieve this miraculous feat only by diminishing affordable housing to rent to generate the resources that will help different people to be home owners. This leads me to join forces with those who oppose Clause 67 in principle and to support these amendments.

*12.15 pm*

**Baroness Janke (LD):** My Lords, I, too, support this group of amendments. I am grateful to the noble Lord, Lord Best, for highlighting my own local authority of Bristol and the policies it has adopted over the years, which provide examples of really good practice. I must say that, in view of the fact that we are supposed to be delegating more powers to local authorities, the draconian nature of the measures in the Bill seems entirely counterproductive.

As has been said, Bristol has its own asset management plan. It has generated £3 million a year to be reinvested in areas of most need and to build social housing. The plan considers how public assets can be reinvested to provide social housing, particularly for those most in need. Those in my authority would find it totally unacceptable for their public assets again to be siphoned off to be reinvested in other areas for housing for people who are not the most in need. Before producing the Bill, the Government might have looked at some of the better schemes and good practice going on within local authorities, and the level of need for social housing and affordable housing.

The Government's talk of creating houses to buy completely disregards the fact that many people, particularly in our cities, will never be in that position and will now find that their authorities cannot enter into those creative ways of providing new housing for people in need. My authority has entered into partnerships with the private sector, charities and housing associations for excellent refurbishment schemes of some existing stock and to create new homes for those most in need in different parts of our city. I very much support what has already been said and hope the Minister and her team will look at existing best practice and think again about the measures proposed.

**Lord Campbell-Savours (Lab):** My Lords, I intervene seeking clarification. I am a little perturbed about some of the new rent levels. I am sure the Minister will correct me if I am wrong but as I understand it, when a house or flat is replaced, it is replaced by a house or flat at an affordable rent, but affordable rents can be 80% of the market rent. I referred the other day to a number of flats in Westminster: a one-bedroom flat at £113 a week, a two-bed at £128 a week, a three-bed at £142 a week and a four-bed at £157 a week. That is a council house or flat in central London, and that might be a low rent. What interests me, looking at it from the consumers' point of view, is that, to take the two-bed flat at £128 a week, on the open market, when flats have been sold off, they command rent of £450 and £500 a week. So at 80%, the new rent will be £400, charged by a public sector provider, which is three times the existing rent. In other words, it might be like for like in terms of rooms, but it is certainly not like for like in terms of rent, because the rents within the public sector will triple.

I do not think that people out there in the country have really grasped that that is the case—if my figures are correct. Perhaps the Minister, when winding up, will clarify the position. Is what I am saying accurate: that rents in the public sector, on a replacement basis, will triple in many parts of London? It is a simple question.

**Lord Horam:** My Lords, we are having a very productive debate on this issue, and many other aspects of the housing problem that we face. The noble Lord, Lord Best, made the point just now that selling off high-value assets when they become vacant is not necessarily a bad thing, and indeed can be a very good thing in certain circumstances. I see him nodding and take that as assent. Because he is a long-time student of these matters, he will recall that the origin of this proposal to sell off high-value council properties was in a pamphlet produced by Policy Exchange in 2012. That was produced when those interested in housing were saying, "No government money is available in this economic situation. Therefore, we have to think of some other way to release assets which will fund more housing". That thorough, well-worked document suggested that 20% of social housing nationwide was perhaps expensive and could be sold off. The figures in the document showed that no less than £159 billion-worth of assets could be released, and then be spent on new social housing. I emphasise "new social housing" because, as I understand the original document, it was talking about selling off expensive social housing to provide new social housing to rent or to buy. That means housing in the public sector, not private housing.

The situation changed when this idea, which was a productive one, was linked to how the right-to-buy idea would be funded. This is the link that many people are concerned about, and which has provoked so much debate. The problem here, as my intervention on the noble Lord, Lord Kerslake, alluded to, is that the manifesto commits us to extending the right to buy, which is already extant from previous council housing right-to-buy measures. There is a presumption that it would be the same. However, I agree with him that we are now in a different era: we are 30 years on

[LORD HORAM]
from when the original right-to-buy procedure under Mrs Thatcher was introduced. The sums are much higher. I certainly agree with him, as a Keynesian economist—and certainly given my own political background—that changing facts can change your views. I could hardly disagree with that: it is a fundamental point of view. Therefore, the Government should think very hard about this point, because the fact is, as he said in his speech, the costs are huge if you are talking about a cash discount on the same basis as occurred under Mrs Thatcher's famous right-to-buy proposals. As I understand it from what he was saying—others might go down the same path—we might want to have a mixed package which could involve some equity loan as well as cash. That is to be decided. It is one way in which the Government could maintain their manifesto commitment and not necessarily disappoint those who were hoping to get a reasonable deal out of the right to buy.

This is an area where the Government should think most carefully about what they are doing, and where the debate has contributed to their thinking. I sometimes think it might have been better if the Government had started off this Bill here, rather than in the other place, because in many ways we actually have more expertise on this subject, given that, these days, the number of people with a local government background—on both sides of the House and on the Cross Benches—is larger here than in the other place.

**Lord Campbell-Savours:** Is there not also a danger that that £103,900 discount could rise? If the property for sale in central London is sold as a percentage of a market price, many people in London would simply not be able to afford it. If they cannot afford it, the only people who would be able to would be those who use tenants as vehicles to buy: people from overseas who can afford to spend that amount of money. The only way to ensure that, let us say, London residents buy those properties would be to increase the discount even further, but that would further aggravate the condition the noble Lord is talking about.

**Lord Horam:** That is the problem that produces the large discounts necessary to make the scheme work. The noble Lord has re-emphasised this in his remarks.

The other way of tackling this, which we have dealt with on previous days in our debates, is for the person who buys the house to pay back some of the discount they got in the initial phase over a period of 10 or 20 years or over whatever period. That may seem to many people also to be a fair way of reducing the cost and making a reasonable deal.

I shall put two other thoughts into the debate because I appreciate that we are dealing with the fundamentals of this issue at this stage. First, the Government would be wise to be as flexible as they can be in the way they negotiate with local councils in doing the deals in this area. Therefore the Bill should be as flexible as possible. Much of this will end up in a bargain between the local authority, the Government and the Department for Communities and Local Government, the details of which we cannot anticipate and do not know at this stage. The Government would be wise to write the Bill and the regulations so that they are as wide as possible to allow for local circumstances because, as the noble Lord, Lord Kerslake, pointed out, facts will change with the housing situation we are in. It is developing very rapidly. The noble Lord, Lord Campbell-Savours, made the point that house prices are increasing very rapidly in London and the situation may change even over a year. Maximum flexibility in what the Government expect from local authorities is required.

Secondly—and this may be outwith the scope of the Minister today, as I appreciate that it is really a matter for the Treasury more than Ministers of his department—the Government should think about raising the cap on local authority borrowing for housing. The way the cap works at the moment is ridiculous. It disadvantages housing investment by comparison with, for example, cycle lanes, leisure centres and things of that kind. It completely distorts the way we look at local authority funding, and that cannot be right in the present situation. It puts a cap on what local authorities can do. My understanding from some of the figuring that has been done, for example in the paper by Capital Economics for Shelter in 2014, is that local authorities could spend up to £7 billion a year more on housing if the cap on their borrowing powers was raised. I am well aware that that immediately gets into the problem we have also been wrestling with about how you define that method of dealing with the problem and at the same time keep the Government's commitments on debt and deficit.

Looking at the paper which Capital Economics did in conjunction with KPMG and others I see that there are many ways in which the financing could be arranged so that, although the debt might increase, the deficit would not. There are ways around the situation in which the Chancellor finds himself in which he could still help with housebuilding. As the noble Lord, Lord Best, said, Professor Wren-Lewis, a distinguished economist from Oxford, and many others have already pointed out that now is the perfect time to invest in housing. As this is capital investment as opposed to current spending, it would be received very well by capital markets around the world. Whatever method you chose publicly to account for this, I do not believe that you would have a thumbs down from the capital markets. On the contrary, they may see it as an extremely sensible thing to do. Indeed, many of the larger financial organisations in the world—the IMF, the OECD et cetera—are calling for this sort of investment to boost growth at this time. There is a way of making the underlying philosophy and underlying mechanisms in the Bill work, but they will require a lot of flexibility and imagination on the behalf of the Government.

**Lord Beecham (Lab):** I remind the noble Lord that I knew him before he changed his views and the first of his parties. I strongly endorse the latter part of his speech but is it not really the case that, instead of imposing a mandatory scheme of local authorities, the Government should give local authorities the right to sell and encourage them to do so? It is the mandatory element across all councils in all circumstances that is surely one of the difficulties. Would he agree?

*12.30 pm*

**Lord Horam:** No, I would not, because, frankly, they have not done it and they would not. That is the dilemma that the Government are in: if you are really to make this work, I am afraid it is inevitable that you have to make it mandatory otherwise it will not happen. The question then is how you do that and how you translate it into more social housing.

**Baroness Hollis of Heigham (Lab):** My Lords, we have heard some very powerful speeches. I certainly do not wish to repeat, to the boredom of the House, the points made very effectively by the noble Lords, Lord Kerslake and Lord Best, but I entirely agree that the sums do not stack up.

A few months ago, the Minister took the Cities and Local Government Devolution Act through this House very skilfully, patiently and responsively. If this proposal had been part of that Bill and produced by this side, I suggest that she would have told us three things. First, she would have said, as a former local authority leader herself, that in the name of localism the sales of local authority property should be determined by those who know best—the local authority itself. She would have used that language last summer and indeed often did so, and she was right.

If local authorities decide prudently, as I think they should, to scrutinise their property stock and where appropriate to churn it—as I have certainly done in the past, selling more expensive stuff and replacing it with more effective, appropriate and numerous properties that best fit local need—the second thing that the Minister would have said, following the noble Lord, Lord Best, is that that was exactly what local authorities do and that local authorities are best placed to make that decision. What works for London does not work for Norwich; even what works for Cambridge does not work for Norwich. To have this blanket approach is anti-localism, the spirit of the very Bill that she was persuasive in encouraging the House to support last summer.

Thirdly, the Minister would have said that if local authorities decide to churn their resources, selling larger and more valuable properties—in Cambridge the average council house is worth about £350,000—then they should determine how those resources are recycled and spent. They may decide to help to build for sale—I have done that in the past—and why not if that is what their local area needs? In the name of the localism Bill that the Minister took through the House, local authorities are best placed to make that decision and should do so, not have it imposed by central government—as, to some extent, the noble Lord, Lord Horam, was arguing.

The result is that the Government have two pressures in the Bill. First, they want to increase the supply of housing, and they are absolutely right: we need to increase the supply of housing, and I do not think there is any dispute between us on that. It would help the construction industry and would help to address the demographic problems that are coming up as our populations grow and age, and as we need perhaps different sorts of housing from the sort that we have. The second motivation for the Bill, beyond increasing the supply of housing, is to increase a particular tenure, which is home ownership, as fuelled in this case by right to buy. What the Minister has to accept, as was spelled out by the noble Lords, Lord Best, Lord Kerslake and Lord Horam, is that the two flatly contradict each other. If you use the money coming from right to buy to fuel home ownership, at local authority level you will not be able to replace the stock lost.

Take your pick. The Government have two objectives, which most of us share—I certainly do—but the mechanism that the Government have set up for the funding means that the attempts to increase the housing supply in this country, including affordable housing, are subverted, undermined and sabotaged by the method of funding right to buy from the sales of more valuable property. What they should be doing is saying to local authorities, "We will encourage you to do this if this is what you think your area needs. The first call on the profits and resources from that sale of more valuable property should be, in your judgment, how best to replace your local stock". If there are surpluses, it may well be that local authorities can come to arrangements with housing associations to help them to increase their stock too. That is what we should be doing: finding a co-operative way forward, so that if we go down this path of churning stock—with which I have no problems at all—it should first be deployed to increase the housing stock and only secondly to increase home ownership. If you use this money to produce home ownership through right to buy, you will not replace the stock.

The Government have to consider what will determine their policy: what is best suited for the country or, I am afraid, an effort to appease Tory party policy. They do not have to do it in this way but they have that choice. If they want to increase housing supply, they have to find a different mechanism from the one they are proposing in the Bill of funding RTB discounts, because it will not work—the sums simply do not work. Many of us have crawled over these figures and we know that they cannot do what the Minister hopes: fund discounts, replacement stock and brownfield sites. That cannot be done unless the mechanisms are changed by the Government. The Minister will be well advised to listen to the comments not just of the Cross-Benchers but from Members on her own side such as the noble Lord, Lord Horam.

**Lord Young of Cookham (Con):** My Lords, I will make a very brief contribution to this debate as we enter another controversial section of the Bill, which has at its root, as the noble Lord, Lord Kerslake, said, a section of the manifesto. He warned us to beware of manifesto fundamentalism. What he calls manifesto fundamentalism other people might call democracy—namely, delivering the commitments that one made during an election. If I was still in another place, going back less than a year, I would be slightly cautious about saying, "I'm very sorry but we're not going to do what we said because that would make us guilty of manifesto fundamentalism". Given the low esteem in which politicians are held, one has to be quite cautious before one abandons manifesto commitments. In this case, the manifesto was quite clear:

[LORD YOUNG OF COOKHAM]

"We will fund the replacement of properties sold under the extended Right to Buy by requiring local authorities to manage their housing assets more efficiently, with the most expensive properties sold off and replaced as they fall vacant".

That is a perfectly practical policy, although I understand from most of the contributions so far that it is fiendishly unpopular with local authorities. In fact, the policy has been softened a bit, as they do not have to sell the high-value assets; if they have other ways of meeting the levy, they can do that. As a former local councillor myself—

**Baroness Hollis of Heigham:** After 40% cuts more generally and 1% cuts on council rents in particular per year, coming up to 12%, to say that local authorities can find another way of doing this is utopian.

**Lord Young of Cookham:** I would not be surprised at all if some local authorities use the discretion under the Bill not to fund all the levy by selling off high-value assets. They may have other ways of meeting their obligations, so that is a welcome concession. Having said that, I understand the strong feelings of many who have served in local government—

**Lord Foster of Bath (LD):** When the noble Lord signed up to the Conservative manifesto, what understanding did he have of the word "vacant" used in it?

**Lord Young of Cookham:** Not surplus but vacant—in other words, as a tenancy comes to an end, the property then becomes vacant. I accept all the arguments we have heard so far that there may be people who want to move into it, but "vacant" means that no one lives there. That is relatively clear.

Having said that, I recognise that this is a fiendishly unpopular policy in this House, but all the debate so far has focused on one side of the coin; namely, the removal of the assets from the local authority. To get the argument slightly more balanced, one needs to look at where the money goes. The proceeds will be reinvested in housing, either by helping housing association tenants to buy their homes with the discount—homes that are then going to be replaced. All the homes that are disposed of by local authorities will also be replaced; all the money will go to regenerate brownfield sites so that they can be available for housing. Therefore, all the existing housing stock remains in place, still part of the existing assets of the country, but the proceeds that are generated will generate new supply.

**Lord Beecham:** My Lords—

**Lord Young of Cookham:** Can I just finish this point? The noble Lord, Lord Best, made the point very effectively that in one case you can get four times the number of units by disposing of one. It seems to me that, if one stands back and looks at the policy in macro terms, one is increasing the supply of housing stock by generating new build without diminishing the assets that exist at the moment. I accept that there is a change in tenure and that may be the point that the noble Lord, Lord Beecham, is going to make. However, in terms of housing policy, one is recycling assets in order to increase supply. The Treasury—I speak from experience—has normally been against hypothecation, but in this case it seems to have insisted on it by insisting on a linkage between revenue and expenditure, and I understand why it has done that.

Picking up what my noble friend Lord Horam said about flexibility, I think that it is important so to define high value that not all the large properties in a local authority area are disposed of. One has to retain a balance of stock. I hope that "high value" will be defined in such a way in London that local authorities in the centre of London do not find that all their properties are defined as such and they have to dispose of them. I take the point made by the noble Lord, Lord Best, and others about the situation in rural areas. I think that one needs to be flexible, but I am prepared to stand up and defend the overall principle of the policy.

**Lord Beecham:** Is not the noble Lord's argument predicated on the sale taking place when the property is vacant? However, that is not what the Bill says. The levy can be imposed before the property is vacant, and it may never become vacant.

**Lord Young of Cookham:** Consultation is going on at the moment to discover at what rate local authority properties become vacant and the levy will be based on the normal turnover of local authority stock, so I think that it is perfectly defensible to come to an arrangement that fixes a levy. I think that there is a provision in the Bill that enables the Secretary of State, in certain circumstances, to refund the levy to the local authority. Therefore, I do not think that what the noble Lord says undermines the principle of requiring local authorities to recycle assets via the Government in order to increase the total supply of the nation's housing stock.

**Lord Kerslake:** Before the noble Lord sits down, I just want to make a few points. The first is that of course the party that wins in the election will seek to deliver its manifesto commitments. That is absolutely right and it is part of the democratic process, but my point is that there has already been a variation from what was in the manifesto. We are not extending right to buy to housing associations like for like; we are putting in a different, voluntary policy for the perfectly sensible reason that it allows flexibility and addresses some of the issues such as the one affecting Peabody where properties receive no public subsidy. So there has already been flexibility.

The second point is that the intent here is to give people the opportunity to buy their property, so the end is clear: so far as possible we want to give people who live in housing association properties access to purchase their property in the way described. The question I am raising concerns the commitment to the mechanism by which that is delivered. I do not think that the electorate would feel that the Government had reneged on their commitment if they said that the mechanism they thought could deliver this was based

on a set of false assumptions: an assumption of turnover of properties that was twice the actual level and an assumption about the value of those vacant properties that was way over the actual figure. In those circumstances, is it not reasonable for any Government to say, "We have to look again at the means while still being committed to the ends"?

**Lord Young of Cookham:** I understand the point that the noble Lord is making but he may recall an intervention that I made on Tuesday: the trouble with the alternative means of funding the commitment is that it increases the PSBR. There, you hit another real constraint from the Treasury in delivering the Government's overall macroeconomic policy.

**Lord Tope (LD):** My Lords, we have very many reasons to be grateful to the noble Lord, Lord Kerslake, but I suspect that in years to come he may well be remembered most for giving us the term "manifesto fundamentalism". I was going to attempt to define it, but the noble Lord has just done so in a very much better way than I could. Maybe it is something like "the irrational adherence to a manifesto detail when there is a demonstrably better way of achieving the greater policy objective in that manifesto". I am sure that, over time, others will be able to refine that definition more, but I think that that is what we are talking about—an irrational adherence to a clearly poor way of achieving the objective.

My noble friend Lady Bakewell at the beginning of the debate—

**Lord Young of Cookham:** Does the noble Lord think that the commitment on tuition fees may possibly fall into that definition?

*12.45 pm*

**Lord Tope:** It may well do, my Lords, but I will resist the temptation to be distracted in that direction.

At the beginning of the debate my noble friend Lady Bakewell set out the Liberal Democrats' view on this; a view which is clearly very widely shared—dare I say it?—right across the House. We accept that the Government have a manifesto commitment to give people the right to buy their own property. However, it is the funding of that that is the problem we are debating. We are being very gentle in referring to it always as a levy, rather like the way some people used to talk about a community charge. But calling it a levy does not make it any less of a tax—and that is exactly what it is: a tax. I am grateful to the noble Lord, Lord Young, for making it very clear that it is a tax and that it does not necessarily bear any relation at all to the realities of the sale of so-called high-value properties. It is simply a tax. It is there to achieve a financial objective, not to relate particularly to the sale of high-value properties. I am not sure that the noble Lord, Lord Young, is optimistic, but perhaps he is hopeful that it might not necessarily mean the sale of high-value properties, or indeed of so many high-value properties.

I make particular reference to London. It has been recognised many times in the process of this Bill that there are very particular problems in London, not least the number of so-called high-value properties, however one defines "high value". But an added problem—certainly a welcome problem if it is achieved—is having not a one-for-one replacement but a two-for-one replacement. However, experience thus far in London has been that the previous one-for-one replacement programme has not exactly been an outstanding success. In fact, it has not really been achieved at all. Therefore, to double that and look for a two-for-one policy—which would be welcome if it is achievable—must be doubly difficult.

Let us look for a moment at what that could mean. As has been said so many times in this debate, we again await crucial detail on how this is going to be implemented. I do not actually know whether the definition of "high value" will apply on a London-wide basis—in which case, good luck to Westminster and to Kensington and Chelsea. When we first thought that that would be the case, my own borough of Sutton thought that it probably would not have to sell any properties, but, demonstrably, that is not going to be what happens. However, we await confirmation in London of whether this will be done on a borough-by-borough basis, some sort of subregional basis or what basis at all. What is the definition of a "high-value property" in that context? There is a huge difference between, in my case, the London Borough of Sutton, or that of Barking and Dagenham, and, at the other extreme, Westminster, Kensington and Chelsea, Camden and so on. So we are going into the dark in London, with no idea what this will actually mean.

London Councils, which represents the 33 London authorities, has said that,

"it is critical that this policy delivers: An increase in housing supply … A net increase in affordable housing … No loss of London's social mix … London's funds reinvested in London".

I pause for a moment on the issue of the social mix. A little while before the general election, I talked with the then chairman of Westminster Property Association, a major property developer in the City of Westminster. He wrote his own manifesto, expressing considerable concern about what he felt was happening in Westminster—his city. Before the general election and before the introduction of this policy, he said that before very long Westminster would be a city for either the very rich or the very poor, and that the great number between those two extremes—whether we call them the middle classes or whatever; the people who make up and who are active in the community—would be driven out and have to leave Westminster. That is a social conclusion with a profound effect.

This policy is not just about whether the sale of high-value properties will produce a two-for-one replacement in Sutton or somewhere else in outer London where land values are less but, crucially, whether it produces the same replacements in the City of Westminster, in Kensington and Chelsea, in Camden and so on and maintain the same social mix that is rapidly being lost. Or are we in fact accelerating the drive of people ever further away from the centre of London and therefore further away from the places

[LORD TOPE]
where many of them have to work? Indeed, central London, as anywhere else, is dependent on people on low incomes to support our many services.

A similar problem is that the replacement homes need to be provided swiftly—not in years to come, although that would be welcome, too, but swiftly. There is inevitably a gap between the sale of the property and its replacement either by one or two similar properties. They need to be similar properties and they need to be in the same area. Again, what is the definition of an area when applied within Greater London? Does it mean a borough? Does it mean a particular part of the borough? Does it mean south London, north London? What does it mean?

I hope that the Minister will be able to give us greater clarity on when we will get those definitions and when we are going to know, because London borough councils—and I am sure this applies to local authorities throughout the country—are really worried about the effect of this policy in their area and their inability, simply through lack of knowledge and lack of detailed information, properly to be able to plan for what is to happen, however unwelcome it is. I hope that the Minister will able to go some way, if not all the way, to clarifying those important details.

**The Earl of Lytton (CB):** My Lords, I apologise to the Committee for being late on parade this morning due to my travel arrangements.

It is tempting from these Benches to have a bit of a dig at manifesto commitments, bearing in mind that I made my maiden speech in this House in my previous incarnation here on what became known as the poll tax, so I know that political expediency often overrules practical reality.

Your Lordships will know that I come to this matter with a certain area of technical expertise in relation to development matters. It seems to me that there is more than a hint of evidence that a sale by a housing association of a property at a 20% discount is not a self-sustaining model without the cross-subsidy, notwithstanding the fact that many housing associations are involved at the commercial end of residential property development and are in competition with other private sector operators in the market for the same sites—therefore, one can reasonably suppose that they are making some developer-type profit out of that.

Given that most local authorities now no longer operate on that basis—your Lordships' Select Committee on National Policy for the Built Environment had evidence brought before it that indicated the sharp fall-off in local authority construction of new homes; the evidence from the graphs that we were shown was incontestable—it follows that the sale of a local authority house on whatever level of value is also unlikely to be self-sustaining. More to the point, it does not have the cross-subsidy from the allied sector—or any sector really. There will either be an attrition in the numbers replaced—not one for one—or an attrition in quality, AKA size; whatever way you want to do it. It might be both. That might result in a cheapening of the housing stock to the potential detriment of the built environment and the long-term value and therefore sustainability in terms of people's willingness to maintain and look after these places.

The noble Lord, Lord Tope, referred to something that I know as market drag, which is when something is sold and there is a period when one tries to organise where to reinvest the money and things happen. The market may move forwards or backwards, as the case may be, financing arrangements may change, opportunities that may have been counted on may disappear or new ones may arise. One therefore cannot easily say that £20 today will give £20-worth the day after tomorrow. It does not work like that because of the very high number of price-sensitive factors involved in the development world. In any event, we do not know how many high-value council house sales will take place, and we have heard that we do not know what high value is intended to mean. Is it in absolute terms—the largest four-, five- or six-bedroom house in a council's stock? Or, more disturbingly, could it be a relative test by reference to a series of sub-categories of housing? We do not know.

When the Minister held a series of meetings before Second Reading of the Bill—and I give great credit to her for organising those—it became clear that there was a great deal of unfinished business in terms of getting the information back from local authorities about how this would work in practice. We do not have a worked model and I wonder what that means in practice. I remain to be convinced that reinvesting in social housing is more than a short-term fix. I mentioned at Second Reading that the precedents are not that great. I referred to the proceeds of council house sales. First of all, councils were able only to spend the interest that arose on the capital sum. Then they were not even able to use that and finally the Government of the day in 2000, as far as I could see and this may be an oversimplification, popped the lot into the Consolidated Fund. Thereafter, we had the business of developers somehow funding this social element because the entire stock of billions had disappeared. I do not know what it was spent on because of course the Consolidated Fund does not tell us that. The Treasury does not like hypothecated figures in its Consolidated Fund: it wants a big bank account on which it has great flexibility. I can understand that.

I feel that smoke and mirrors are involved here. What I am really getting at is that if there is a 20% discount at every turn—so that a house is sold at a discount and the money is reinvested in something else that is then discounted at another 20%—I do not see that that is viable. I would really like the Minister to ask her officials whether we could see a worked model of how that would function in practice because I strongly suspect that what is involved is forward guessing on increases in property and land prices.

As a registered valuer and thus being subject to all sorts of things that registered valuers are subject to, I absolutely proscribe forward guessing future rises in value: the value is what it is today. If I am reviewing a value the day after tomorrow, it is the value for the day after tomorrow, but on day one and on any accounting basis, to forward guess an increase in value is an extremely risky and perilous operation. But I sense

that that is what lies behind this, because the numbers do not seem to add up. I fear that that is what is implicit in this. I ask the Minister again: I would really like to see a worked example of how it will be done.

I am not against the principle of the Government's manifesto commitment, but I sure do not want to be here trying to sort out the debacle that might arise if we get into a situation of relatively static house price increases and land values, which we might. Then the year-on-year increase that might implicitly be built into this model evaporates and it fails. While I do not wish to say whether I am necessarily for or against this series of amendments, they raise a very important point about the underlying financial principles that are involved.

*1 pm*

**Baroness Hollis of Heigham:** Does the noble Lord agree that while his figure of a 20% discount may make perfectly good sense in terms of the finances for London, in cheaper areas outside the capital a discount of £77,000 or £80,000 can represent getting on for 40% of the value of the property?

**The Earl of Lytton:** The noble Baroness is absolutely right. There is a great temptation to look at this in terms of London and the south-east which is not a model that pertains everywhere else. Somewhere like Lincolnshire is not even out of what we would call the housing recession yet, or so little out of it that it makes no difference. When you get to the position where you are reinvesting, it must be noted that certain things remain stubbornly the same across the country; construction costs and normal finance costs remain stubbornly the same. The variables are land prices on the one hand and the exit price for the finished product on the other. It is clear to me that in some parts of the country the margin is perilously thin because we are not seeing housing development in those areas. Why is that? It is because there is no economic rationale to enable it to happen.

I do not wish to be drawn specifically on London because that draws me into an area in which I would not feel comfortable about voicing an opinion on, but as a piece of general geometry, the higher value parts of London and the south-east cannot be transposed to somewhere further afield which has a completely different model. One issue is the regional imbalance that has developed over the years under a number of different Administrations; I do not point a finger on this, but it is a fact that we have a serious regional imbalance. Yesterday I chaired a small meeting that included an Italian lady who is an expert in housing finance. I asked her whether the economic imbalance between, say, the north of Italy and the Mezzogiorno is worse than it is between the north and the south of this country. She replied, "Not a bit of it. It is recognised that there is a much more acute problem here in Britain than there is in Italy". She went on to quote some figures that I did not understand, but I pass that on for what it is worth and I hope it answers the noble Baroness's point.

**Lord Porter of Spalding (Con):** My Lords, before I speak, I should refer to my previous declarations of interest. I am not sure whether I keep having to do this because they have been set out in previous debates. Obviously my noble friend the Minister will not expect me to support taking assets from well-run councils and giving them to poorly-run housing associations, but I do support the Government's commitment to extending the right to buy to RSL tenants and allowing councils to sell and dispose of high-value assets. Currently we have to do that via Secretary of State approval. I think that the last time my council did it, John Healey was the Secretary of State; that is how long ago it was.

First, I will put a plea in for Lincolnshire. Despite what the noble Earl, Lord Lytton, has said, Lincolnshire is not a stagnant housing market area. My own district is probably the ninth fastest housing growth area in the country in terms of prices and I urge anyone who is thinking about investing in property to come to Lincolnshire because it is a very good investment area. I also need to put a plea in for councils. In the past five years we have built more council houses than we did in the last five years of the previous Government, so councils are building more properties. I do not think that the figures the noble Earl was given reflect accurately the actual numbers that are being replaced.

If this debate is about the Government having a manifesto commitment to bring in right to buy and a commitment to sell high-value assets, they should not necessarily be seen as two policies that are tied together. Both are perfectly laudable aims, and one way to make sure that the sale of registered social landlord properties is achievable is by giving the registered social landlord only the money necessary between the capital receipt and the cost of the replacement unit. Nearly 600,000 of those units where the right to buy will be applied to the 1.3 million are where the preserved right to buy no longer exists on homes sold through large-scale voluntary transfer. Those houses went from councils to registered social landlords at little or no capital cost, so a significant public discount is already built into those homes. If that money is freed up, we would have to find a much smaller sum to be able to meet the Government's commitment on this. I urge the Government to remember that their flagship policy of right to buy is something that can be passed on to future generations only if councils have the right to build, so taking resources from councils is not the best way of maintaining this flagship policy.

**The Earl of Lytton:** My Lords, perhaps I may just explain that I was reiterating a piece of evidence that came before the Select Committee on the National Policy for the Built Environment. I have forgotten the gentleman's name, but I thought he was from Lincolnshire; it may be that he was not. He was a representative of one of the smaller housebuilder trade federations and he made it clear that where he came from, they were not yet out of the recession. As I say, I thought it was Lincolnshire, but if it was not and Lincolnshire is all fine and dandy, then I fully accept what the noble Lord, Lord Porter, has said.

**Lord Shipley (LD):** My Lords, we should be grateful to the noble Lord, Lord Porter, for his contribution because he has clarified his position on the forced sale of high-value council homes, as well as for the distinction that he has drawn. It is particularly helpful and I hope the Minister will pay due attention to it.

[LORD SHIPLEY]

The issue here was put very well by the noble Lord, Lord Horam. If there is a requirement on councils to sell off high-value homes, however they are defined—I hope the Minister even today might be in a position to define for us what a high-value home actually is—that should be for new social housing, not to fund the right to buy. I think I have interpreted accurately what the noble Lord said. I noted too the comments of the noble Lord, Lord Best. He said that requiring councils to sell high-value housing is a bad idea because it cannot be righted by switching the burden on to housing associations. I hope I have cited both noble Lords correctly.

The broad thrust is the same: that it is one thing to sell high-value council homes to reinvest in other council properties, but quite another to use that money to fund the right to buy housing association properties. We have hit upon one of the key problems in the debate on this group of amendments—it has taken some time, but it is right that it has because the issues have now come out. This is not about vacant homes; it is about an assumption in government that there is such a thing as surplus council homes. I am afraid that I simply do not believe there are surplus homes, yet I have heard in a number of places the word "surfeit" being used. It is not the case that there is a surfeit or a surplus of homes. It is very important that the Minister does not confuse vacant homes with surplus homes, because local authorities, which have the knowledge of their areas, know whether a vacant home can be re-let.

I will be really clear so that there is no doubt in the Minister's mind: for these Benches, the forced sale of high-value council homes, reducing the social housing stock as a consequence, is a red-line issue if it is simply to be used to fund the right to buy housing association homes. There has to be a coherent policy that ensures there are enough social rented homes for people in this country to live in. As things stand, the Government's policy will reduce the number of rented social homes in the places they are needed and it will make things much worse for the 1.6 million people on social housing waiting lists. As we have heard, it will jeopardise new housebuilding because it will erode councils' ability to borrow. As the Minister has heard from me on several occasions, because larger homes tend to be high-value homes, because they have more bedrooms, their sell-off may well take priority over the sell-off of other homes, so larger families will suffer as a consequence.

I know that the Minister is aware of the research by the Joseph Rowntree Foundation on council bungalow sales. It warned that although such homes are often suited to the elderly or those with special requirements, 15,300 council-owned bungalows could be sold off in England by 2021. I would be grateful if the Minister responded to that. The Joseph Rowntree Foundation is a hugely respected charity and its advice should be taken very seriously. Will the Minister tell us what the Government's response to that research is? These things really do matter, as does raising the cap for local authorities on housing investment. Again, I do not hear Ministers talking much about this, but it has been a running proposal in your Lordships' House for several years that that cap should be raised.

The demand is there in the social rented sector for the higher-value properties that the Government will require to be sold whether there is need for them, or whether they are actually vacant. Surely it is for local government to assess its local market needs and the need for social rented housing in its areas. Surely, its position should be protected if it knows that a vacant home is required by somebody on a housing list. Finally, what do the Government think about the overall impact on local government finances? I noted the comments of the noble Baroness, Lady Hollis of Heigham. She is absolutely correct on the capacity of local government actually to fund what some on the other side believe local government is capable of funding.

I repeat: this is, for these Benches, a red-line issue. I hope very much that the Government will think again and very quickly.

**Lord True (Con):** My Lords, it is always a pleasure to follow the noble Lord, Lord Shipley. He knows how greatly I respect him and it was an honour to call him my noble friend for five years. But when he talks of a red line, with all the authority of a party with eight colleagues in the other place, is he telling this House that those Benches plan to deploy 100 votes here to frustrate the will of the other place? I suggest to your Lordships that that smacks rather of anti-manifesto fundamentalism.

**Lord Shipley:** I will clarify that matter. I agree entirely that it would have been much better had the Bill started in the House of Lords; then, some of these issues could perhaps have been put right before it reached the other place. That said, the Bill is here and we have a requirement to comment on it, amend it and vote on it. I have just said that our view on these Benches is that this is, for us, a red-line issue.

*1.15 pm*

**Lord True:** My Lords, I think the answer is yes.

I have listened with intense interest to the debate. I was not intending to intervene—I remind the House that I have interests as a leader of a London borough, and as a member of the leaders committee of London Councils—but, on looking at Clause 67(4), I point out that my local authority does not keep a housing revenue account. We are an exceptional authority, in that a former Liberal Democrat administration carried out a large-scale voluntary transfer, so we are entirely dependent on housing associations. We are not a housing authority. I became leader in a situation where a previous administration had transferred away our council stock.

It is with some diffidence that I intervene. I know that there is greater concern in London, as the noble Lord, Lord Tope, said, about some of the detailed impacts of these clauses and others, but I am aware that the Government and local authorities in the London area are having many discussions about how this will operate. I hope my noble friend will say that greater clarification is certainly needed before Report of such discussions and the details that will lie behind the Bill. Parliament really needs to have more insight into the details.

I wish to follow the comments of my noble friend Lord Porter about housing associations, although I would not perhaps put them in the characteristically sharp way that he did. I listened very carefully to the carefully scripted remarks of the noble Lord, Lord Best. I will look at his speech in *Hansard* tomorrow, but he appeared to say quite clearly, from a script, "Don't look to the housing associations to make a contribution. We're strapped for cash. We've got reserves, but we cannot afford to chip in, old boy, so it's over to you". Maybe I misinterpreted that, but I will look carefully at the record.

Of course, housing associations are vital and respected, and I welcome the partnerships that we have. Housing associations are going to the market and raising enormous amounts of money. One of my local associations raised some £100 million recently. At the same time, they are moving to separate from their close relationship—for many of them—with former local authorities. We were asked to relinquish our places on the local housing association board to facilitate the association's financial advancement, which we were very happy to do in the broader interest of securing more finance for public resource and public investment in housing.

However, it is important that housing associations—I make no accusation in any particular way—remember that they own a public interest and must work with local authorities. They cannot be divorced from responding to the challenge that my noble friend Lord Porter put forward. It is important that we retain confidence that they are cognisant of their accountability locally. Looking at the amendment—I do not necessarily agree with it—how can we be sure that housing should be replaced in the same area? I was unable to be present at earlier discussions in Committee on this, but can I be guaranteed that my housing association will replace in my local authority area? By what accountability will that be delivered? I would like to hear the noble Lord, Lord Best, say, perhaps at a later stage, that housing associations will take all that into great consideration.

My noble friend Lord Horam talked about the need for a mandatory hammer, if you like, but with flexibility—talk softly but carry a big stick, as Teddy Roosevelt would have put it. I do not necessarily dissent from that. But my problem is that we are seeing a lot of negotiations going on, a lot of deals being cut, which, at the end of the day, we hope will respect local conditions and local authority. I want policy to be delivered by local conditions, not by the need to get figures for housing on a piece of paper in answer to a Written Parliamentary Question in the House of Commons. We want responsive, locally-led housing policy. So the more open those negotiations can be, the better. I do not like deals cut in quiet rooms with unelected officials, whether they are in City Hall or in the Treasury. So let us have a bit of flexibility and I am sure that my noble friend, by Report, will be able to shed a bit of light on what I hope will be the voluntary agreements that are emerging.

I want to cover one other point. The noble Lord, Lord Tope, spoke about London's extraordinary diversity. Much of policy—this is implicit in the Bill, with the two-for-one and the one-for-one replacement—is dependent on and recognises a line on the map, which is the Greater London area boundary. I think that London is evolving in a strange way. Perhaps we are going back to the days when there was an LCC and an outer London. It may well be reflected in the way that votes are cast in the coming mayoral election. It is very difficult to define a single policy. I do not think that anyone in this House would say it would be easy to define a single policy for the whole of London, let alone the whole country. I worry about policy that is defined simply on the basis of a line on the map which is the edge of Greater London. There are travel-to-work areas. Look at the emerging Gatwick corridor. It might be quite legitimate to replace, even with a one-for-two policy. Is there anything wrong in replacing two houses just south of Sutton, if you like, or just outside the Sutton area, which could be for Sutton people, in the same travel-to-work area? I hope that that can be considered and that we will not allow a line on the map to dictate policy absolutely, particularly at the fringes of London.

Because of outer London's changes and the high land values in certain places, we must look at new policies and new powers. It will have to be, in my submission, for local authorities to deal with some of the issues that arise. I will conclude with one example. In my own authority the Ministry of Defence has lately put up for sale a significant, large facility, Kneller Hall, which houses the Royal Military School of Music. It is very controversial. The rationale is money. The ministry says it wants to build houses, yes, but when probed, of course, it wants to build houses of maximum value for the Ministry of Defence and the Treasury. As I understand it—I have not had this confirmed—some of the land has already been sold to a developer before we are anywhere near a planning application. In those circumstances, do the Government not own a responsibility to play a part in this kind of policy?

The Government lecture local authorities—and we accept the responsibility—to do our best to provide affordable housing. But is there not, within the parameters of disposal of publicly-held property, a collective responsibility which the Government, government departments and government agencies should share, to put this aspect of public policy into their plans for disposals? I am straying a bit from the Bill—I was intending to bring it up in the planning stages of the Bill—so I do not expect the Minister to answer on that, but can we look, when we come to the planning area, at whether we could find ways of pressing public authorities more generally, through the planning process, to share some of the responsibilities that these clauses put upon local authorities?

**Baroness Hollis of Heigham:** Will the noble Lord expand on his first point, which concerned the situation of stock transfer authorities such as his own? I agreed with so much of what he said. Given that he has no high-value council property to enter into forced sales, as we have been discussing, to finance RTB for housing association tenants, his authority will, instead, be levied to fund it, in the absence of stock to sell. Has he made any estimate, in his budgets for the forthcoming year, of the scale of that levy and how it interacts with his ability to manage local authority finances?

**Lord True:** My Lords, if you do not have a housing revenue account the levy does not apply. Even so, I do not think that my authority should be in any way divorced from the responsibility to provide affordable housing.

**Lord Campbell-Savours:** Does it not apply under Clause 68?

**Lord True:** Clause 67(4) says that a determination may not be made in respect of a local housing authority that does not have a housing revenue account. So I think it would be better to ask the Minister, rather than a pitiful leader of a London authority, to clarify this point when she replies. But it is actually a detail in the larger question. My authority would be very happy to make any contribution towards housing. In fact, if the LSVT had not taken place, all our council housing would probably be high value in some of the places it used to be and the housing association that now sits on it, if that were us, would be having to sell off most of it.

**Baroness Hollis of Heigham:** Yet some of us have been assured, as my noble friend says, that Clause 68(3) was drafted precisely to cover those authorities with stock transfer. In my county of Norfolk, Norwich has retained its council stock, there is limited retention in Great Yarmouth and King's Lynn, and the other four authorities transferred their stock into housing associations. Are we saying that authorities such as Norwich are not only supposed to fund the RTB discounts for housing association tenants in their immediate locality but are also, on top of that, to cross-fund all those stock-transfer authorities so that they do not contribute to the right-to-buy discounts of housing association authorities?

Clause 68(3)(b) says that the Secretary of State may,

"treat the housing as being likely to become vacant whenever it would have been likely to become vacant if it had not been disposed of".

The whole point of that, we were assured—I am sure the Minister will clarify this for us—was precisely so that stock-transfer authorities were levied in lieu of the fact that they do not have stock to sell, which local authorities that retain their stock may be in a position to do.

**Lord Kerslake:** My Lords, there is a fairly simple explanation for this. An authority that has already transferred its stock, as the noble Lord, Lord True, has talked about, is in a good position, because it will not pay the levy. If, on the other hand, an authority would like, in the future, to transfer its stock, it will still pay the levy. I have an amendment later which seeks to remove that particular provision. It seems quite extraordinary that an authority cannot, in the future, transfer stock, but if it has transferred it, it will escape any levy. That seems to me to be an imbalance that we need to address.

**Lord True:** My Lords, I had noticed the amendment in the name of the noble Lord, Lord Kerslake. He will not be having my support, but it will be an interesting debate.

**Baroness Hollis of Heigham:** I thank the noble Lord, Lord Kerslake, for that explanation. In that case, it means that there is going to be double the levy, not just one levy, for RTB for local authorities that have retained their stock—mainly city authorities. The cross-subsidy will come from those local authorities not just to fund RTB in their own district—we do not yet know how much redistribution there will be or on what geographical basis—but to cross-subsidise local authorities that transferred their stock five years ago, two years ago or 10 years ago. It is monstrous. You are asking those local authorities with retained stock to pay twice over for their own retained stock to fund the housing associations in their district council or unitary authority and to fund those which are not in their geographical area, are not part of their local authority and, frankly, have chosen to go down a different route.

*1.30 pm*

**Lord Porter of Spalding:** My Lords, I hope nobody thinks that this is about one type of council cross-subsidising another type of council. This money will go nowhere near councils. That is what is wrong with this Bill: it takes money from councils and gives it to not-councils. Councils that have already transferred their stock cannot be levied because they do not have the HRA, as the noble Lord, Lord Kerslake, has already said. And, perversely, from an LGA perspective, if they choose to transfer in the future, they will still be levied. But this is not about transferring money from one council to another. Indeed, until we know whether the sale of high-value assets really will take place and what the final definition of "high value" ends up being, councils with stock may well not pay any levy even though they still have their housing stock, because they may not have any housing units in their HRA account that sit in that top third of value.

**Baroness Hollis of Heigham:** But councils with retained stock—and that stock is not coming forward as fast as government would wish—will have a levy in view until their own vacant stock is forcibly sold. That levy has to come from somewhere. Why on earth should some local authorities be expected to fund RTB discounts out of their money when other local authorities are not? What is the basic fairness in that? I absolutely take the noble Lord's point that this is a redistribution from some local authorities but it means that those with retained stock will have to pay double the size of the levy or double the number of sales to make good the fact that a very large proportion of more rural district councils do not have any retained stock.

**Lord Best:** My Lords, the noble Lord, Lord Porter, and the noble Baroness, Lady Hollis, are in agreement on this. They both oppose the fact that this levy will be solely on those authorities that have retained stock and a housing revenue account, and that it will be a very large sum of money—£4.5 billion per annum on those councils that have retained their stock, and nothing on those councils that have transferred their stock. The noble Lord, Lord True, can read my script at his leisure. He felt I was saying that housing associations should not contribute but councils should. I am absolutely

not saying that councils should carry the burden of the right-to-buy discounts for housing association tenants, as he thought that I might be. I am saying that neither councils nor housing associations should pay for this new policy and that we should see new investment, which is what we need to replace homes that are lost, and to build new homes. We need new investment.

I happen to know a bit about the Richmond Housing Partnership, which is the body to which the stock of Richmond has been transferred. It is a really excellent example of a housing association that has received the council stock and is doing extremely important things to build more homes. It is doing exactly the right thing. It would be a terrible shame if, instead of councils or the Government paying for these discounts, that organisation were taxed with a levy—that would be very detrimental to the interests of Richmond—and had to pay for the right-to-buy sales. It is making some serious economies at the moment. It is having to make efficiency gains on a big scale because its rents have been reduced due to welfare reform pressures. Nevertheless, it is doing a great job. It would be a very big shame if the idea gained any momentum at all today that housing associations were the cash cow from which could be extracted the resources to pay the £4.5 billion per annum. That would simply take resources out of the development programme for the very people for whom we need to build the new homes of tomorrow.

**Lord True:** My Lords, I do not want to delay the Committee on a specific point, but since the noble Lord, Lord Best, has identified a housing association which I have tried not to identify, I should say that of course I have great respect for that housing association in many respects. It has done certain things that I would not have done but this is not the place to discuss that. I am sure that he has friendly views towards local authorities. Indeed, I know that he has and welcome that. But it is a fact—he has confirmed this—that the noble Lord, Lord Porter, is correct in saying that housing associations will not make a contribution to this policy.

**Lord Campbell-Savours:** Confusion has arisen over Clauses 67(4) and 68(3) regarding the ambiguity of the word "disposes", and what it actually means—past or future. Perhaps Ministers might consider redrafting that whole section to make the Government's intention much clearer.

**Lord Carrington of Fulham (Con):** My Lords, I intended to speak on the next group of amendments but, since my noble friend Lord True and the noble Lord, Lord Tope, have both raised the London problem, I thought that a few comments on that would be appropriate. They rightly pointed out that certain London boroughs, particularly those in central London, have a problem in terms of high-value assets and their definitions. Indeed, they mentioned Kensington and Chelsea and Westminster. I would extend this as far as the old LCC area, as my noble friend Lord True did. But, of course, the problem extends to the Corporation of London, which has relatively few council properties, most of which—if they were put on the open market—would be of extremely high value. Therefore, the definition of a high-value property is crucial not only in terms of a figure but of comparators with other London boroughs. I ask my noble friend the Minister to look very carefully at where the boundary of the defined area of high-value properties is drawn because, if it is drawn on the GLA area, we will see the total demise of social housing in central London. If it is drawn much more locally—perhaps on the LCC area, which may still be too wide in some cases—we can mitigate the problem. This issue concerns the point made by the noble Lord, Lord Tope, on the social mix in London. That social mix is very important for lots of reasons, including social cohesion, enabling people on lower pay to get to their jobs, live close to where they work and to work anti-social hours. I could go on and on—as we all could—to define the problem.

However, I add the caveat that this problem has not been created by this Bill and, sadly, is not of recent creation. As a former Member of Parliament for a part of inner London, I know with certainty that this problem has been generated over the last 30 years, and probably over the last 40 or 50 years, whereby, to obtain social housing, whether council or housing association property, a potential tenant had to be in a crisis situation. It was not enough to need low-cost housing; there was a requirement to qualify for it on grounds of disability, having a crisis housing need and being totally homeless, or having some other problems which got you up the housing list. Being on the list for long enough was not sufficient.

There are some very real problems in inner London. I know that my noble friend the Minister is very well aware of these problems, but they need to be specifically addressed and a blanket solution which covers the whole of the United Kingdom—or, indeed, England and Wales—will not solve them. We need a special and particular solution for London.

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con):** My Lords, before I respond to the amendments, I will make, as I did last week, some introductory remarks which will set today's discussion in context and, I hope, reassure noble Lords about our proposed approach to this important issue.

For many years there has been underinvestment in housing, as my noble friend Lord Carrington and many other noble Lords have said. Recognising that the supply of housing needs to increase, as the noble Baroness, Lady Hollis, said, the Government have set a target of a million new homes by 2020-21 and are determined to do all that they can to boost housing supply. That is a key government priority. There are also many people living in housing association properties who do not have the opportunity to realise their dream of getting on to the property ladder because they do not have the right to buy. That is another key government priority. The provisions we are discussing today will support the delivery of both those priorities. I will explain how.

We know from published statements of accounts that the market value of local authorities' housing stock in April 2014 was more than £200 billion. By

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requiring councils to sell their high-value housing as it falls vacant, we can realise that locked-up value to support the building of additional homes, increase housing supply and extend home ownership by funding the right-to-buy discount for housing association tenants.

Let me also be clear: this is a flagship manifesto commitment. I am not going to get into arguments today about manifesto fundamentalism. I shall leave that to other noble Lords. It took centre stage when the Prime Minister launched the manifesto because he and this Government believe passionately in the importance of building more homes, which this country needs, and helping more people achieve their dream of owning their own home.

I also want to update your Lordships' House on the commitment I made at Second Reading when I said I would keep noble Lords informed as we made progress with the collection of data on the 1.6 million homes owned by local authorities. I understand the frustrations that have been expressed that we have not yet provided noble Lords with more details of the policy. I hope that noble Lords will understand the importance of ensuring that we have all the data and that they are correct before we make policy decisions that will inform how much individual authorities have to pay.

The majority of local authorities had provided data by the end of January 2016 but there were some outstanding issues, such as a lack of vacancy information for some areas. We have now obtained almost all the data required, and we are processing and validating them. I hope that noble Lords will understand that doing this for more than 16 million pieces of data takes time.

That is why this legislation has been designed as a clear framework for the policy, to enable us to take into account the housing that is owned by local authorities, in line with the manifesto commitment and without restrictions that are inappropriate or unnecessary. We have also been conducting an intensive engagement exercise with local authorities to understand their views about the policy, and we will reflect on those as we develop the regulations. I reiterate my commitment to your Lordships' House that I will bring forward the detail that noble Lords want as soon as we can.

I close my introductory remarks by thanking noble Lords for their scrutiny of the Bill and by emphasising what I said on Tuesday—that this will help shape the development of this policy. I also assure noble Lords that the Government will take into account all the points that have been raised as they take forward the legislation.

I now turn to the amendments, for which I thank the noble Lords, Lord Kennedy, Lord Beecham and Lord Kerslake, and the noble Baroness, Lady Bakewell. Parts of Amendments 61 and 62A relate to components in the calculation of payments. Clause 67 already allows for costs and deductions to be set out in the determination. These will be detailed in the determination, on which we will consult local authorities, their representatives and their relevant professional bodies. I assure noble Lords that in calculating the payment, we are committed to making a deduction in respect of the transaction costs for local authorities to sell housing, and in respect of the debt supported by those properties that are taken into account in a determination. We will continue to work closely with local authorities to establish how these figures should be calculated.

Parts of Amendments 61, 62 and 62A seek to deduct the cost of replacing properties from the payments required. Clause 72—and this may go some way to addressing the point made by the noble Baroness, Lady Hollis—already provides for the Secretary of State to enter into an agreement with a local authority to retain a portion of its receipts to fund new homes. The amendments would merely make deductions from payments and would not be able to require the delivery of the additional homes that the country needs in the same way that the agreements will. The amendments would simply allow local authorities to retain the funding. So the agreement process will ensure that local authorities will deliver the houses and will achieve value for money in doing so.

*1.45 pm*

The agreement process will also give local authorities a lot more freedom to build the houses that meet their communities' needs—this has been mentioned several times today—rather than placing expectations for the new homes in the Bill. Local authorities will be able to decide on the tenure of the homes and where to build them. If, for example, an authority wanted to work with a neighbouring authority to build homes across borders, the agreement process would allow for that. I can think of an example somewhere near me where that might happen.

Amendment 62 seeks to use the definition of affordable homes from the National Planning Policy Framework up until May 2015. This would not be consistent with the definition of affordable housing in Clause 72 and elsewhere in the Bill.

Amendment 66A seeks to require another statutory instrument under this chapter. However, we think that the determination is the correct place for any formula used to be set out. The key variables that feed into the formula, including the definition of "high value"—of which more later—the definition of "vacancy" and any exclusions, are either set out in the Bill or will be set out in secondary legislation made under the Bill. This means that there will be parliamentary scrutiny of these key definitions.

In addition, the legislation sets out the overarching way that payments will be calculated. It must represent an estimate of the market value of the authority's interest in any high-value housing that is likely to become vacant during the year, less costs and deductions that would also be set out in the determination, including transaction costs and the debt supported by the housing that is expected to be sold. Moreover, Clause 69(2) requires us to consult with local housing authorities, the LGA and relevant professional bodies before making a determination under Clause 67. Local housing authorities will therefore have an opportunity to comment on the proposed approach to the formula before the determination is made. The amendment appears to create an unnecessary hurdle that could delay the opportunity both for housing association tenants to

buy their homes and for councils and housing associations to build the additional homes that the country so desperately needs.

Turning to specific questions that noble Lords have asked, the noble Lord, Lord Shipley, the noble Baroness, Lady Bakewell, and the noble Earl, Lord Lytton, all expressed concern in different ways about how the number of bedrooms might be used to define high value and how it will impact on the disposal of larger family homes. The noble Lord, Lord Shipley, and I have had discussions on this on previous occasions, but I am pleased to place some of those on the record, and to reassure him and the noble Baroness, Lady Bakewell.

As part of the data-collection exercise, we have asked local authorities to tell us not only the market value of each house but the number of bedrooms. We are intending that the formula for high value will estimate the number of homes of one, two, three and four bedrooms that fall above the threshold. Specifically, we will set out the different monetary thresholds for what constitutes high value for homes of different bedroom numbers. For example, the threshold that applies to a one-bedroom property will be completely different from that which applies to four-bedroom homes. The result of this is that in general the threshold for larger properties will be set higher than if we had set one threshold that would apply to all properties regardless of the number of bedrooms. It also means that we are not just looking at vacant larger homes, which would by their very nature be the most expensive, but are determining high value separately from the number of bedrooms.

**Baroness Bakewell of Hardington Mandeville:** Could the noble Baroness say whether this will take into account regional and area variations in the price of properties?

**Baroness Hollis of Heigham:** Can the Minister also tell us whether all this information—and as a result, the Government's estimate of the size of the levy and the contribution to be made by local authorities, according to their turnover and so on—will be available before we get to Report?

**Baroness Williams of Trafford:** My Lords, what is absolutely certain is that this is precisely what we will be consulting local authorities on. That is why both the conversations in your Lordships' House and those with local authorities will be so important in making these determinations.

**Lord Shipley:** We are here on day five in Committee on the Bill and the Government are still part-way through a consultation. Would the Minister not agree with me that it would have been much better if the Government had acted sooner and had the information ready for consideration in Committee?

**Baroness Williams of Trafford:** My Lords, I can confirm that your Lordships' frustration is equally felt by me.

**Lord Campbell-Savours:** Will the Minister confirm that this will all be in regulations, none of which we in this House will be able to amend?

**Baroness Williams of Trafford:** The most important part of this is that discussions with your Lordships and local authorities will inform the regulations.

**Baroness Hollis of Heigham:** If the Government are placing crucial policy decisions beyond the possibility of amendment in this House, because instead of being embedded in primary legislation they are going to be carried by SIs, any attempt to amend them in whatever form will produce synthetic outrage down the other end, and we will be told we should accept them whether we like it or not. This will not do. I absolutely understand that the Minister cannot be happy at the position in which she has been placed: she is essentially being asked to bring forward framework legislation, yet again, in which the heavy lifting will be carried out by SIs, which this House—which is supposed to scrutinise those SIs—cannot touch. Issues which could have been amendable in the appropriate way in primary legislation will be put beyond our reach.

**Lord Campbell-Savours:** That will put some of us in a very difficult position. Some of us always refuse to vote on fatal Motions, but we will have no option but to do so because of the whole way this Bill has been handled.

**Baroness Williams of Trafford:** One thing I will commit to is to meet with noble Lords before the draft regulations come in, on as many occasions as will be necessary to go through the various regulations that may be coming forward.

**Lord Foster of Bath:** I am grateful for the Minister's offer to have such meetings, but of course they will probably take place long after the Bill has been enacted. She will be aware that the Delegated Powers and Regulatory Reform Committee has been highly critical of this aspect of the Bill. It has also been critical of the Government's proposal that the negative procedure be used, rather than the affirmative procedure. I remind the Minister that the Committee said that the memorandum the department sent to the committee,

"justifies the negative procedure on the basis that 'the range of values within which it will be possible to set the definition of "high value" will be limited by normal public law principles'".

I confess I do not understand that, but the Committee goes on:

"We do not regard this as being even remotely persuasive".

The Minister could at least commit the Government today to bringing forward an amendment to use the affirmative procedure as and when this ever gets before the House.

**Baroness Williams of Trafford:** To answer the noble Lord's point, I am well aware of what the DPRRC has said about this, and I think he will be at least partially pleased when we respond. Perhaps I could make some progress, as I am aware that I am only part-way through what I wanted to say to a number of your

[Baroness Williams of Trafford]
Lordships. If any noble Lords want to come back again after I have spoken, they are very welcome to do so.

The noble Baroness, Lady Bakewell, talked about the selling off of bungalows in particular, as reported by the Joseph Rowntree Foundation. Councils will be required to make the payment to government in respect of their high-value vacant housing. Noble Lords, including those on the Lib Dem Benches, have made their views clear on this, but under the formula approach, councils will have discretion about whether individual properties are sold as they become vacant, and we will consider the views expressed by noble Lords on all of these elements as we develop the detail.

The noble Lord, Lord Best, asked when we will know what the formula is and how much local authorities will be required to pay. We will be consulting local authorities about the formula before issuing a determination, as I have said. We have been clear that decisions informing the determination under secondary legislation must be based on up-to-date information from councils. I have made the point about the huge amount of data and the real need to get that right.

I will spend a minute talking about the consultation process itself, because I know it is causing concern among noble Lords, and that points have been made about local authorities being engaged with this. Over the past few months, there has been a series of technical briefings, which I know many noble Lords have attended—for those who have not, I recommend them—about the various provisions in the Bill. We have also engaged closely with both local authorities and other stakeholders in helping to develop the high-value vacant housing policy and understand the potential impacts at local level. All stock-owning local authorities have been invited to at least one of the following events: a ministerial meeting with local authority leaders and/or members; a local authority chief executive discussion; or a round-table discussion between local authority and DCLG officials. In total, 180 contacts from 123 local authorities have engaged with the HVA process through one of these events. Going forward, we expect to continue to engage with local authorities and a wide range of stakeholders on the policy, because it is so important to get it right before making the final determination.

The noble Lord, Lord Kennedy, the noble Baroness, Lady Bakewell, and others talked about forcing local authorities to sell off properties. We have been clear that the country needs to live within its means and that we need to find the most efficient way of using public resources to deliver our manifesto commitments. As I have said, local authority statements of accounts show that there is over £200 billion-worth of value tied up in the 1.6 million local authority homes. We want to ensure that the value is used as efficiently as possible, and we know that more expensive vacant homes can be sold to provide additional housing as well as funding the discount for right-to-buy sales. This is an efficient use of assets at a time when we need more homes across all tenures. It is about increasing the overall housing stock, not reducing it. In London, where there is the greatest housing need, the legislation provides that local authorities which enter into an agreement will need to provide at least two new affordable homes for each home that is expected to be sold. I recall giving some of the detail of that the other day.

The noble Lord, Lord Kerslake, asked why the Government are not pursuing alternative ways of funding, for example equity loans. As the noble Lord, Lord Horam, said today and as I said last Thursday, the discounts will be on the same basis as the existing right-to-buy scheme. Equity loans would not provide that same offer to those tenants. The noble Lord also questioned why I could compare this to the Government's sale of surplus public assets. I fully agree that there is a real need for additional housing in this country, but there is no need for any council whatever to hang on to expensive homes when it could build, at a fraction of the cost, new homes which meet its housing needs just as well, if not better. It is in this spirit that the Department for Transport has brought forward land for sale around King's Cross that is valued in the department's account at £345 million, and the Ministry of Defence announced plans in January to release 11 sites in England that could generate £500 million and provide land for around 15,000 new homes. We need to make sure that we make the most efficient use of our assets—that is the point I want to stress.

*2 pm*

**Lord Kennedy of Southwark:** How is this an efficient use of assets? It seems to me a most cumbersome, inefficient tax and raid on council housing.

**Baroness Williams of Trafford:** I think the noble Lord and I will disagree on this but it is incumbent on owners, whether private owners, the Government or local authorities, to make the best use of their assets, whether that means selling expensive ones or not. I accept that we will have to agree to disagree on this but that is our view.

The noble Lord, Lord Kerslake, talked about the right to buy not delivering one-for-one replacements and questioned how the policy would do so. In the first year following reinvigoration, 354,000 additional homes were sold, and by the end of the second quarter of 2015-16 there were 4,117 new starts and acquisitions. That means that, to date, authorities are delivering a new home for every one sold.

**Lord Kerslake:** I am intensely aware of just how long we have gone on but I cannot let that point pass. It is essential that the Minister address the analysis in the NAO memorandum, which clearly identifies the challenge here. This would all be a lot easier if we could see a set of numbers that said, "Here's the potential receipts, here's the potential deductions from those receipts and here's how it will balance with the cost of the discounts". We might then be able to have a sensible debate.

I make one last point on what the Minister said. I am absolutely up for efficient management of stock and I am very much up for a duty on local authorities to manage their stock efficiently. But this is not about efficiency; this is about a levy to pay for a government policy.

**Baroness Williams of Trafford:** My Lords, it is both but I take the noble Lord's point. I am sure that, as time goes on, we will discuss those figures again and again and perhaps courteously argue about who is right and who is wrong. The noble Lord does not think that the numbers add up and I have just responded to that.

The noble Lord, Lord Best, talked about the sale of high-value assets raising £4 billion per annum. The amount of receipts raised will depend on a number of factors and decisions. The Bill sets out the framework, with further detail to be provided through secondary legislation, which I know noble Lords are frustrated about. However, the Bill has flexibility through the formula approach, which enables us to continue working through the details with the sector. Once we understand what the data tell us, we will be able to consider what the detail will be and, subsequently, how this will fund the two aims of the policy: right-to-buy discounts for housing association tenants and the building of new homes. Therefore, I am very grateful for all the points that noble Lords have made today.

The noble Lord, Lord Campbell-Savours, asked whether rents will triple in London. I know London is a very expensive place to live—nobody is denying that—but I would not expect rents to triple. As I have said, the important thing is that we will take the time to talk to those implementing the policy on the ground to guard against things happening that we would not intend.

The noble Baroness, Lady Janke, who is not in her place, talked about looking at best practice. As with other housing policy, there will be a technical consultation on the detail of the determination and we would expect the relevant professional bodies to include CIPFA, the LGA, the GLA and local councils. We will of course look at what innovative local authorities such as Bristol—it is a shame the noble Baroness is not in her place—are doing, as she suggested.

The noble Lord, Lord Campbell-Savours, asked how we can justify wide boys making a quick buck, making a point about landlords taking advantage of tenants. We are aware that there are people who will seek to gain from any policy and will find ways to circumvent any safeguards we put forward. None of us could fail to be affected by the story described by the noble Baroness, Lady Hollis, on Tuesday of the elderly pensioner reluctantly buying his home to see his grandchildren due to the unscrupulous actions of his daughter-in-law. We are alert to the ways through which some people may be seeking to gain from right-to-buy sales, both under the existing scheme and the voluntary scheme with housing associations. This is one thing we are considering as we progress through the pilot this year. We want to strike a balance between guarding against abuse and overlimiting the right of individuals to buy their homes through right to buy.

The noble Baroness, Lady Hollis, also mentioned the reduction in social rents being an additional burden on housing associations. However, rents in social housing have been increasing faster over the past five years than those in the private rented sector. If this change puts more money back in the pockets of the people paying the rents, we think it is the right thing to do.

**Baroness Hollis of Heigham:** My Lords—

**Baroness Williams of Trafford:** If I could just conclude, the noble Baroness can then intervene.

We are making changes in the interests of fairness to bring rent increases in the social sector back in line with those in the private rented sector. Housing associations and local authorities have already proved themselves more than capable of responding to the change.

**Baroness Hollis of Heigham:** My Lords, it would be helpful if the Minister, when she made the statement about the reduction in rents to the benefit of housing association and local authority tenants, had accepted that three-quarters of that money will go back to the Chancellor in reduced housing benefit. This is not a "helping tenants to afford their rents" policy; it is about reducing the housing benefit bill.

On a separate point, I know the Minister is trying to be helpful about the information we will no doubt get, but will we have all this key detailed information—the result of the consultation—before we get to Report, so that we do not have to rely on the statutory instrument proposal for stuff that should be in the Bill?

**Baroness Williams of Trafford:** My Lords, regarding whether the Chancellor benefits, my point is that this will be of benefit to tenants if their rents reduce. It will make a difference to a lot of tenants.

The noble Lord, Lord Horam, asked why we do not raise the local authority borrowing cap so that councils may borrow more. This was mentioned time and again during the consultation process leading up to the local government finance settlement. We listened to the authorities and £221 million of additional borrowing was allocated to 36 councils in England. That will support around 3,000 new affordable homes.

The noble Lord, Lord Kerslake, asked whether right-to-acquire tenants would have the right to buy under the voluntary deal. Minimum eligibility has yet to be determined for the main voluntary right-to-buy scheme, but we are currently working closely with the NHF and housing associations on the implementation of the agreement. For the pilot, it has been set at a minimum of 10 years, as the noble Lord will know.

The noble Lord, Lord Tope, asked what "high value" will be set at, which is a very pertinent question. Will it be at market price? I am aware, as noble Lords have pointed out, that it is important for the legislation but has yet to be set. The definition will be informed by the data that I have talked about, which we are collecting from local authorities and the market value survey. Although we have had some information on house prices and local authority stock across the country, we felt it was important to update this information as it will be pivotal to establishing how much individual authorities will have to pay. As noble Lords will know, the definition of high value will be set out in regulations—I hear a groan going up across the House as I speak. We are currently giving careful consideration to the fairest and best way to set that definition. In doing so, to address the point made by the noble Baroness, Lady

[Baroness Williams of Trafford]
Bakewell, we will have regard to factors such as property size and geographic location. I genuinely welcome any further thoughts that noble Lords may have on this point.

The noble Earl, Lord Lytton, talked about investment in social housing being short term. We are doubling our investment in housing over this Parliament to more than £20 billion over the next five years. This is the largest housing programme by any Government since the 1970s. Under it, there will be 100,000 affordable homes to rent and 400,000 affordable homes.

The noble Lord, Lord Tope, talked about this as a levy, a tax that does not relate to the actual sale of high-value vacant stock. Local authorities prefer the use of a formula to determine payment to basing payments on actual sales. It will give local authorities greater certainty and predictability, which will help them better to manage their finances, and it will provide greater flexibility for them to choose what property they sell to make the payments.

The noble Lord, Lord Shipley, talked about his red line issue. This is part of our wider efforts to help anyone who works hard and wants to get on the property ladder to do so. I understand his concern over the links between the two policies, but it is important to remember that receipts from these sales will be used to fund the building of more homes by housing associations and local authorities, to increase overall housing supply all over the country, so that we reduce the regional imbalance of housing supply—an issue raised by the noble Earl, Lord Lytton.

**Lord Shipley:** I just want the Minister to understand the importance of this policy. Our red line is the compulsory or forced sale of high-value council homes when there is a need for them in the locality. That is the red line. The fact that part of the receipts might be used to build a replacement or support the purchase by the tenant of a housing association property is secondary to the issue of a local authority having the power to decide whether there is a need for that property. I hope that the Minister understands the importance of that.

**Baroness Williams of Trafford:** I understand what the noble Lord says, and if there is particular need in an area for a specific type of housing, it is within the local authority's gift to issue the money, as opposed to selling the property. The whole point is about increasing the housing stock across different tenures and different parts of the country.

Finally, to address a point made by the noble Baroness, Lady Hollis, about stock transfer, the policy will affect the 165 councils that own housing and operate a housing revenue account—the noble Lord, Lord Kerslake, helped here, and he is absolutely correct.

**Baroness Hollis of Heigham:** Am I right to say that those 165 local authorities will be cross-subsidising not only the right to buy on their own patch but the right to buy in the other 300 or so housing authorities in the country?

**Baroness Williams of Trafford:** The noble Baroness is correct that the policy will apply only in those local authorities that operate their own housing revenue account.

I hope that my responses have provided some reassurance to noble Lords on some points. The Government are committed to ensuring that the calculation of payments includes deductions in respect of the transaction costs for the sale of housing and in respect of the debt supported by the housing that is expected to be sold. I hope that noble Lords are also reassured that we are committed to ensuring that a portion of receipts will be used to deliver new homes, and that the agreements process will provide as much flexibility as possible for local authorities to deliver as many new homes as they can. The amendments would not guarantee the delivery of the new homes that are desperately needed in the same way as will the agreements process. I hope that, with those comments, the noble Lord will feel free to withdraw his amendment.

*2.15 pm*

**Lord Kennedy of Southwark:** My Lords, I am not sure that I declared it at the opening of the debate, but I am an elected councillor in the London Borough of Lewisham; I declare that to get it on the record, as usual.

I thank all noble Lords who have spoken in this debate. This is without doubt one of the most controversial parts of the Bill, which is reflected by the time we have spent on this one group of amendments today.

The noble Baroness, Lady Williams of Trafford, did not make a very convincing case. We are obviously not going to agree with her case why the amendments should not be supported. Virtually every contribution to the debate highlighted the problems with and deficiencies in the Government's proposals.

I have no problem with the right to buy, but I and other noble Lords have said that the funding mechanism is truly dreadful. Having no regulations while discussing the Bill has highlighted once again how completely unsatisfactory the Government's handling of the Bill has been so far. The mechanism is a tax on local authorities, it is an attack on council housing. The noble Baroness needs to reflect carefully on today's debate. In particular, I hope that she will reflect on the contributions from the noble Lords, Lord Horam and Lord Porter, from her Benches, as, without doubt, we will come back to this issue on Report. I am sure that she senses the strength of feeling across the House.

I was a little surprised that the Government have, so early on, started to rely on the manifesto defence. That normally comes forward just before a vote. Here we are in Committee, with no vote in sight, but we are back to the manifesto defence. That highlights the problems that the Government have with the Bill. I hope that they will recognise that and propose some welcome amendments. With that, I beg leave to withdraw the amendment.

*Amendment 61 withdrawn.*

*Amendments 62 and 62A not moved.*

*House resumed. Committee to begin again not before 3.17 pm.*

# BBC Charter

*Question for Short Debate*

*2.18 pm*

*Asked by* ***Baroness Bonham-Carter of Yarnbury***

To ask Her Majesty's Government what progress has been made on the discussions surrounding the renewal of the BBC Charter.

**Baroness Bonham-Carter of Yarnbury (LD):** My Lords, I have waited a long time for this date with the noble Baroness—and not just today—but the timing, if not the timing for noble Lords' speeches, has turned out to be perfect, as last week saw the Government publish no fewer than three responses to discussions about renewal of the BBC Charter.

Although it is no surprise to me or my colleagues to discover that the British public overwhelmingly support the BBC, I suspect that it is for the Government. More than 80% of people responding to the Green Paper believe that the BBC is effectively serving audiences, about 75% support the licence fee as the best method of funding the BBC and almost three-quarters believe that the BBC's services are truly distinctive and that it has a positive wider impact on the market.

As the summary of responses document states, the response to the consultation,

"was one of the largest ever received to a government consultation, highlighting that the future of the BBC is an important issue to a great many people".

Despite the fact that the Secretary of State paid tribute in his speech last week to,

"the hours the public put into writing",

he struck a sour note by implying that the involvement of the organisation 38 Degrees had somehow distorted the responses. Can the Minister assure the House that the Government do not believe that 192,000 people have been nobbled?

It is vital that John Whittingdale, the Government and Parliament remember, as this process of charter renewal gathers pace, that the BBC belongs to the licence fee payer—the public, not politicians—and that the Secretary of State honours his pledge to the chair of the BBC Trust that,

"all the responses will be properly considered in their decision-making".

What is clear is that the BBC, despite what we read in so many editorials and so many opinion pieces, is not under attack from the public. Quite the contrary: across Britain, people use the BBC services every day and very happily because it serves them well. So where do the attacks come from? To quote the much-quoted Armando Iannucci:

"We seem to be in some artificially-concocted zone of outrage".

As I said, 75% of the respondents support the licence fee, as do we. At 40p per day, the BBC is tremendous value for the consumer. It is also great for the UK economy, generating the equivalent of £2 for every £1 of licence fee—in other words, it doubles its money. As Sir Peter Bazalgette, chair of Arts Council England, said when giving evidence to the House of Lords Communications Committee, on which I sit:

"One of the justifications for the intervention in the marketplace that is the BBC is the value of the creative industries democratically, culturally, socially and economically".

By the way, Sir Peter was appointed chair of ITV last month, and I am reliably informed that he has not changed his views.

We do not, however, support the way in which the licence fee is set. The covert way in which the Chancellor negotiated the BBC taking on the cost of funding free TV licences for the over-75s, effectively making the BBC a vehicle to deliver elements of the welfare state—blocked by the Lib Dems when we were in coalition—was inappropriate, to say the least. Can the Minister assure us that this is the end of the process and that this is the licence fee settlement, as the BBC believed when taking on the £700 million cost of the free licences? Does she not agree that the process should, in the future, be transparent, and that the level should be recommended by the new regulatory body?

With the BBC being asked to take this financial hit, it is important that other sources of income are not undermined. Does the Minister not agree that BBC Worldwide is a crucial element to the BBC's ability to continue to fund UK content?

A second report was Sir David Clementi's *A Review of the Governance and Regulation of the BBC*. We welcome its recommendation that the BBC should have a unitary board. We on these Benches argued when the BBC Trust was established that that arrangement would only perpetuate the muddle between regulation and governance, and it has. However, it is vital that the Government ensure the appointment of a genuinely independent chair and genuinely independent non-executive directors. We should note the warning from the noble Lord, Lord Hall, that under Sir David's proposal,

"half the board … could be appointed by the DCMS".

Does the Minister agree that there should be an independent appointment panel, with the majority of its members drawn from outside politics and outside the Civil Service?

The third report is *An Assessment of Market Impact and Distinctiveness.* The call in it—repeated by the Secretary of State—for BBC1 to be more distinctive is odd, considering that the channel comes out top of independent Ofcom's distinctiveness measures.

On the matter of market impact—"crowding out"—there seems to be particular concern in the area of online news. BBC news has higher levels of trust than any newspaper, and in the digital age it is surely more important than ever. As Sir Peter said,

"yes, it does compete and it is a market intervention, but if it is to have an impartial and independent news and information service for the country—if we believe in that—it has to have an online iteration".

Our concerns on these Benches about BBC news are different. They are about the downward trend in investment in current affairs, noted by Ofcom in its latest review of PSB. It is vital that the BBC maintains both quality and quantity in this genre, for the reasons I have just mentioned.

There are other areas, of course, where the BBC's choices and behaviour have been far from perfect. These include Savile, money wasted on a digital media

[Baroness Bonham-Carter of Yarnbury]
initiative, and unacceptable pay and pay-offs for senior executives. Members of the "officer class", as the noble Lord, Lord Hall, refers to them, have been out of step, and there are still too many layers of them. We therefore welcome the very plain pledge this week by the newly appointed head of TV channels, Charlotte Moore, that,

"Life's going to be simpler".

We on these Benches believe that training and skills development should be made one of the BBC's core public purposes. It must learn the true definition of partnership: that a partner is someone you collaborate with, rather than impose on. Furthermore, if the BBC is properly to reflect the country, it has to address the problem of a lack of diversity. We need diversity at production and management level, as well as on screen. The last two issues were addressed by Charlotte Moore and must all be delivered upon.

The BBC, as well as being so popular with the British public, plays a hugely important role in promoting the UK around the world. At home, it plays a crucial part in our democracy and wider society. It is vital that it maintains its independence, its ability to inform, educate and entertain, and—we believe—its licence fee. To quote the chair of the BBC Trust:

"Charter review hangs over the BBC: a cloud of uncertainty and unease".

Can the Minister reassure the House that we will not have to wait long for the White Paper, since the new royal charter needs to be in place by the end of the year? Does she not agree that, in future, the charter review process should be,

"decoupled from the general election cycle",

and that charters should be set to last 10 years in order to provide stability for the BBC?

Finally, my first job at the BBC was working for a great man and a greatly missed man: Terry Wogan. He certainly knew how to entertain, but also to inform and educate. I wonder whether he would have been distinct enough if he had sought a BBC job under the world of Whittingdale? This is what he had to say about the BBC:

"The BBC is the greatest broadcaster in the world. It's the standard that everyone measures themselves against. If we lose the BBC, it won't be quite as bad as losing the royal family, but an integral part of this country will have gone".

That is so right: the BBC is unique, a glorious aberration. Once it is gone, it is never coming back.

**The Earl of Courtown (Con):** I remind noble Lords that they have just a minute for their speeches. There is a joke somewhere about hesitation, et cetera. I will not interrupt the debate, but I will ask noble Lords to sit down once they have reached one minute.

*2.27 pm*

**Lord Inglewood (Con):** My Lords, at a conference in London earlier this week, Michael Lynton, CEO of Sony Pictures Entertainment—an American—talking about the current state of television said:

"Britain sits at the very core of this creative renaissance in television. Britain is punching far above its weight in terms of the number of writers and actors and directors who are engaged in this endeavor. And most of this talent would not exist if it were not for the BBC. The creative ecosystem that exists here in Britain is unique and would evaporate in the absence of the BBC and that absence would not only be felt here but throughout the world…We have no idea whether this renaissance is sustainable from a talent perspective. Nor do we know whether the new platforms and technologies that permitted it are economically viable in the long term. I am convinced that there is an important place for a strong and well-funded BBC in the television landscape".

While, as many of your Lordships will know, there are a number of significant changes that I would like to see relating to the way in which the BBC is organised, this particular proverbial baby must not be thrown out with the bath-water at the same time.

*2.28 pm*

**Baroness Jay of Paddington (Lab):** My Lords, as a member of the Communications Committee, I want to emphasise that the main conclusions of our report on charter renewal echo those of the Government's own consultation.

First, the Government received no compelling evidence for reducing the scale and scope of the BBC. Of the nearly 200,000 people responding to the consultation, 81% said that the BBC served them well.

Secondly, the committee underlined the corporation's independence and recommended a longer term for a new charter, which would divorce renewal from the electoral cycle. Again, this is reflected in the consultation report, where nearly three-quarters of the public wanted the BBC to be totally independent. I have just visited America, watching the frenetic media coverage of the election there. It has reinforced my respect for BBC news, for its neutrality and depth. The majority of audiences here say that the BBC is their most trusted news source.

I hope that the Government will take note of these consistent views from both the public and Parliament, and respond positively as charter renewal progresses.

*2.29 pm*

**Lord Lester of Herne Hill (LD):** My Lords, last Friday I gave the Minister notice of five questions that I would like her to answer in this debate.

First, do the Government accept that the charter should be for at least 10 years? Secondly, do they accept that the BBC's new board members should be appointed without ministerial influence and should include audience and staff representatives? Thirdly, do they accept that the BBC's service licences should be reviewed and strengthened by the independent regulator as soon as possible? Fourthly, do they accept that the level of the licence fee should be generous and that the process of setting the level of the licence fee must be transparent, with the level to be recommended by the regulatory body? Fifthly, do they accept that there must be no further reduction or diminution in the scale and scope of the BBC's news coverage on any platform?

*2.30 pm*

**Baroness Kidron (CB):** The BBC has an exceptional history as a technological innovator. It is one of its core undertakings, yet less than 3% of contributors to the public consultation commented on it and there have been grumblings that, in these days of digital

tech, innovation is no longer an appropriate task for the BBC. What we once thought of as broadcast and programming has now been conflated with other forms of communication, both commercial and personal, into a single notion of content delivered on multiple platforms and devices. The purposes and the values that govern the creation and delivery of this content are generally opaque and throw up increasing ethical and practical issues that are never going to diminish. In these times, the BBC has a unique role to play not only as a trusted content provider but by developing and building cutting-edge communication technology of behalf of the licence fee payer.

*2.31 pm*

**The Lord Bishop of Leeds:** My Lords, the BBC has three core purposes: to inform, to educate and to entertain. Will the Minister comment on a fourth purpose, which is to interpret? Diversity has been perceived in terms of regional diversity when one could also say that ethnic and religious diversity in the country need to be taken more seriously. Religion is a primary motivator of individuals and communities, inspiring and informing their political, economic, ethical and social behaviour. It needs to be interpreted. What the world looks like when seen through a particular religious lens needs to be taken more seriously. In July 2015, Ofcom expressed concern about the diminution of attention to religion in the BBC. Can the Minister assure us that this will be taken more seriously in the charter renewal?

*2.32 pm*

**Lord Fowler (Con):** My Lords, we must find a better way of debating serious issues in this House, such as the future of the BBC. One-minute speeches are frankly ridiculous, but perhaps they illustrate the fundamental defect in the royal charter process. The royal charter may sound very grand, but it means that none of the Government's proposals come to Parliament for decision. If we are serious about the independence of the BBC, we should scrap the charter, set up the BBC as a statutory corporation and resolve that no Government shall be allowed alone to determine the future of the BBC. In other words, this would be a matter for Parliament after proper debate without the 60-second speaking clock.

*2.33 pm*

**Lord Lipsey (Lab):** My Lords, I rise simply to read into the record the findings of this House's Communication Committee. After an excellent inquiry, it concluded that it had not heard "a convincing case" for a significant reduction in the scale or scope of the BBC. It believed that:

"The BBC should not be restricted to remedying gaps for which the market does not provide",

but,

"must continue to be a universal broadcaster".

For the Government to conclude otherwise would be an act of cultural vandalism for which they would never be forgiven.

*2.34 pm*

**Baroness Benjamin (LD):** My Lords, there are urgent calls for government action on the issue of investment in children's content, that the BBC should commit 8% of the network original content spend to this and that it should not fall below £100 million per year over the next charter period, but there is strong opposition to a contestable fund for children's content and to top-slicing of the licence fee to establish it because of the risk of the BBC doing less, the uncertainties about who would administer it, the cost of doing so and where the content will be shown. Reduced BBC budgets should not be used to fund commercial PSB activity. Any ring-fencing or top-slicing would also impede the funding of new initiatives, such as iPlay, and tie the BBC down in ways that do not take into account how children's viewing habits are evolving. However, new money must be found to boost content for the neglected 12 to 16 year-olds, and it should be given to Channel 4 to provide competition for the BBC. If the decline in original content continues, the UK will no longer be the world leader, which will be a cost to the UK economy.

I declare my interests as stated in the register.

*2.35 pm*

**Viscount Colville of Culross (CB):** I declare an interest as a producer at BBC London factual.

I am concerned that the charter and its funding seem to have become separated. I share the concern of the noble Baroness, Lady Bonham-Carter, about the BBC taking on the burden of the over-75s licence fee. I fear that that the funds which are supposed to replace it will not be forthcoming.

On top of that, people are failing to pay the licence fee. There is going to be a £150 million shortfall by the end of the year in its payment. The digital licence is supposed to help close the loophole of digital viewers not paying the licence fee, but I fear that that will in no way compensate for the increasing shortfall as a new generation of viewers look elsewhere to get their content. My noble friend Lord Hall has announced 23% cuts by 2022, including a massive £80 million cut to news, on top of the 25% cut since the last charter renewal.

Everywhere I go in the world, people ask me why they cannot watch the BBC live in their country. Maybe it is time for the BBC to start supplying that audience need, thinking about taking on the streaming giants face to face and raising revenues in the process.

*2.36 pm*

**Lord Macdonald of Tradeston (Lab):** My Lords, recent public consultations have raised concerns that the BBC is too London-centric. While MediaCityUK in Salford helps compensate for the decline of ITV production across the north, other English regions could be better served. Scotland, Wales and Northern Ireland feel that they, too, deserve a better deal. The Campaign for Broadcasting Equality has also expressed concern about low levels of black and minority ethnic employment at the BBC. John Whittingdale has confirmed that DCMS consultations suggest that the BBC needs

[Lord Macdonald of Tradeston]
to do more to increase diversity and to reflect better the experience of people across all our nations and regions.

If we only get one minute each, we will waste 18 minutes of the time for this debate.

*2.37 pm*

**The Earl of Glasgow (LD):** My Lords, the BBC is not perfect. I have worked for it as a documentary film-maker and have been the subject of one of its programmes. That programme turned out to be very different from what I had been led to believe, so I know that the BBC is capable of doing things in bad faith.

However, the BBC is an institution admired and trusted throughout the world. One of the reasons it is trusted is because it is independent of government, yet when its charter is up, like now, the Government of the day see their opportunity to influence it. Although the licence fee, the main source of the BBC's funding, is paid by the British public, the Government control the licence fee and can decide how and where it will be spent and, indeed, whether it will continue to be financed by the licence fee in future. They are in a position to cajole the BBC to make programmes to their taste or to punish it if they perceive its news coverage to have an anti-Government bias. These powers are a threat to the corporation's independence and many at the BBC today are nervous of the Government's present intentions. As long as the BBC sticks to its remit, set out in detail in the excellent new charter review, the Government should not be allowed to interfere.

*2.38 pm*

**Baroness Healy of Primrose Hill (Lab):** My Lords, it is essential that the BBC remains the keystone of British broadcasting, continues to play a central role in the wider creative industries and retains its reputation for quality and independence throughout the world.

The BBC should make a particular commitment to reflect the nations, regions and diverse communities of the UK. I hope the BBC will continue to meet the challenges of reflecting our modern and ever-changing Britain to ensure it remains pertinent to the concerns of the young, including those with disabilities and the BAME community, as the recent report of our Select Committee recommended, and to preserve its vital role in the life of our nation.

The BBC has a great future and there is no case to reduce its scale or scope. I hope the charter renewal process will prove an opportunity to refresh, not fracture, the BBC.

*2.39 pm*

**Lord Birt (CB):** My Lords, in the past five years we have learned that a royal charter, far from being a powerful symbol and safeguard of the BBC's independence, on the contrary enables Governments to be less accountable even than medieval kings; to amend the charter through the Privy Council, absent any public or parliamentary consultation; and to inflict unprincipled and material change on the BBC. In the process, around 25% has been abstracted from the BBC's programme budget with no national debate whatever. We rightly condemn Turkey but this is our constitutional outrage and it simply must be put right. Changes to the BBC's mandate must now be agreed by Parliament. The setting of the licence fee must now follow a rigorous and considered process. The noble Lord, Lord Fowler, is right. It is time to place the BBC on a statutory footing.

*2.40 pm*

**Lord Young of Norwood Green (Lab):** My Lords, I declare my interest as an ex-governor of the BBC. Given the time limit, I presume that the noble Earl, Lord Courtown, is playing the role of Nicholas Parsons to ensure no hesitation, repetition or deviation.

I want to make a couple of quick points. The new director-general—the noble Lord, Lord Hall, who is in his seat—has presided over a massive transformation programme. Some 90% of what is spent is now focused on content and delivery, and just 8% on actually running the BBC. That is a tough challenge even in the light of the Government saying that they will commit themselves to an above-inflation increase in the licence fee. Can the Minister confirm that there will be no more top-slicing of the licence fee for any situation whatever, as we have experienced in the past, and that this Government will be committing themselves to a 10-year charter renewal?

*2.41 pm*

**Lord Foster of Bath (LD):** My Lords, the BBC is the best broadcaster in the world, and a great gift from us to the rest of the world. To ensure effective planning and investment, the new charter should last significantly longer than the five years that some have proposed. The proposals to top-slice the licence fee for contestable funding and to privatise BBC Worldwide should be rejected. The governance of the BBC should change broadly along the lines recommended in the Clementi review.

I hope that the Government will not be influenced by the Oliver & Ohlbaum and Oxera report into the BBC's market impact and try to create a "market-failure only" BBC, filling the gaps left by other broadcasters. The report is flawed. A significantly less popular, more distinctive BBC would have an overall negative effect on the wider UK media sector and on UK plc, giving only a small benefit to the BBC's direct competitors. I hope that the Government will tread with care and protect the jewel in the crown of British broadcasting.

*2.42 pm*

**Lord Judd (Lab):** My Lords, we live in a very materialist age where it is increasingly likely that we will know the price of everything and the value of nothing. The BBC, with its distinguished record, is in many ways priceless. Our influence and standing in the world are very much related to the profile that the BBC continues to have in our society, stretching from local communities in our own society to people in North Korea, for example, who are desperate for truth, objectivity and the rest. We risk its future as a standard-setter at our peril.

*2.43 pm*

**Lord Best (CB):** My Lords, your Lordships' Select Committee on Communications, which I have the honour to chair, published its report *BBC Charter Renewal: Reith not Revolution* on 23 February. I am glad to say our report has been well received and I commend it to your Lordships. We reaffirmed the original Reithian principles for the BBC to "inform, educate and entertain". We saw no convincing case for a significant reduction in the scale or scope of the BBC, nor for it to be restricted to remedying gaps that the market does not provide; and we said the BBC must continue to be a universal broadcaster. I was glad to see the complimentary review of our report by Peter Preston in the *Guardian*, which concluded:

"Their lordships helpfully chronicle something we don't hear often enough: how good and important the BBC is to British life".

*2.44 pm*

**Lord Livermore (Lab):** My Lords, the BBC's reputation is built on independence from government, yet during charter renewal it is also dependent on the judgment of government. It has a responsibility to report politics with fairness without fear or favour. Politicians have a duty to take decisions in the same manner, even though the BBC has often infuriated politicians of all parties. Recently, during the Scottish referendum, the SNP railed against the BBC. During last year's general election, the BBC reportedly incensed the Prime Minister so much that he threatened to close it down. Yet during that same campaign, it also moved the Labour Party to make almost daily complaints. To my mind, far from being a weakness, this shows the strength of the BBC, with its editorial independence from all political parties—an organisation seeking balance even when it is impossible to achieve, and held to higher standards than any other broadcaster.

We now see proposals to allow a greater government say over the running of the BBC, but trust is a valuable and fragile commodity. Once lost, it is extraordinarily difficult to regain. The BBC is more trusted than any other media organisation. I hope that the Minister will agree that no Government should put at risk an impartial and independent BBC.

*2.45 pm*

**Lord Stevenson of Balmacara (Lab):** My Lords, brilliant discipline has given us short speeches but many important points, and I hope the Minister has been listening hard. I would like to make three.

The people have spoken, and such a large and passionate response has surely seen off the original plan to cut the BBC down to size. But the battle is not over. Last week the Culture Secretary's call for the BBC to become "more distinctive" revealed the strategy: use the charter review to make it so minority-interest and "distinctive" that hardly anyone likes it at all—something that few people would miss—and then privatise it. Really?

The BBC is the keystone of the UK's broadcasting ecology and the envy of the world. The public want the BBC to inform, educate and entertain, and to survive and thrive. Popular BBC programmes and services inform and educate as well as entertain. The BBC needs reform, but that is something that we should have confidence that it can do itself. It ain't broke.

*2.46 pm*

**The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills and Department for Culture, Media and Sport (Baroness Neville-Rolfe) (Con):** My Lords, this has been a wide-ranging debate and I congratulate the noble Baroness, Lady Bonham-Carter, on her timeliness. As ever, she has spoken eloquently about the positive role the BBC plays in the creative industries and in UK society as a whole. That has been echoed by my noble friend Lord Inglewood and others. I have to say that I share the concern that has been expressed about the limits of the House of Lords equivalent of speed dating—but in my comments I shall try to address the key areas.

The Government are making good progress on our consideration of the BBC's next royal charter. Last week, as has been said, the Government published a summary of the 192,000 responses we received to our public consultation—they are all important—along with the Clementi review and a consultants' report into the market impact of the BBC. We have also benefited a great deal from the carefully considered and well-received report from the noble Lord, Lord Best, and his noble colleagues on the Communications Committee.

To respond to a number of comments made by the noble Lord, Lord Stevenson, and others, the Government believe that the BBC is a great institution. However, as I think people understand, charter review is a once-in-10-year opportunity to look at the scale and scope of the BBC, and it is right to look at how to help the BBC and the wider media sector to thrive in future.

Sir David Clementi's review into BBC governance is a well-rounded and thorough report that makes a clear case for a move to a unitary board. I know that many colleagues believe that appointments to the new board should be made independently. The Government, via an OCPA process, currently appoints all the members of the BBC Trust board. We need to examine what the right approach is for the future. What is clear, however, is that the appointment of the director-general, as now, ought not to be made by the Government. Given that Sir David has only just reported, the Secretary of State will be considering the arguments carefully over the next few months.

As important as governance is what the BBC does. As the noble Baroness, Lady Jay, emphasised, 81% of responses suggested that it served its audience well, and 74% suggested that the BBC's content was of high quality. But it is important to note that not everyone responded to all 19 questions set out in the consultation. For example, only 5% of respondents commented on the BBC's mission, purpose and values. Of those, 3% indicated that no change was needed. A comprehensive summary of all the responses received is set out in the report that the Government published last week, which noble Lords may well want to take a look at.

[Baroness Neville-Rolfe]

The noble Baroness, Lady Benjamin, argued, as she has so eloquently on many occasions, for a better deal for children's TV. I know that she will pleased to hear that the Secretary of State had a round table last week with children's TV producers. Obviously, we are conscious of the need to retain the BBC quality and to encourage variety and creativity in this whole area.

The right reverend Prelate the Bishop of Leeds rightly asked about the fourth issue, diversity, which has been raised by a number of people in our various consultations. The Secretary of State recently met Lenny Henry and is considering carefully how we can encourage greater diversity in what the BBC does. I also ought to respond, because I had not planned to cover it in any detail, to the comments made about regional diversity, which has also been an important part of the process and the consultation and which we will look at when we come to make decisions on the White Paper.

The report of the noble Lord, Lord Best, argued for reform of the way the licence fee settlement should be conducted and recommended that this should be set by the independent regulator. This is an interesting proposal that will be given careful consideration. But, ultimately, the licence fee is a tax, and taxation decisions are ones for Ministers. We will reflect carefully on this issue but it is unlikely that the Government will move decision-making powers for setting the licence fee away from Ministers, now or in the future.

Another proposal in the report is the removal of charter review from the electoral cycle by allowing the charter to run for 11 years and reverting to 10 years thereafter. The noble Lord, Lord Young, picked this up, as did my noble friend Lord Fowler. This view is shared by many, including the noble Lord, Lord Lester, who was kind enough to give me notice of his comments—I will write on a couple of them, as I do not think I have time to cover every single one of them—as it is seen as a way of enhancing the BBC's independence. My noble friend Lord Fowler and the noble Lord, Lord Birt, proposed going a step further—scrapping the charter completely and setting up the BBC as a statutory body.

**Lord Lester of Herne Hill:** I have to say to the Minister that that is not good enough. I gave notice last Friday, asking her to reply to my questions. Will she please do so, not in writing but now?

**Baroness Neville-Rolfe:** I will certainly try to do so. I am answering three of them as I go along, but I was conscious that noble Lords raised several points.

This view goes against those of many of the stakeholders—including the BBC—who responded to our consultation. Again, we will reflect carefully on this issue. Our current view is that at present a royal charter remains the most effective way of providing for the BBC.

**Lord Birt:** The Minister may like to comment on this. A clause in the last charter says that the licence fee may not be used to fund the World Service. George Osborne then made his night raid, the BBC was required to fund the World Service through the licence fee and the charter was amended in the Privy Council. Would the Minister like to explain the constitutional rationale for that?

**Baroness Neville-Rolfe:** Obviously, there has been a good deal of comment on the agreement that was reached last year on funding. The rationale for it is clear: that economically, the BBC could not be exempted from the pressures on funding that have been imposed on every other public entity. In addition, the director-general agreed the funding package—

**Lord Birt:** I wonder whether the Minister heard the key word. I asked for the constitutional, not the economic, rationale.

**Baroness Neville-Rolfe:** I will certainly consider the question further, but we are acting constitutionally—there is a BBC charter and a charter process, we are undertaking the review and consulting in an appropriate way, and we will come on to debate the proposals in due course. The Government behaved in an appropriate manner in trying to sort out the funding of the BBC, as they did last year. In many ways, as I have said on previous occasions, that has been helpful.

As I was saying, we will of course reflect carefully on these issues, and a proposal for the term of the next charter will also be set out in the upcoming White Paper.

**Lord Fowler:** I take it from what my noble friend is saying that in effect, the Government have rejected the idea that the royal charter should be scrapped. If they have, how does she think the royal charter establishes and safeguards the independence of the BBC?

**Baroness Neville-Rolfe:** As I have said, we are looking at the whole process at the moment. Independence is an important issue, and when we set out our plans we will come back with our ideas on how we can best ensure an independent and good future for the BBC. I wanted to respond to the points that were made in the report, because it is as well that people understand that the report's key proposal on this point will not necessarily be accepted. However, having said that, obviously we remain in listening mode at this stage of the process and we will come back with a White Paper.

Although there has not been much comment on it, it is worth mentioning that last week the Government announced a deal with the BBC to close the iPlayer loophole, which, under current regulation, allows viewers to watch catch-up services on iPlayer without paying for a TV licence. Obviously, this will stop those who are essentially freeloading from not paying the licence fee, and the Government will bring forward secondary legislation on this point as soon as is practicable. This responds to the digital change that we have discussed in many of our different debates.

**Lord Young of Norwood Green:** Of course we welcome the decision on BBC iPlayer, but just as important would be a guarantee that there will be no more top-slicing of the licence fee.

**Baroness Neville-Rolfe:** We set out our plans for funding and made it clear that there was a way forward, but we said that, in looking at the review of scope and scale, we would make sure that the plans that had been set out and agreed with the BBC made sense. I do not think I can give any commitments in particular on top-slicing, but I understand the concern. We all want a well-funded, well-run BBC—that is agreed territory.

I turn to timing, which I think will be of interest to noble Lords. Our intention is still to publish the White Paper in the first half of this year. As I said in an earlier debate, we can extend the current charter if we have to, although that is not the intention. In response, I hope, to the point made by my noble friend Lord Fowler, we will allow for debates in this House, the other place and the devolved Parliaments before the White Paper goes before the Privy Council for approval.

The most important thing is to get the charter review right, given that it is likely to set the framework for the BBC for years to come. The Government are committed to an open and transparent charter review process—a process which I believe is progressing well. I confirm again that the Government are fully aware of the importance of the BBC and of how much the public and this House value its contribution to society, to the creative industries and to the UK's standing in the world.

The Clementi review has, I believe, provided a case for reform of the BBC's governance and regulation, which was certainly a concern in earlier debates. The market impact report has shown that the BBC becoming more distinctive would help both commercial broadcasters and the viewing public by offering more choice. I look forward to a thriving, dynamic BBC which is respected around the world but also provides better value for money in the light of this important review.

Finally, I should say to the noble Lord, Lord Lester, that I have tried to answer his questions, although I do not think I have entirely succeeded. I will write him a letter and ensure that it is copied to other noble Lords.

**Lord Lester of Herne Hill:** I am grateful to the Minister for what she has just said. Having listened very carefully, I think that the answer to each of my five questions is no.

**Lord Birt:** It is very welcome that the Minister suggests that this House, as well as the other place, will have a chance to discuss the White Paper. Does she agree that we will need a debate of sufficient length at that moment?

**Baroness Neville-Rolfe:** My Lords, I will pass that good suggestion on to the usual channels.

**Lord Fowler:** Will there be an opportunity to debate the excellent report of the noble Lord, Lord Best? The important thing is to have that debate before the White Paper is published. Although I am interested in having the debate on the White Paper afterwards, it is much more important to have it when—theoretically, at any rate—it can have some influence.

**Baroness Jay of Paddington:** As my noble friend Lord Macdonald predicted, we are well ahead on the timing, which is slightly unfortunate given that there were many points which people would have raised had they had two and a half minutes or more to speak. However, I emphasise the point that the noble Lord, Lord Fowler, has just made. The report of the Select Committee, of which, as I said, I am a member, would provide a very opportune moment for a better and longer discussion, and perhaps that could be arranged as soon as possible.

**Baroness Neville-Rolfe:** I note noble Lords' comments and will pass them on to the usual channels.

*3.02 pm*

*Sitting suspended.*

## Housing and Planning Bill

*Committee (5th Day) (Continued)*

*3.17 pm*

*Amendment 63*

*Moved by* ***Lord Beecham***

**63:** Clause 67, page 29, line 33, at end insert—

"( ) The total payment required from all affected local authorities in any financial year shall not exceed the total grant paid in that year to private registered providers in respect of right to buy discounts."

**Lord Beecham (Lab):** My Lords, I begin my speech in support of Amendment 63, in my name and that of my noble friend Lord Kennedy, and the other amendments in this group by referring to what passes for the impact assessment of the Bill. Under the rubric of "Problem under consideration", it states that the provisions of the Bill,

"require councils to make a payment to the Secretary of State based on their high value … housing",

which is expected to become vacant during the financial year. It does not say how "high value" is to be defined or calculated, which is expressly to be determined—surprise, surprise—by secondary legislation. Nor does it define what would be deemed to constitute "an expectation" and when that is supposed to crystallise. It goes on to state that,

"a formula will be used to calculate the payment each stock owning local authority is … to pay",

for this will be required of local authorities whether or not the property is sold. As we have heard, the money will go to Her Majesty's Government for onward transmission to housing associations to finance the right to buy. No formula is proffered in the impact assessment. Graciously, it states that local authorities will have to consider selling their high-value housing when it becomes vacant but will have "some flexibility" to decide which properties are sold. This generous concession is supposed to dampen the impact of the

[LORD BEECHAM]

effective nationalisation and then privatisation of the housing in question. It does not indicate how much flexibility will be allowed.

The Government do, by way of an amazing act of largesse, say that a portion—unspecified—of receipts will be used to build more homes that reflect housing need. Can the Minister tell us how much flexibility will be allowed and in what circumstances? How and when will the Government determine the size of the portion of receipts to be used for building more homes? Will the Government prescribe the cost of such homes, their location or their tenure? If built as new council homes, will they be subject in turn to the right to buy?

The impact assessment asserts that by managing their stock more efficiently, something with which the Bill does not, as such, purport to deal,

"local authorities will release value tied up in such properties and this can be used to fund more homes which reflect the housing need".

This bald statement does not deal with the destination of the proceeds, which is the Government, nor does it exclude the possibility of the proceeds being used for purposes other than funding homes. Indeed, since the Government would be using their levy on councils in respect of high-value homes to fund right to buy, it is hard to see how the proceeds could be used in any substantial amount for that purpose.

The summary of benefits and costs in the assessment states that:

"The determination process will provide … certainty for local authorities about the level and flow of receipts to be generated".

Can the Minister provide the House with an example of how the process will work? Do the Government propose to deal with it in regulations? If so—once again, I have to ask—will we see the draft regulations before Report?

The summary in paragraph 4.2.8 goes on to assert:

"Data will be used to inform the setting of the high value threshold and the assumptions underlying the calculations in the determination".

What data? Whence derived? When made public? Will there be discussions with individual councils about the threshold and any mechanism for appeal? Paragraph 4.2.10 acknowledges:

"Local authorities are likely to incur some costs associated with the sale of vacant property"—

a statement of the blindly obvious—but councils will no doubt be deeply relieved to note that:

"Consideration will be given to the deductions that should be made from the payment to the Secretary of State to reflect transaction costs associated with the sale of vacant properties".

Have the Government made any estimates of such costs? Will this process involve secondary legislation to clarify the matter?

Paragraph 4.2.11 declares:

"A portion of the receipts will be used to provide more housing, reflecting housing need".

What sort of housing? Housing for first-time buyers? Housing for rent? If for rent, what levels of rent? Housing in the authority area or perhaps beyond it? Above all, what sized portion? It further states that,

"the Secretary of State and a local authority may enter into an agreement to reduce the amount the authority has to pay so that new housing can be provided".

Provided by whom? Does the Minister envisage, for example, an annual agreement based on an estimated number of sales at an estimated price? What would be the minimum number and minimum expected yield to make such an arrangement feasible? In similar vein, how feasible is it to require in London, as the same paragraph does, that,

"at least two new affordable homes are provided for each vacant high value home that is expected to be sold in the relevant year"?

That question has been raised more than once in debates thus far. Does not that wording suggest that councils are expected to make provision on the basis of an expectation rather than an actual sale? That sounds rather like a potential leap in the dark given the obvious uncertainty about numbers, price and timing, both in respect of sales and the proposed new building. How many sales and consequent replacements does the Minister believe would be a workable minimum to secure best value in terms of those replacements?

In five and a half years as a Member of this House, I have seen some poor impact assessments, but I do not recall any as utterly useless as this. I do not blame the Minister for a moment for that—she is probably suffering from the effects of an inadequate impact assessment as much as any of us. There is no assessment of the number of properties liable to be affected, no assessment of the possible amounts to be realised, no assessment of the number, type and costs of replacements and no indication of how the scheme might work in metropolitan areas where the housing market crosses local authority boundaries.

Shelter has done some calculations which the DCLG either has not done, which would be grossly negligent, or has done but apparently has failed to publish, which would be tantamount to concealing important evidence. These show for authorities an estimate of the number of houses that might fall into the high-value category. The Shelter study showed that in Newcastle, which in the words of a council officer will be badly hit, 1,611 council homes fall into the Government's previously released high-value threshold. This will equate to 82 forced sales a year—in fact, the council believes that the Shelter figures are an underestimate. Moreover, even if a council were to transfer its stock to an external housing provider, it could still be issued with an annual charge based on the Secretary of State's estimate of what would have been the annual turnover of high-value stock. This is yet another example of the Government giving the lie to their claims to be localist. As the Conservative-led Local Government Association has pointed out:

"Councils already consider the best use for their assets and any new duty to sell stock must be balanced against local housing need. Local authorities should retain all receipts from the sale of … high value homes and from council Right to Buy in order to invest locally in building new homes crucial to reducing waiting lists and welfare spending. The Bill should be amended to give councils maximum freedom to manage their own housing stock and to locally retain"—

the LGA's split infinitive, not mine—

"capital receipts for reinvestment in new and existing housing, as a minimum retaining sufficient receipt to replace every home sold".

This has been the gist of two or three speeches from the current chair of the association, the noble Lord, Lord Porter.

The LGA does not support the proposals to levy payments on the estimated value of higher-value properties, asserting rightly that the Government could decide,

"how much it would like to 'tax' each council with housing stock",

and no doubt define what constitutes high value for the relevant area.

However, in addition to all these difficulties about principle, process and finance, there are more fundamental concerns. What steps, if any, will the Government take to avoid high-value homes joining the buy-to-let sector? What consideration have they given to the need for larger accommodation for large families or households with a disabled member requiring extra space, such as is currently the subject of litigation in respect of the bedroom tax? There is a case before the courts involving a third room in which necessary equipment has to be provided for a disabled member of the household. Would a household such as that potentially be subject to the treatment of high-value properties? Generally speaking, the larger the accommodation, the higher the value will be. In Newcastle, we have only 83 council properties with five bedrooms, 28 applicants with a housing need for them and a turnover of around only five a year. Will the charge be levied on those irrespective of the impact on available housing for those larger families, even on the relatively small numbers which we have to deal with? There will also be areas where bungalows will in high demand for similar reasons—very often occupied by elderly or disabled people.

Our amendments in this and subsequent groups deal with a wide range of issues arising from the Government's simplistic and un-thought-through policies designed, in my submission, as electoral bait. Amendment 63 is aimed at the national position and would require the total payment from councils in any financial year to be limited to the total grant to housing associations for right to buy. That very provision underlines one of the most basic flaws in the whole concept: right to buy of itself creates no new homes. To the extent that the exercise of the right raises money, it will do so at the expense of the provision of council housing with no guarantee of local replacement and, inevitably, the eventual transition of a large percentage of properties to buy to let.

Amendment 64 would give a local authority rather than the Secretary of State the right to define what constitutes "high value", while Amendment 65 would limit the number of high-value properties subject to the provisions of the Bill to 10% of the total local authority stock in a given area, thereby effectively capping the impact of the scheme in localities.

Importantly, Amendment 66 defines "high value"—something which the Government have failed to get round to doing—by excluding properties for which the cost of building a replacement with the same number of bedrooms in the same local authority area is greater than their value. Finally in this group is Clause 67 stand part.

This concept—borne of, at best, ill-conceived populism and, at worst, electoral opportunism—is about buying votes, not about building houses. It is shoddy, ill thought-out and ill-drafted legislation. We are asked by the Government to approve it in the absence of evidence of how it would work and what its impact would be. I urge the Minister to acknowledge its deficiencies and take it back to the ministerial drawing board or to whatever oxymoron of a right-wing think tank thought it up. This is a time not for Policy Exchange but for a change of policy. I beg to move.

*3.30 pm*

**Lord Lansley (Con):** My Lords, I intervene briefly on this group of amendments. I have listened with care and interest to the debate on the previous group and was hoping to contribute to that, but I think it is perfectly appropriate to do so now.

**Lord Beecham:** Actually, the *Companion* allows that. Because we are in Committee, noble Lords can speak on any aspect at any time, if that is any help.

**Lord Lansley:** I am learning the advantages of being in your Lordships' House as opposed to another place. This is clearly one of them.

I am prompted not least by the introduction to the debate of the noble Lord, Lord Beecham. I can well understand his point of view about the absence of detail that we hope to see in regulations. I share the collective view across the House that we would like to see those regulations in order to understand how the architecture of the Bill will be shaped before we come to the decisions that we need to make on Report. But the absence of those regulations and that architecture affords an opportunity for the noble Lord to ask a lot of questions. Indeed, the amendments, in so far as they probe these issues, simply relate to a sub-set of the issues that potentially need to be covered in the regulations.

My personal view is that none of the amendments in this group would help us in any way because we need to see the whole shape of the regulations in order to understand this clause. From the Government's point of view, there is considerable advantage in the flexibility provided by regulation in this area, rather than having too much rigidity in the system. I say that because I am prompted by what the noble Lord said: that this was about electoral opportunism rather than building houses. Actually, this is electorally popular. I have no doubt about that. The right to buy was popular in its time and is popular now, and the right to buy for housing association tenants will prove popular. However, the issue is about building houses.

**Lord Campbell-Savours (Lab):** There are repeated references to right to buy. There is no right to buy because housing associations can refuse to sell. There is no right to buy at all.

**Lord McKenzie of Luton (Lab):** The noble Lord said that the right to buy was popular in its time. He is right that it was popular at the moment it was introduced

[Lord McKenzie of Luton]
and probably for a short while thereafter. But now, if you go to the areas that I know in Luton, where all the estates have been pretty much sold off, mothers and fathers are worried about their children and grandchildren being able to access decent accommodation. That gives a different view as to how popular or right that policy was.

**Lord Lansley:** In a way. I certainly do not propose to engage in a semantic debate about what the policy is described as. We know what it is and it will rightly be regarded by housing association tenants as the creation of a right to buy. It may be circumscribed in certain ways, not least by housing associations themselves under a voluntary agreement. But everyone will know what it is, and that is what they will be looking for.

On the latter point, I must say to noble Lords that I do not think I have to judge whether the policy was popular: it was. People voted for it and, frankly, at the last general election they voted for right to buy again. I do not think we need to have that debate. Indeed, that was not my purpose in speaking. I was addressing the issue that, actually, my noble friend Lord Horam made perfectly clear in a previous intervention. He was absolutely right. As I said at Second Reading, this is about building more houses. If we are to solve all the problems we are debating, we will solve them more readily if we are able to increase the number of houses we build. Then, we will not be trying to parcel out who lives in which home and under what tenure—as appears sometimes to be the purpose of these debates—rather than giving more people more opportunities to have whatever home they want under whatever tenure they want. The more homes we build, the more likely we are to be able to satisfy more of those ambitions.

Completely contrary to what the noble Lord just said, this is about building more homes. The local authority may sell houses, but those houses do not cease to be occupied. They will go into the market. That value, realised through the right-to-buy discount, will enable people to own the homes they are occupying. The housing association will take the market value and will, as a consequence, be increasingly equipped to invest in further new housing in the future. There is that benefit.

At the same time, the Government have an opportunity, and this is where the flexibility in the architecture of the Bill comes in. The Government will have flexibility in certain circumstances to say, "No, we can actually do more by way of building more homes where we most need those homes to be built if we reach an agreement with a local authority to build more homes, through which we reduce the deduction—the payment it has to make". That is why the single example of Greater London in the structure of the Bill is indicative. Frankly, one for one would not in itself be sufficient to justify substantial deductions on the payment.

In so far as there is a given amount that is required to be paid over to housing associations that arises from the discounts, such payments might therefore have to be met by the Government out of general taxation. I see nothing in the Bill that requires the two sums to be exactly the same. That flexibility allows the Government to enter into agreements with local authorities. There is a clear incentive for local authorities to come forward with proposals that would allow them to build more homes than one could otherwise anticipate being built as a consequence of simply transferring that money through to the right-to-buy discount. The consequence, one way or another—through the housing association route, or the local housing authority arriving at an agreement to build more homes—is that more homes should be built. That is devoutly to be wished for.

What will help us to explore the issues arising out of the discussions in Committee is to know more about Clause 72. What do these agreements with local authorities look like? For my own part, it is important to be able to see a practical example. I declare an interest as an unremunerated chair of the Cambridgeshire Development Forum. We want to see houses being built. We need more affordable homes. In my time as Member of Parliament for South Cambridgeshire, I saw the housing waiting list in my constituency more than double. We have a fast-growing area. We have rising land prices and property prices. We have a lot of demand for key worker housing and affordable homes. In that sense, we are very much like the most pressed and needy areas of London. My noble friend talked about the changing geography of London and that is absolutely right. There are places outside London that exhibit characteristics very like some of the most stressed parts of London.

In encouraging the process of fleshing out between now and Report, I say to my noble friend that it is not just about fleshing out the regulations; it is about engaging in conversations with local authorities. I would be happy if my noble friend would allow such a conversation to take place between her department, South Cambridgeshire District Council and Cambridge City Council and for me along with colleagues to be part of that. We should discuss the potential for these deductions and what they can deliver. The Government are right to believe that they should have the flexibility to give local authorities leeway regarding the assumptions that would lead to payments into the right-to-buy discount if they are building more houses and showing the additionality of being able to do so.

For that reason, there has to be flexibility in the architecture of the Bill regarding, on the one hand, the ambition to build more houses through local authority agreements that directly correspond financially to a flexibility in how much money is asked of individual local housing authorities; and to what extent that money corresponds with the money provided in right-to-buy discounts.

**Lord Beecham:** Why not leave the decision to local authorities within whose boundaries these high-value properties are situated? How can it be justified to levy on those local authorities a payment when the property is not yet vacant?

**Lord Lansley:** I am grateful for that because I had not realised it until I listened to the Bill being discussed earlier today. The answer is that, insofar as the local authority seeks to achieve not just replacement new homes for the dwellings that are sold but to do more, the consequence in financial terms has to be borne by

the Government, so the Government are a partner in this proposal. It does not automatically follow, as one of the amendments in this group implies, that the amount of money that is derived from local authorities through the payments that are required under Clause 67 has to correspond with the amount of money that is provided to housing associations under the right-to-buy discount. If there is a difference, and in particular if there is a shortfall, it is down to the Government to cover it. Frankly, I think that the Government, through agreements reached with local authorities, should have the flexibility to create such a shortfall and to fund it differently.

**Lord Campbell-Savours:** The noble Lord, Lord Lansley, referred to the need to build more homes. There is a way of building more homes that is much easier than all these provisions in the Bill, and that is simply to reduce the price of land. Certainly outside London, it is the cost of land that is driving up the cost of housing and causing the problems we are having to deal with today. Only a few weeks ago I read some statistics about land prices in the Home Counties. An acre of agricultural land can be bought for around £12,000, but with the stroke of a pen—if I may simplify the process—it can be worth between £2 million and £4 million. That is why people cannot afford to buy houses in the United Kingdom but they can afford them abroad. We are simply paying too much for the land that we use.

I wish to support the thrust of these amendments, in particular Amendment 65, tabled by my two noble friends on the Front Bench. As I understand it, they would restrict the amount of property treated as high value, which may have the effect of reducing the levy and thereby the pressure on a local authority to sell stock to fund housing association right-to-buy discount purchases. My case is simple: councils need to defend their public sector housing stock and I shall argue why that stock should be defended against speculative buying.

Just to clarify the position, the Bill states:

"The Secretary of State must by regulations define 'high value' for the purposes of this Chapter",

to which Amendment 65 would add,

"and this definition may not apply to more than 10% of the total authority properties in the local housing authority area".

These debates have been dominated by some very experienced people, and I do not profess to be one of them. Many leaders of local authorities have taken part, as well as leaders in the housing association movement, so the quality of the debate has been very high. Unfortunately, my experience of dealing with a local authority ended 40 years ago, so obviously I have a layman's and observer's knowledge of these matters. My comments are based on some anecdotes and conversations I have had with local authority councillors and leaders who are directly involved in this area. Many of the questions I will put are being asked by the public, particularly where they harbour great concerns about the Bill's provisions.

*3.45 pm*

The day before yesterday I had an interesting conversation with a local authority leader. His case was simple. The sale of council property in London is out of control, with no official monitoring, and it is determined by the Government's desire to raise revenue from the housing stock so as to avoid public expenditure. It is, in effect, a tax on local authorities. He went on to say that the sale of high-value property would be primarily in the London area, funding countrywide, and that outside the London area the majority of high-value stock would be confined initially to the national parks, the more well-heeled towns of the Home Counties and a few areas in Yorkshire and Cheshire. But ultimately the Government will lower the high-value threshold so as to maximise the levy and fund their estimated target yield of £4.5 billion a year. He further argues that a high proportion of the council property being purchased in London is by overseas investors using UK residents as the vehicles for buying into the London property market for the purpose of investment. UK residents—tenants—are not the principal purchasers as they require high-value mortgages that they can ill afford and indeed cannot get.

What is the evidence for that? I examined council property prices in Westminster—that is to say, subsequent sales after the right to buy has been exercised. I chose Churchill Gardens in Pimlico because it reflects prices right across London, in an area from Dulwich to Hendon and from Ealing to Hackney. I went on Zoopla, which Members will be aware of, for valuation information. Churchill Gardens—Members will know that it is the series of blocks of flats on the other side of Dolphin Square on the Embankment—was built between 1946 and 1962. There are 1,600 homes there in 32 blocks. It is a development of blocks of flats interspersed with maisonettes. It has the benefit of a district heat and power plant. Much of it is classic deck-access property. It is classic London local authority property. Much of it has been in the conservation area since 1990. It is managed by CityWest Homes on behalf of Westminster City Council. Two-bedroom flats on Zoopla, as of the other day, now cost between £560,000 and £580,000. One-bedroom flats are not much less. These are flats that were sold in 1997-98—I traced them back—for between £24,750 and £25,000. This is a huge increase in the price of local authority property.

Some 50% of the 1,600 properties in Churchill Gardens have been sold off, depriving London of precious housing stock. Where have they gone and who bought them? Those who bought them originally are pocketing the capital gain and selling at the prices I referred to a week ago—it seems like a month ago. They are now joined by Westminster City Council, which, under the current right to buy and after the £103,900 discount, can value the same property at £450,000. Indeed, yesterday I found a three-bedroom property on the Churchill Gardens Estate on Rightmove, being sold by Hamptons International at just more than £600,000. A mortgage in the region of £400,000 to £450,000 requires a buyer to take out a very substantial mortgage of more than £2,000 a month, or more than £24,000 to £26,000 a year, at just more than 3% interest. That is after tax—hardly the income of a council tenant.

So who is buying? It is far too often overseas money. I quote an article from the *Daily Mail* online, which is not normally a source of information, but it is an interesting one on this particular occasion. It reads:

[Lord Campbell-Savours]

"One in five people who bought their council house in upmarket Westminster were living on housing benefit … One in five people who bought their council home in one of Britain's wealthiest areas was receiving housing benefit when they applied, it has emerged".

These are people who are supposed to be buying property for £450,000. It continues:

"The revelation centres on the London borough of Westminster, and comes after a Government watchdog warned fraudulent purchases under the Right to Buy scheme have increased 400 per cent in two years".

This is a public scandal. It continues:

"One fear is that hard-up tenants are being 'gifted' cash by private firms to buy their homes at a cut-price rate. After buying a property, the company can then sell them on to private landlords for a profit, who will let them",

at a market rate. It continues:

"In Westminster, 22 per cent of Right to Buy sales were to people in receipt of housing benefit when they applied, dropping to 11 per cent upon completion".

That is a very interesting statistic. The article continues:

"It begs the question of how council tenants who qualify for housing benefit could suddenly afford to buy properties outright in one of the most expensive parts of the country".

I hope that it is dawning on Members of the House exactly what I am driving at. Where is the money coming from for these housing association discounts? It is coming not from the people that it is supposed to, but from investors.

The article continues:

"A report also found that 31 per cent of former council homes are now owned by private landlords and can be let for more than £800 a week"—

I do not know about that figure—

"in the capital's second-most expensive borough.

Councillors have warned of a 'property bonanza'—and said many tenants claim the money was a gift from overseas, making it near impossible to trace".

This is a racket. It continues:

"Last summer, it emerged that a property company had leafleted 60,000 council house tenants offering six-figure rewards for working with them to buy and then sell their home.

Nicholas Carlino, a director of London Investment Property Group, told an undercover *Sunday Times* reporter that he was making so much money snapping up homes that had been undervalued by the council and selling them on that he would 'never have to work again'. The scheme was entirely legal.

Councillor Lindsey Hall, anti-fraud tsar for Tory-run Westminster, told BBC London's Inside Out programme: 'I passionately believe Right to Buy needs to stay, but it needs to be very tightly managed and not fuelling a property bonanza for individuals swanning around estates in grand Mercedes and BMWs'".

There is something wrong with the Bill if this is what is going to happen in the marketplace.

I shall quote from the journal *West End Extra*, talking about Churchill Gardens:

"Residential properties are being let out as holiday homes on a near industrial scale changing the historic make-up of central London neighbourhoods, City Hall has been warned. Councillors have been asked to investigate the growing trend for landlords to give up long-stay tenants in favour of taking bookings from tourists through websites such as Airbnb, which can prove more financially lucrative. Residents in Pimlico this week spoke out about how the increasing number of lets to holidaymakers was changing their area, with people on the Churchill Gardens Estate complaining that a settled community was being replaced by an endless stream of people with suitcases coming and going. Some say they no longer know who their neighbours are.

Labour councillor Murad Gassanly raised the issue at last week's full council meeting after residents complained to him about 'noisy parties' being held at properties and said former council flats were now being set up as rooms 'numbered like a hotel'. He added: 'One woman told me she knocked on someone's door and noticed all the rooms were numbered and there was tourist advertising in there. I looked on Airbnb and there are more than 30 properties on there on the Churchill Gardens Estate at any one time. Long-term residents of the estate say it does undermine the sense of community and does create a transient atmosphere on the estate'.

Conservative Cllr Heather Acton said: 'We were very disappointed with the government decision to deregulate and enable short letting for a 90-day period of a calendar year'".

I understand that Westminster City Council is advising people about the dangers of all this. Its website says:

"Sometimes companies or individuals offer tenants money if the tenant agrees to a deal where the company ends up owning the property. If you enter into this type of agreement: Before you buy your property, you will have to repay the discount as soon as you buy it".

Of course, there are ways around this. It goes on:

"Please think very carefully before using one of these companies or individuals. Ask yourself 'what is in it for them?'. They may be suggesting that you do something which benefits them, not you. Do not sign anything".

I do not really know how we can now block what is happening in the Bill. I think the position is desperate. We are going to find huge swathes of London property being sold to people overseas—that is where it will end up—being rented out as tourist accommodation or at very high rentals. London will lose its housing stock and meanwhile the money that is gathered in will be used, not just in London, to fund housing association discounts in various parts of the United Kingdom.

I shall end up by quoting Councillor Acton, who will be known to Members on the government Benches, talking about Airbub, the site for tourists. I understand that she is a prominent councillor in Westminster.

"On Airbnb there are 3,000 properties across Westminster and 2,000 of those are whole properties, not just a room. And 80 per cent of those are let 100 per cent of the time. They are not people going on holiday, they are people investing in a flat to short let it all the time, and the rent they get is four times the normal annual rent, if not more. It has become a business. There was a one-bedroom flat in Covent Garden which is advertised on Airbnb as sleeping seven".

We have to find a way of preserving the housing stock in London. I say to Ministers, my noble friend has tabled an amendment which may not exactly meet the objective I have set in this debate, but we have to find something. I believe that the whole Bill is based on a huge error of judgment, certainly as far as London is concerned. As I said the other day, I have great sympathy with the right to buy and I believe that it has worked in parts of the country, but in London it is a disaster and something needs to be done to bring it to an end.

**Lord Kennedy of Southwark (Lab):** I remember that when I was a young councillor in Southwark in the 1980s I got this exposed in the South London Press. These firms were going around council estates offering people all sorts of inducements to buy their council

house in order to, quite legally, get part of their discount. What my noble friend has discovered going on is disgraceful, but unfortunately there have been problems with this right from the start.

**Lord Tope (LD):** My Lords, the noble Lord, Lord Campbell-Savours, is referring to a situation that the noble Baroness, Lady Hanham, and I fought very hard over during the passage of the Deregulation Act. We fought very hard to resist the change to the requirement in London to get planning consent, for exactly the reasons he describes. I think the company to which the noble Lord referred a number of times is actually Airbnb. We should record the name correctly in case there is an Airbub somewhere. Airbnb is probably the biggest company—but not the only one by any means—in a rapidly growing industry in inner London, and is causing the considerable problems that he described. If these provisions go through, the situation can only get even worse. We had a lot of very strong representations from community associations and residents' associations, particularly around central London, who said that they no longer had any idea who their neighbours were for exactly the reasons the noble Lord gave, as those people were changing literally on a daily basis because the properties were let out to tourists and visitors on an industrial scale.

*4 pm*

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con):** My Lords, I thank noble Lords who have spoken in the debate and the noble Lords, Lord Kennedy and Lord Beecham, for their amendments. I welcome the suggestions on how we could limit the payments that are required, and their consideration of the potential impacts that the policy could have on local authorities. As I said before lunch, I also welcome their arguments on alternative ways of defining high value for the purposes of the Bill.

I understand the criticism of the impact assessment made by the noble Lord, Lord Beecham, but it was intended as an outline, not as a detailed value-for-money assessment. Alongside the impact assessment accompanying the Bill, we have worked in partnership with the Better Regulation Executive to produce regulatory impact assessments for all measures, including all reforming regulation on business or civil society. This is in line with the Government's *Better Regulation Framework Manual* and these assessments are subject to independent scrutiny by the statutory Regulatory Policy Committee.

The regulatory impact assessments were not appropriate for the extension of right to buy and HVA measures. The extension of the right to buy to housing associations is voluntary, not regulatory, and the sale of local authority HVAs affects only the public sector. Of course, we are fully aware that we need to go through all the detailed steps of option appraisal and value-for-money analysis. We agree that this is necessary to ensure that Ministers' decisions are informed by a full value-for-money analysis. That is why we have done very extensive and—as the NAO acknowledges at paragraph 3.17 of its report—internal analysis. We have clear processes to require this internally.

The work we have done includes policy costings in line with OBR/HMT guidance, an economic assessment of right-to-buy extension, which underpinned a bid in the SR for the pilot scheme, ongoing analysis of the costings, the impact of the sale of HVAs and the commissioning of new data to support this, analysis of financial flows and an inequalities impact assessment. We will publish further detail later this year. In the case of right to buy, this will be jointly with the HA sector, as the details of the voluntary agreement are developed, including though the pilots. In the case of HVAs, this will be alongside secondary legislation following Royal Assent. I reiterate that noble Lords' contributions will inform these considerations, as will the thoughts from the other place and our engagement with local authorities and the other stakeholders.

Before I address the amendments in detail, I shall provide a general response to, and defence of, these measures, and in particular Clause 67. This chapter on the sale of vacant, high-value local authority housing is one important contributor to the Government's aim of increasing home ownership and housing supply. The Government are taking the lead in managing public assets, selling where it is right to do so, and local authorities should do the same. We talked about this at length this morning. We want local authorities to sell their high-value vacant housing so that the value locked up in those properties can be released. This value will be used to fund the right-to-buy discounts for housing association tenants and the delivery of additional homes.

I know that there are a number of concerns about the policy.

**Lord Beecham:** What is the proportion between the right-to-buy discount and the provision of new homes?

**Baroness Williams of Trafford:** My Lords, that has not been set out yet.

**Lord Beecham:** Again.

**Baroness Williams of Trafford:** Well, we are all fairly frustrated about this, I think it is fair to say. I have to keep telling noble Lords that I am not ready to give the details. But as your Lordships know, I will do so as soon as I can.

**Baroness Hollis of Heigham (Lab):** I am sorry. We have been hammering away about SIs and all the rows we have had on this, but will we have this information before the Bill completes its passage through this House?

**Baroness Williams of Trafford:** As I have just said, I anticipate that it will be after Royal Assent.

**Baroness Hollis of Heigham:** We have spent a long time on starter homes, where we are not going to get the detail until after Royal Assent because the Government have only just started the consultation process and that will inform the regs, so outside bodies—discussion groups—will inform the regs, not this House. Now we

[Baroness Hollis of Heigham]
are being told the same thing about all the detail on right to buy and the apportionment of how much money will go into replacing local authority housing and how much will go into housing association discounts.

We cannot make legislation on this basis, where all the detail is in the ether, awaiting consultations that should have started last September but which the Government have got round to only in the past few weeks—too late to inform discussions, but the Government are unwilling to delay parliamentary scrutiny until we have that information. Then, as and when we get the statutory instruments, we will not be able to amend them as we should if we feel we need to. This is a travesty of House of Lords scrutiny.

**Lord Shipley (LD):** I agree with the noble Baroness, Lady Hollis of Heigham. It is a travesty of the House's processes. I think I am right in saying that we have just heard for the first time that we will get further information only after Royal Assent. Prior to that, we have had a different form of words from the Minister, to the effect of "best endeavours", "as soon as possible", "hopefully by Report, maybe not everything", "consultations are being undertaken", and so on. Now we are talking about getting the information only after Royal Assent. The Minister owes a duty to the House to explain in detail—now—why, on the fifth day of Committee, we are told that we cannot have the information that we need to undertake a proper examination of the Bill until after the Bill has proceeded and has secured Royal Assent. It is a travesty, as the noble Baroness, Lady Hollis of Heigham, said.

**Baroness Hollis of Heigham:** Perhaps I might add one further point. I do not know whether the noble Lord, Lord Young, would agree with my description, but certainly when I was taking Bills through, including the Bills I was responsible for within the department, I had to go to something called "LegCo"—the legislative sub-committee of the Cabinet—where 40 Bills were queuing up for, say, 25 slots in the programme. I would not have been allowed to bring a Bill before this House if I did not know the timetable for the regs and what the import of those regs was, so that I could take the Bill reasonably and appropriately through the stages of this House and my colleagues could do the same down the other end.

Who is failing here? Is it the fact that the Government are so anxious, having won an election, to proceed with legislation when it is not ready? In a previous Government, the Minister would not have been allowed to bring this Bill to either House, and now we are in a position where we cannot scrutinise it as a result of bad management and the failure, in my view, of LegCo, Bill teams and all the rest to do proper scrutiny.

**Lord Kennedy of Southwark:** I endorse the comments of my noble friend Lady Hollis and the noble Lord, Lord Shipley, about the inadequate position we find ourselves in. I know that the Minister is frustrated as well but it would be useful if she could tell the House what discussions are going on in the department. This is absolutely ridiculous now. I am no expert in procedure but this is definitely a Bill that should be paused. It is ridiculous. To be told that we will get stuff months and months in the future is just not good enough.

**Baroness Williams of Trafford:** I thank the noble Lord, Lord Kennedy, and hope I might be able to perhaps provide some comfort to noble Lords. The secondary legislation will be subject, obviously, to parliamentary scrutiny. We want to set it out as soon as possible but we also want to ensure that it is correct and informed by accurate data. I cannot provide exact timescales for secondary legislation at this stage but I will do my best to provide further information on this on Report. I know that that is not perfect, but I hope noble Lords will accept what I say at this point. I will do my best.

**Lord Campbell-Savours:** Would it be appropriate for the Minister to ask the Leader of the House to make a Statement to us next week on exactly where we are? We cannot handle legislation in this way. If the Minister is obviously not in a position to deal with it, it should be taken up in the Cabinet by the Leader of the House.

**Baroness Williams of Trafford:** My Lords, I am not sure about the Leader making a Statement. I am certainly making a statement as to my intent. I know that noble Lords are not happy, but I will bring forward what I can when I can. As I say, I will elect to have details ready on this by Report.

**Lord Foster of Bath (LD):** I apologise, and I know that the Minister is as frustrated as the rest of us, but I just remind her that at Second Reading I specifically asked whether she could provide us with a tentative timetable for when various bits of secondary legislation would be made available to Members of your Lordships' House. The Minister gave me an assurance at that time that she would do her best to try and provide that. The department must have a timescale. They have a team of people working on these different issues and the members of those different groups must have some indication of where they are and when things are likely to be available. Could she at least try to do what she said she would do at Second Reading, and make that available to Members of your Lordships' House?

**Baroness Williams of Trafford:** I did say that—the noble Lord is absolutely right—and I will. One of the important things to be aware of at this stage, as I said at the beginning of today's debates, is that much of what is being debated in your Lordships' House will inform a lot of the thinking on how the regulations are shaped. In that sense, noble Lords are helping to inform government thinking on this.

**Baroness Hollis of Heigham:** My Lords, nobody, genuinely, is criticising the Minister. I would not want to be in her position at all and, frankly, I would not have been allowed to be in her position. What we have is the brazenness, if you like, of a manifesto commitment being used to wing a Bill through both Houses without adequate information. I know the Minister is absolutely

doing her best, but with all respect she cannot answer the questions being put. We understood when we were doing the Cities and Local Government Devolution Bill that that was a framework Bill because it was bottom-up and everything was going to be tailored in response to what local authorities themselves wanted. We accepted that then, but there is no justification at all for the same process to be applied to this Bill. Frankly, it should not be happening, and it did not happen in previous times. The Cabinet should not have permitted the Bill to go forward until it was ready. It is not ready.

**Lord True (Con):** My Lords, we just heard a speech from my noble friend Lord Lansley, who is not in his place. I think it is generally accepted across the House, given how many times we have heard my noble friend on the Front Bench address the House with extreme courtesy on this point, that it is quite clear that my noble friend wants to give the maximum amount of information to the House. We should not protest too much. During the 13 years I sat in the usual channels in opposition, the noble Baroness may not have been allowed to bring forward bits of legislation where the House would have chuntered, quite rightly, that it wanted to have more information before Report or whatever, but a large number of her colleagues were certainly allowed to. However, two wrongs do not make a right, so let us not target my noble friend on this point.

**Noble Lords:** We are not.

**Lord True:** I am very glad to hear that. Perhaps that can be the end of these repeated exchanges with my noble friend.

I do not know what is possible and what is not, and it is certainly important that we know more before Report, but a number of noble Lords speaking in these debates have been asking for more complication. Some of these amendments before us add more qualifications. My noble friend has a point when she says that things are being raised in this Committee that need to be thought about. I think I heard her say that at some point she will try to bring forward—maybe before the Recess or maybe after, but I hope well before Report—some idea of the timetable for what we may get to know and what we may not. That would be helpful and I hope my noble friend can give us some assurance. I lead a local authority and my residents pay—

*4.15 pm*

**Lord Foster of Bath:** My Lords—

**Lord True:** I shall give way in a minute. We would all like to have the information, but perhaps that would be the best way forward.

**Lord Foster of Bath:** I share the noble Lord's view that this is not an attack on the Minister, who has been clear that she is doing her very best to provide the information. However, I do not share the noble Lord's view that we should wait for a period before the Minister brings forward the information she has promised. The timetable of work that is being done is available today. The department will have that information. I hope the Minister will be willing to say that, by the next meeting of your Lordships' Committee on the Bill, we will have the information on where we are at each stage.

Given where we now are, I also hope the Minister will further reflect on the view that has been expressed by many people, including the Delegated Powers Committee, that many of the bits of secondary legislation that will come before us, which it is currently proposed to deal with under the negative procedure, should now be moved, by a government amendment, to the affirmative procedure.

**Lord Beecham:** My Lords, will the Minister report to the Government that this House very much regrets the impossible position in which she has been placed by the Government, has every confidence in her good intentions but regrets that she has been unable to fulfil them because the issue is entirely out of her control, and has confidence in her but has no confidence thus far in the way the Government are proceeding?

**Baroness Williams of Trafford:** I thank noble Lords for their words, particularly my noble friend, given that I have not been here for 11 of the past 13 years. This is a very complex Bill and how to proceed with or without some of the secondary legislation that goes with it is quite new territory for me. As the Bill is so necessarily complicated, I imagine that with it will go an awful lot of secondary legislation. I will definitely commit—I have already promised and I do not intend to break my promises—to the noble Lord, Lord Foster of Bath, that that timetable will be with noble Lords in the next week or so. That is on the record now: the timetable of secondary legislation will be with noble Lords in the next week or so.

In defence of myself, in a sense, and certainly of officials, I make a plea to noble Lords to avail themselves of some of the technical briefings that are going on as the Bill proceeds. They are incredibly useful for getting some of the detail. I know most noble Lords here have attended the briefings, but please continue to do so.

**Lord Shipley:** My Lords, perhaps the Minister could tell me when the next set will be. I thought the technical briefings had come to an end. I attended at least three and, I have to say, they were profoundly unuseful for the very reason that we are aware of across your Lordships' House: virtually no question we ask can be answered because nobody who is an official knows the answer to it.

**Baroness Williams of Trafford:** My Lords, I have asked for additional briefings to be provided over the next week or so, until we come to the Recess, and I will be attending them. They might help me; I certainly hope they will help noble Lords. It is very helpful for me to be there and to understand what sort of issues noble Lords are bringing up. I totally accept that I committed to giving that timeline, and it will be with noble Lords in the next week or so.

[Baroness Williams of Trafford]

I have met each political group within your Lordships' House; I hope that noble Lords have found that helpful. Some points that noble Lords bring up in debate definitely inform government thinking, because this House has more local government leaders and representatives in it—and experts on the Cross Benches—than the other place. Therefore, this House will be very helpful in informing the Government.

**Baroness Blackstone (Lab):** My Lords, I am sorry to interrupt the Minister, but I just wanted to make a brief point. Useful as ministerial briefings are—they are very valuable and are given much more than they used to be when I was a Minister—they are not a substitute for having the regulations in draft form, which we really need to examine the Bill properly in Committee. I hope that she will accept that point and pass it on. It is not a matter of criticising officials—it is not the role of parliamentarians to criticise officials—but I am very critical of LegCo, or whatever the Cabinet committee is now called, which agreed to put the Bill into both Houses without doing the necessary work beforehand.

Perhaps the Minister can also respond to the question of the noble Lord, Lord Foster, about the affirmative procedure; she has not given an answer to that. It is vital in this particular case.

**Baroness Williams of Trafford:** I will be responding formally to the DPRRC's report, and specifically to that point, very soon indeed. I think that I said that to the noble Lord either earlier today or at our previous sitting.

**Lord Foster of Bath:** Earlier today, the Minister assured me that I might be a little bit cheered by what she was going to say later. I confess that I am a little bit cheered, but I want her to say yes, they will be affirmative.

**Baroness Williams of Trafford:** The days blur into one a bit, my Lords, when we think about the days we have spent debating.

I wanted to respond to the question of the noble Lord, Lord Beecham, about the appeal mechanism. The process for setting the payments is set out clearly in the Bill. The determination under Clause 67 will set out the formula and the payments, and the Government are required to consult before making a determination. Once the draft determination has been prepared, local authorities will be given the opportunity to check the figures and raise any queries with the Government. I know that that is not essentially an appeal process, but there is a toing and froing of views before the actual determination is made.

I turn to Amendment 63. I should make it clear that the policy has two aims: first, to fund the extension of the right to buy to housing association tenants; and, secondly, to build much-needed new homes. I reassure the noble Lords, Lord Kennedy of Southwark and Lord Beecham, that we have no intention of using the funding for any other purpose.

The second aim, the funding of new homes, is the reason why I do not want to restrict the payment that local authorities make to the Government simply to the same amount as the right-to-buy discounts for housing association tenants, as Amendment 63 would do. There may be times when local authorities do not want or are unable to deliver new homes, and I do not want to compel them to build more homes if they do not have the plans or processes in place to do so. As my noble friend Lord Lansley said, I want the flexibility in those circumstances for the Government to use that portion of the receipts to deliver new homes through other channels. Therefore, it will need to be paid to the Government. Flexibility will be essential to ensuring that the new homes needed are built.

**Lord Beecham:** Just to clarify, does that mean building new homes potentially in a different locality from that in which the money has been raised?

**Baroness Williams of Trafford:** My Lords, it could be, but the overall thing is that we will be adding to the stock of homes in this country.

Turning to Amendment 64, the changes proposed would be a significant task for local authorities, for which they would need considerable guidance. The biggest difficulty would be how to ensure that any methodology used across the 165 stock-holding local housing authorities was applied fairly, consistently and transparently. We have collected data from all stock-holding local authorities to enable a consistent methodology to be applied to determining the high-value threshold. That does not mean that we would set one high-value threshold for the whole country. Noble Lords have probed this on several occasions today, and I want to confirm again that we have the flexibility in the legislation to define it in different ways for different areas, as we know that house prices vary vastly across the country. However, it would mean using the same data and the same principles to apply a consistent approach to setting the definition of high value. The amendment would effectively transfer the onus of defining "high value" from—

**Lord Stunell (LD):** I thank the Minister for giving way: she has had a difficult day. She has just given us some welcome news, which is that the high-value thresholds could be differentiated in different areas. Can she confirm that that would be down to a local authority scale—a local housing authority scale—or would it go to even a lower scale than that, say to a parish level in a rural area?

**Baroness Williams of Trafford:** My Lords, I would anticipate that it would be at a local authority level, although I acknowledge that, in some local authorities such as Trafford and Stockport, there are variations within them.

At the heart of this policy is the provision of more homes, and that is why I cannot accept Amendment 65. If we can use the value locked up in this housing to provide more places for people to live, we should be doing so, without trying to put limits on what proportion of the existing housing stock can contribute to it.

**Lord Campbell-Savours:** The Minister referred to a local authority level. Will there be some local authorities that will be designated as not having any high-value stock at all?

**Baroness Williams of Trafford:** My Lords, that might well be the case, depending on how it looks when all of the data are analysed, but I will not anticipate what the data will show. Theoretically, it could be the case.

If we can use the value locked up in the housing to find more places for people to live, then we should be doing so; 10% seems to be an arbitrary figure and it is not clear at what point in time this 10% would be calculated. We believe that we should base our decisions on evidence. That is why we have undertaken a large data-gathering exercise to determine the value of each council home and intend to use that information to set the definition. That is a fairer approach.

Finally, the changes proposed by Amendment 66 would provide that housing cannot be high value if its sale value is less than the cost of providing another home of the same number of bedrooms in the same local area. That is why, theoretically, the answer could be yes. We do not want to tie local authorities to an expectation that new housing should mirror that which has been sold, which this amendment would do. This may not be what is needed in the area, and we believe there should be flexibility to ensure that new housing is delivered that meets need. However, we want local authorities to sell their higher-value vacant housing, so that part of the receipt can be used to fund the building of much-needed additional homes that better meet housing need.

We recognise that there would be a perversity about requiring a house to be sold that would not generate sufficient receipts to cover the specified costs and deductions, the element for funding additional homes and the receipt to government to support the voluntary right to buy for housing association tenants. We will be looking at the data we have collected carefully to ensure that that is not the case. I hope that this provides some surety to noble Lords and provides some explanation of why we cannot accept this amendment.

*4.30 pm*

The noble Lord, Lord Beecham, talked about numbers of bedrooms, but I went through that in this group and the previous group, and I hope that I have explained. The noble Lord, Lord Campbell-Savours, told a horror story about what has happened and may happen. It is important that we find ways to circumvent some of the problems he outlined that might occur and that we are alert to the ways that some people might be trying to gain from right-to-buy sales under the existing scheme and the voluntary scheme. We have an important job to guard against abuse.

**Lord Campbell-Savours:** I shall suggest another scenario. Let us take my former constituency area of Workington. The council is Allerdale. Three-quarters of Allerdale is fairly poor, but it includes the town of Keswick where there are some very high-value council properties which never change hands. People do not give up a house in the national park readily. Yet, as I understand the arrangement, that authority will be levied on the basis of homes within the national park which are almost never sold. Is that fair?

**Baroness Williams of Trafford:** I have just agreed, in a sense, with the noble Lord that we want to guard against some of the problems that he outlines.

**Baroness Hollis of Heigham:** I think we are pleased that the Minister shares our concern, as we would expect her to do, about the widespread abuses, some of which apply to RTB on council housing, and which will certainly, if we do not check them, apply to RTB on housing association sales. Given the local government experience, which is not normally found in her civil servants, supportive though they may be, would she consider setting up a working party, possibly with the LGA or whatever, including some housing practitioners, fraud experts, lawyers and the rest, to see how she can build fraud out of this system before it is too late? I completely trust her, of course, about how she sets this up and who she talks to, but we share a common agenda here, and if any good is to come from this policy—I worry about it—it will be dwarfed, some of us fear, by the abuses and the screaming headlines she is going to find in the press a year or two down the line as some of these abuses come to light. I do not ask her to make a commitment now, but will she take away the proposal so that she can come back to us, perhaps on the next day in Committee, and say that she is going to set up such a working party with appropriate people—the LGA would obviously be the first point of call, and lawyers, as well, some of whom have acted for the wide boys in the past, as I know—to see how she can build out fraud in a more effective way than at the moment we believe may happen?

**Baroness Williams of Trafford:** My Lords, I will certainly undertake to engage with the different sectors because they are at the heart of where potential abuse lies. I am very happy to meet with noble Lords in that context because the Government certainly want to guard against abuse in this way. I thank the noble Baroness for making that suggestion because it makes everybody's life easier if there is confidence in the policy. She might not like the policy, as she says, but if there is confidence in the policy working better, then I will do that and I will invite her to it. My noble friend Lord Lansley is not in his place, but he talked about wanting to work with the Government about agreements. We have been engaging with local authorities, including South Cambridgeshire District Council and Cambridge City Council, and we will as we continue to go forward.

The noble Lord, Lord Campbell-Savours, made a very good point about preventing properties being sold to foreign buyers. It is absolutely right that we should avoid residential properties being bought up and sitting empty as an investment, as they sometimes do in London. Some of them are empty but, whether or not they are, the point is that we want housing for people on low incomes here to be able to avail themselves of.

[Baroness Williams of Trafford]

I mentioned the point about stamp duty the other day and the noble Lord, Lord McKenzie, immediately picked it apart. In April 2017 we will be introducing capital gains tax for owners based overseas. We have also halved the time that a property can sit empty before capital gains tax is due. I thank noble Lords for their very constructive comments, and ask the noble Lord, Lord Beecham, to withdraw the amendment.

**Lord Kennedy of Southwark:** Before the Minister sits down, I think I heard her say that the money collected from councils would be used only for housing—I think she said that with regard to the levy. I looked at Clause 73, which says that where there is an overpayment it is kept by the Government and will be used to offset for future years. It also talks about Section 11 of the Local Government Act 2003, which talks about capital receipts being used to meet capital expenditure but also "debts or other liabilities". We are going to come to this later anyway, but I think that what she said and what this technically does might be quite different.

**Baroness Williams of Trafford:** I will look at it again. I am assuming that the debts and liabilities are housing loans.

**Lord McKenzie of Luton:** There is one further point that has been troubling me. Given the hour, I was going to leave it, but I shall just raise it now. It is to do with Clause 68(3) and the provision that we discussed before lunch, and for a while after it, about treating as still owned by a housing authority property that has been sold. Is it the intent that those provisions last in perpetuity? If a local authority has been hit by a levy in respect of properties, it would have no opportunity of selling if that is what it chose to do.

**Baroness Williams of Trafford:** I think the answer is yes. If it had kept its stock, it would be levied, as the noble Lord points out. If, after the Bill goes through, it decided to transfer stock, it would still be levied. That is my understanding of it.

**Lord McKenzie of Luton:** Does that mean it would have no control over whether it could realise any of those high-value properties if they were included in the transfer?

**Baroness Williams of Trafford:** That is my understanding, my Lords, yes.

**Lord Beecham:** My Lords, as ever, it has been an interesting debate—necessarily, I am afraid, longer than any of us would have liked but there is a huge amount of detail and a great many concerns about the Bill.

I thank all Members for their contributions, particularly my noble friend Lord Campbell-Savours, who regaled us with some very worrying details of life in Westminster. However, I caution him sometimes to take Zoopla's valuations with a grain of salt; for a short period my own house in Newcastle, a pleasant four-bedroomed semi, was valued by Zoopla at £5.96 million, which would have made it by a considerable margin the most expensive house in the city. When I pointed out that this was possibly slightly overdone, Zoopla corrected it, and I have been going round ever since saying that I have just lost something over £5 million on the value of my house. So one has to look carefully at some of the figures. However, I dare say that the rest of my noble friend's figures were robust.

The Minister has again earned the thanks of the House for the way in which she is endeavouring to deal with an almost impossible task. If anybody deserves some promotion and recognition among Ministers who serve in this House, she qualifies, and I expect my 10% of any increased salary for acting as her agent when that matter arises. However, I take issue with some of the conclusions that she has come to and indeed some of the replies that she made. She talks about selling the properties where it is right to do so. The question is: who determines where it is right to do so? The answer is not the local authority, which has knowledge of the local community, but, effectively, the Government. That is a ridiculously formulated conclusion because it does not put what should essentially be a local decision in the hands of anybody accountable to the local community but gives it to some machinery established by central government.

The Minister was unable—presumably because the information is not there—to give any indication about the balance of how the levy money would be spent between facilitating housing association right to buy and new build. This may be part of the information still being compiled in some office somewhere in the city, but it is crucial that we know what the intended balance should be between those two distinct options for the use of the money which will be derived either from sales, which is in the view of many of us bad enough, or even worse, from the Government anticipating sales long before perhaps they have occurred and requiring payment from the local authority. Given the position of local authorities, it is difficult to see how that levy could be funded. Perhaps subsequently we might have an indication from the Minister or the Government in general as to how they envisage authorities being able to fund such payments in advance of a sale.

The Minister was critical of Amendment 66, which deals with replacing such expensive housing. I cited the position in Newcastle, which I suspect will be similar in many other authorities, where a small proportion of properties in council ownership are large properties because of the need for five bedrooms, perhaps because the family is large or because there are special needs in relation to providing for disabled people—perhaps a carer needs to be on the premises, and so on. If all of these have to be sold as they come on the market, in Newcastle's case, as I have indicated, we have roughly 28 applications a year for these properties and a turnover of only five a year. So on average it will take five and a half years now to accommodate applicants for accommodation of that kind. If the properties have to be sold—and only a handful become vacant every year: five a year—there is virtually no chance of that demand being met. I do not know whether anybody has given any thought to that difficulty. I suspect that roughly similar proportions would be found in many other authorities.

I invite the Minister to ask her officers, or whoever advises the Government on these matters, to look very specifically at the demand for that kind of large accommodation. Of course, there are other higher-value properties which are not of that size, but I ask that she look at the question of larger properties needed for larger families or for people with particular needs that must be met with that space and at how that would fit into the present proposals. At the very least, perhaps the Minister could look at a possible government amendment to deal with what would be a very real situation. The numbers are not large but the period is long for people with a need which might not otherwise be met. Having said that, I beg leave to withdraw the amendment.

*Amendment 63 withdrawn.*

*Amendments 64 to 66A not moved.*

*Clause 67 agreed.*

*4.45 pm*

*Amendment 66B*

*Moved by* ***Lord Kerslake***

**66B:** After Clause 67, insert the following new Clause—

"Additional homes

(1) The Secretary of State must make a determination for the local housing authority to replace every property sold as a result of section 67.

(2) A determination should provide for local housing authorities to replace any properties sold with housing of the same tenure, as far as is practical.

(3) A determination must allow local housing authorities sufficient borrowing capacity and flexibility to provide replacement housing."

**Lord Kerslake (CB):** My Lords, I shall speak also to Amendments 68B and 68C, which are in this group and are connected to my amendment. I declare my interest as chair of Peabody and president of the Local Government Association.

Just before I come to the specifics of my amendment, I want to pick up three things that have come out in the debate—two of them from the noble Lord, Lord Lansley. The first is the title of the scheme that we are taking forward, and I do not think that this is a question of semantics. It is described as "right to buy" but in these circumstances it will in fact be not a right to buy but an opportunity to buy subject to the discretion of the housing association. It would be helpful to know how the Minister intends to deal with that point if we are to avoid there being an awful lot of disappointed people.

Secondly, I absolutely endorse the view that there is a need for more houses. This is the most important issue that we are addressing here, and it is also important to say that we need more houses of all types and tenures. That is because, no matter how fast we build—my London Housing Commission report, which was published earlier in the week, suggested that we needed to double the rate of supply in London—and even if we build for 10 years on that basis, it is clear that it will not be possible to get to a point where every property is affordable for an ordinary Londoner. It therefore follows that you have to look at policy in a more fine-grain way. We need both more houses and more affordable rented houses. If we do not produce both, we will exclude a large number of people. This goes to the heart of the debate that we are having at the moment.

Lastly on this issue, it is very important that we do not have any sense that these properties are surplus. I made that point this morning and I emphasise it because we have come back to this debate again. When I first went to Sheffield as chief executive in 1997, there were parts of the city where you could literally walk into a local authority property. But they have all gone. Almost every part of the country is now light years away from that world. In most areas there is now a desperate shortage, particularly of properties that are likely to end up being sold off as and when they become vacant. We must not lose sight of the heartache that it will cause people who are in desperate need. Examples that I know of involve families with five children in one bedroom who will see properties that they might have occupied being sold off. We must not lose sight of this point.

I come back to my amendment. Before lunch, the Minister said that my previous amendment lacked a requirement for one-for-one replacement. Well, here it is. This set of amendments would put in the Bill the following. First, they would make clear on the face of the Bill the requirement for one-for-one replacement outside London. Secondly, they say that, where practical—I absolutely accept that it will be difficult in some places—the intention of, and expectation on, local authorities should be to achieve not just one for one but like for like. That goes back to my previous point: it is not the same to take away a social rented property in one area and replace it with a starter home 20 miles away. They are not the same. So we are saying that, where practical, local authorities should look to achieve like for like as well.

The third thing that we say—this absolutely goes to the heart of deliverability—is that, if we are in a world where the Government will not wholly grant-fund the replacement process for local authorities, they will give local authorities the ability to borrow in order to do this. It cannot be borrowing within an existing cap, because that funding will almost certainly have been allocated for the renovation and improvement of existing properties and for existing new-build housing programmes. If this is genuinely to be additional funding, local authorities need additional borrowing capacity. It would be helpful if the Minister could say that not only has more money been put in but, if local authorities do not get the full funding, they can have absolute confidence that they will be able to get the equivalent amount of borrowing that they need, in addition to the borrowing capability that they already have. That would go a long way to addressing the issues.

The last point here is that where there is a case for moving around the expectations across a combined authority, exactly as has been said by a number of noble Lords, there should be flexibility within a combined authority area to focus resources in the places where the need is greatest. That is the effect of the amendment.

[LORD KERSLAKE]

I say "outside London" because in the Bill there is a requirement for authorities in Greater London to replace not just one for one but two for one. It is a very stark requirement that says those authorities "must ensure" that the number of new affordable houses is at least two for one. For me, it is therefore inexplicable that we would not say the same thing for authorities outside London. I appreciate that demand in London is very high—that was absolutely the subject of my report. But demand is also high outside London as well. Yes, there is an issue of demand in London—there is also the issue of the mayoral election in May, which is worth noting—but that alone does not justify the completely different positioning of housing outside London from housing inside London. Will the Minister explain why we would have a situation where the Bill has a two-for-one requirement for London but nothing for the rest of the country? That is inexplicable to me, and I would be grateful for an explanation.

**Lord Horam (Con):** Is not that surely because of the sheer difference between different parts of the country? The noble Lord, Lord Campbell-Savours, was going on about that at some length in previous debates. Things are very different in, say, Cumbria, Lincolnshire, Cambridgeshire and Oxfordshire. On the other hand, we know that London is a special problem with uniquely high prices. Surely the Government are right, therefore, to maintain the possibility of a different approach in different parts of the country.

**Lord Kerslake:** I am grateful to the noble Lord for his intervention. However, if the Government were really worried about allowing flexibility for individual difference, we might not be debating this top-down policy at all.

Let me deal with the point that the noble Lord raised. The commitment from the Government is to achieve one for one; it does not say one for one in one part of the country and not one for one in another part of the country. It is reasonable to say that, within the boundaries of a local authority, there will be areas of high demand for new, affordable housing that the local authority will want to meet. I do not think we would be comfortable with a situation where some parts of the country made no effort to replace one for one and were given a retention of funding without that requirement while, in other areas, we did expect it. In my view, it would go against the stated intent of the Government to achieve one for one. One for one in a particular neighbourhood may not be exactly right but one for one in a local authority, or indeed in a combined authority, would absolutely be a reasonable expectation of this policy. Indeed, as I said, that is the stated government intent here.

I will conclude by making a number of points. Putting it in the Bill should overcome whatever doubts there are about the intent. I have raised some concerns about how possible it is to achieve this in the current financial regime. The Minister has quoted statistics, which I have some concerns about, as she knows, to show that it is already being achieved. If it is, there should be no difficulty in putting it in the Bill. If we are already confident that it can happen, putting it in the Bill should not create any difficulties at all.

A huge number of people are anxious about this issue and a huge number doubt the Government's true intent in relation to affordable rented properties, or indeed affordable properties at all. Putting it in the Bill would put beyond doubt the Government's intent. It would make it clear that they are serious about the policy of one for one. Contrariwise, if it is not in the Bill, people will draw their own conclusions. These are reasonable amendments that would do what the Government say they want to anyway and, crucially, provide the necessary funding for local authorities.

**Lord Beecham:** Does the noble Lord think that it would be desirable to include in any such arrangement a period within which that replacement has to be made, or does he think that it should be left open? It strikes me that some moderate period would be sensible. In respect of newly built property, does he think there should be at least a limited exclusion of a further right to buy if it has been provided for rent?

**Lord Kerslake:** My Lords, those are two important details that we could reasonably look at in the Bill or, had we the regulations in front of us, reasonably consider in regulations. The important point to make is that the absence of the regulations is compounding complexity on complexity. This is our difficulty here. We have a stated intent of government, but nothing in front of us that tells us how that intent will be delivered. Yes, there is an issue of timescale—we currently have three years; that may or may not be the right timescale for an expanded programme and should be consulted on with local authorities—but one thing that in my understanding is an irreducible intent of government is one for one. That is why it should be on the face of the Bill. I beg to move.

**Lord Campbell-Savours:** My Lords, I think the noble Lord said that it would be acceptable to replace within the local authority area. What happens if part of that area is in a very high-demand area, such as a national park, with the rest of the local authority area in a low-demand area, as happens in parts of the Lake District—for example, Carlisle, Kendal, Whitehaven and Workington surrounding the Lake District, with the Lake District split up among the various authorities? If we simply replace the property that is lost in a high-demand area with property in a low-demand area, we do not fulfil the local demand requirements.

**Lord Kerslake:** My Lords, my amendment goes as far as I think it is possible to go within the bounds of the legislation. If there were a way of constructing it, there would be an intent to replace in the same area. We will have that conversation in debate on the rural amendments, so the noble Lord's point will perhaps come through then.

There is a trade-off here. I acknowledge the point about how much one can specify in the Bill and how much one has to leave to local authorities to lead on and understand where they have high-demand issues. However, if we do not have even one for one in the Bill, we are a long way back from where we need to be.

**Lord Campbell-Savours:** When Ministers look at these matters, it is important that they have in mind that, if they provide for that level of movement of replacement provision within a local authority area, they might not be serving the needs of the local population. We may have to deal with that in whatever regulatory arrangements are brought in—the ones, of course, which we cannot consider for amendment in the House.

*5 pm*

**Lord Stunell:** My Lords, I support the amendment proposed by the noble Lord, Lord Kerslake, which I have also signed. I was pleased to hear the Minister say in the earlier debate that she welcomes our scrutiny at this stage because it is informing the consultation outcomes. It is good to know that we are at least consultees in the process that the Government are going through, which is some encouragement to us to give her the benefit of our insights rather than to let things drift past us.

Perhaps the Minister would like to confirm that, with something over 400 local housing authorities and 160 of them making a contribution to the levy, it is inevitable that more than half the money collected by the levy will be spent in areas where the levy is not being paid. There is a geographical redistribution of the money as well as all the other factors that are taking place. That does not make it either better or worse, but it should be transparent that that is happening. Some places will therefore pay into the system and in other places homes will be built and those homes will not be available to the citizens of the paying-in authority. We need to be quite clear that that is the case.

I particularly wanted to pick up the point made by the noble Lord, Lord Kerslake, about making sure that one for one is written in. As a Minister in the coalition Government, I was insistent that that should be the case. Indeed, in another life, the noble Lord and I occasionally crossed swords on my slightly stroppy insistence on the way that that might be incorporated into the then Government's policy. Seeing it included in the Bill is important.

There might be a word missing in the amendment although it was not missing in the speech of the noble Lord, Lord Kerslake. There should be an "additional" determination for local housing authority finance. A determination is a thing that the Government can say they have done and we do not know whether it has happened or not. That very often happens with new burdens where a new burdens policy says that if a policy imposed by the Government means that local authorities have to spend more money, the Government will recompense local authorities for that. Then, when the next settlement is made, the Government blandly say, "and this includes the money for new burdens" without any price ticket or transparency. I very much support the amendments, but I hope that the spirit of them should be "an additional determination". It should not be a case of simply saying, "Yes you were going to get £100 million"—they should be so lucky—"and now we have included our new determination and you are going to get £100 million". That is not providing the finances: it is simply instructing local authorities to reorder their capital expenditure.

I want to say a word or two about subsection (2) of Amendment 66B, which states that it should be,

"housing of the same tenure, as far as is practical".

This comes to the basis of what the geographical location of "as is practical" will be. If one took a completely national view of the best way of getting the most houses for the least money or the least trouble, all the high-value houses in the City of London and Westminster would be sold and with the money generated a lot of houses would be built in Knowsley and Sunderland, and other places where there is no housing demand but lots of houses can be built for a comparatively small amount of money. Land is very much cheaper in those places than in Westminster or the City of London. I want to see,

"as far as is practical",

the same kind of housing. I want the houses to be in the same area. I certainly want them to match the needs that are genuinely there and not built simply to stand empty.

The noble Lord, Lord Kerslake, mentioned another related point—these points all join together—about combined authorities. Stockport is in the combined authority of Greater Manchester, which is pooling its housing targets and housing programme as part of the combined authority. As a matter of fact, the leader of Stockport Council, a Liberal Democrat, is the lead member for housing across Greater Manchester. If we are going to have something that is geographically based, particularly in the case of Greater Manchester, it would be sensible for the Government to make it possible for that combined authority area to be treated as one, taking its own decisions.

My penultimate point is this: who is the preferential creditor, so to speak, when a levy is raised? The first thing that has to happen is that the costs of the transaction have to be paid off, and the Minister has pretty much made that point. But then there is the important question of who the second-tier creditor is here. Is the second-tier creditor the Government's share going to housing authorities, or is it the local authority's share to build new homes? This top-up, which is the subject of the amendment before us, is a way of making sure that we do not have to worry about it because the total will equal the amount that is needed to do both those things. However, I have it in mind that the determination is in the hands of the Government, so the question of which tier of debt comes first is rather a crucial one in terms of outcomes. Topping up local authorities so that they can pay the levy is one thing, but topping them up so that they can build houses to replace the ones they have just sold is something else. We need to be sure either that we are guaranteed both or that the Government have stated clearly which one is to be the preferential payment.

My final point is that with 150 local housing authorities, each of which could have separate thresholds of determination—we established that in the previous debate; I welcome that and I think it is right—it does mean that the Government are going to take 150-odd separate decisions about what those levels should be. They may struggle to do that within an objective

[LORD STUNELL]
framework that does not lead to a considerable number of judicial reviews and problems of that sort in the implementation.

These are all points in support of making sure that there is a specific capital set-aside to compensate local authorities so that they can fulfil their obligations under this legislation. Without these amendments, the difficulties I have sketched out will turn from being the kind of thing that Oppositions dream up on a bad day into hard political realities facing the Government. I look forward to the Minister's response with real interest.

**Baroness Gardner of Parkes (Con):** My Lords, I seek clarification on this amendment, in particular the phrase "the same tenure". I thought that tenure meant how a property is occupied, whether it is freehold or leasehold, but the noble Lord, Lord Kerslake, said in his speech that the property should be the same size. I thought that that was rather different from the tenure.

I particularly want to ask about this because I took a little time out of the previous session of our debate on the Bill to go to a meeting of the British Property Federation in the House. A person who spoke at that meeting said that the federation was very much in support of build to rent and that hundreds of millions of pounds were available for that. He seemed to think that this would be a way to deal with the housing problem. These people already have the land, along with hundreds of millions of pounds that they would be putting in. Does the noble Lord think that local authorities could work with a scheme like this? Is it a possibility that should be considered?

**Lord Kerslake:** My Lords, the noble Baroness has raised two important points. What I am seeking to say in my amendment is actually related to tenure—retaining the same tenure. That goes to the point I made that the position in terms of access to social rented properties is different from access to market rent and market sale. As we have touched on in previous debates, if a social rented property is replaced with, let us say, a starter home, the people who can access those two different types of homes are very different in terms of their incomes and situation. Of course, it would be desirable in my view that wherever possible, a property is replaced in the same neighbourhood and is of the same size, but I recognise, in the spirit of some flexibility, that it would be very hard to specify to that level of detail. In the circumstances, it is reasonable to look at whether it is possible, where practical, to achieve the same tenure.

The noble Baroness also raised the question of build to rent. I am a strong supporter of this as a new mechanism of supply. But the whole point about build to rent is that it is market rent; it is not the same as affordable rent. What we need is more houses of all types and tenures. We need more houses for sale, more houses for market rent, more houses for shared ownership, and we need more affordable rented properties. It is not any single one of the above; it is all of them. Market rent is a very powerful mechanism for driving new supply, but it is for a particular income group which is not the same as social rented.

**Lord Carrington of Fulham (Con):** My Lords, the noble Lord, Lord Campbell-Savours, gave an extremely eloquent description of the Churchill Estate in Westminster and the various problems it faces, which are very real. It is possible to look at other estates across central London that have quite similar problems and a trajectory that has led to the same type of housing tenure and ownership. However, many of the problems he described come from the overall shortage of housing supply in London and would be not necessarily eliminated but largely cured if many more houses were provided in London.

That is why the provision of two-for-one replacement in London is so welcome. It is not without its problems. The noble Lord, Lord Kerslake, mentioned that the replacement housing should be in the same local authority or general area. There is a tradition that London boroughs build social housing outside their own areas. I return to the City of London Corporation, which owns social housing spread out over quite a wide area across London. It has traditionally always done so. It is important that the replacement housing should be where the people who will occupy it wish to live. That is a critical deciding factor, and one that can be dealt with only by the local authority. It is not one that we can impose in the Bill, nor one that we should even contemplate imposing.

**Lord Kerslake:** I will make two points. I am not suggesting changing anything in the Bill for London. I support the two-for-one and the collective approach across London. Indeed, I am advocating the same kind of approach for other combined authorities. I entirely agree with the noble Lord's general point that we should allow choice about the location of housing where there are combined authorities, and, indeed, in London. My point is simply that wherever you locate it, there is an intent in government of one for one, which should be in the Bill.

**Lord Carrington of Fulham:** There should certainly be an intent to replace housing; quite how prescriptive we should get is a different matter. Frankly, I do not think we should get terribly prescriptive about it at all, except possibly in London, where there is such a particular housing crisis that it has caused us to look to alternative means of solving it. It has been intractable for so many years.

There is one problem with the two-for-one proposal: the need for flexibility as to how that is funded. We have talked about raising borrowing powers for local authorities to enable them to fund any shortfall that comes from the retained receipts from sale of their housing, but we also need the flexibility to be able to fund it from other sources. Many London local authorities have other assets—other land they could sell or buildings they could convert. There are lots of ways of handling this, other than just using the resources that come from selling the high-value properties that they are required to sell under the Bill.

I suggest that we and my noble friend the Minister should contemplate allowing a great deal of flexibility as to how the two-for-one provision will be achieved, because its financing could be done in any number of

ways. We need the creativity of the local authorities to be brought to bear to solve a problem that is in urgent need of resolution.

*5.15 pm*

**Baroness Hollis of Heigham:** My Lords, I am still worried about the effect of redistribution, given that the levy will not apply to all local authorities evenly. We established on the last Committee day that we are getting redistribution from poorer council tenants to more prosperous housing association tenants. We are also getting, as we learned today, redistribution from local authorities with retained stock to those local authorities which do not have to pay a levy because they sloughed off their stock to set up housing associations in the past. That also means, in practice, that we are getting redistribution from city authorities to rural councils. Some of those may be in beautiful, high-demand areas. An awful lot of them are not; they are just rural district councils in Norfolk and other parts of the country.

At no point have we had any reference to waiting lists, or the degree of local need, or the anxiety of young people to move, largely to city areas where there are jobs, which is key when, particularly in rural areas, there is no public transport to get you there if you live outside.

So how will the priority order work? Let us say that my city, Norwich, is required to sell one, two or three high-value houses at £300,000—if we have such; I am not sure that we do. Let us say that we come up to about £1 million. Okay. The local housing associations within the city have 10 people wanting, on average, £50,000 discounts. That is £500,000 gone. Then the other local authorities in Norfolk, which are stock-transfer associations, have built-up demand for a further 50 people, for £2.5 million-worth of discounts. So the sale of five or 10 local authority homes in my city will be funding 10 or 12 discounts, in my city, for housing associations and possibly a further 50 outside my city but in the bounds of Norfolk, by virtue of the way this is going to work.

As that means that the money from high-value sales in Norwich has been spent three times over, where exactly is the money going to come from for the local authority to replace its lost stock? Where exactly is the money going to come from for my local authority to tackle the derelict land around British Rail stations, or old gas sites, or old industrial, chemically polluted sites? These may need a lot of investment if, quite rightly, they are to be brought back into use. Will the Minister tell us how this is actually going to work? Because I do not understand it.

I recognise a pattern of redistribution which, as far as I can see, takes no account of housing waiting lists, no account of pent-up housing need and will just circulate money around in different ways. Either the levy will have to be in addition to sales, so that my local authority will be hit twice over, with both the forced sales of high-value properties and a levy in addition, or the local housing associations in my city and beyond, the housing association tenancies in Norfolk as a whole, will just have to queue, or be rationed, or have to wait, in order to buy a housing association home. At the end of the day, none of those houses in Norwich will be replaced.

I cannot even begin to see how these figures are going to add up. It is completely impossible unless the Government come in with funding. The Government want this policy so the Government should fund it.

**Lord Lansley:** My Lords, in response to the noble Baroness, it seems to me that there is precisely a place where housing need can be taken into account in this process. It is under Clause 72, where Ministers enter an agreement with a local housing authority for a reduction in the payment that would otherwise be payable under the determination. That will specifically include, no doubt, an assessment of housing need and the extent to which that housing need can be met by the provision of replacement housing by the local housing authority under the agreement.

Amendment 66B in particular suffers from objections of both principle and practice—in principle because it seeks to introduce inflexibility when clearly the structure is designed to give local authorities and government the opportunity to arrive at flexible agreements related precisely to issues such as the level of payment that would otherwise be payable and the extent to which that can be reduced, recognising local housing need, and, indeed, the shape of that need in terms of tenure.

A second objection in principle, which I imagine is well understood by the noble Lord, Lord Kerslake, is that the amendment would introduce the idea of local housing authorities being given a statutory right to sufficient borrowing capacity and flexibility to provide replacement housing, which is entirely outwith the process that the Bill otherwise contemplates of establishing a payment to the Secretary of State which can be rebated under the agreement. At no point does this structure contemplate creating a statutory right to a borrowing capacity, which I am sure the Treasury would find difficult to provide.

It seems to me that the proposed new clause in Amendment 66B is wrong because it seeks to create, under the terminology of a determination, something which is not contemplated in a determination at all. A determination is about a payment to the Secretary of State. The issue of replacement housing falls under Clause 72 and is about an agreement between the Government and a local housing authority which is funded by a reduction in the payment.

As it happens, the noble Lord, Lord Kerslake, and others seek, with Amendment 68B—but not with the same detail as in Amendment 66B—to introduce some of the same purposes into Clause 72. If you wish to do that, that is the logical place to do it. I object to it on grounds of inflexibility but if you wish to include it in the Bill, that is where you would do it. However, I say to my noble friend the Minister that there is an amendment in this group which, on the face of it, has merit—Amendment 68C—since it provides that exactly the same principle which is applied to the relationship between the Greater London Authority and local housing authorities in London should be applied in the same way to combined authorities and local housing authorities in other places across the country. It would certainly be sensible to look at that with a view to determining whether it is a suitable amendment.

**Lord Kerslake:** Perhaps I may come in very briefly. I wish to make three points. First, in any process you need a balance between prescription and flexibility. If the intent is to achieve one for one, that should be the nature of the agreements that are formed with local authorities. When the statutory instruments are published, that provision may well be included. If the Minister says, "I guarantee that one for one will be in the statutory instrument", we may not need this amendment. But in the absence of such a guarantee, there is no mechanism for knowing with confidence that the Government's intent is that one for one can be delivered.

Secondly, in relation to capital borrowing, in everything other than housing, local authorities have the ability to borrow prudentially. As was said this morning, they could borrow to build three swimming pools. The one area where they are capped is housing. Therefore, if you do not fully fund the replacement, you have to have an ability to lift the cap to find the necessary capital borrowing. That is the reason why that provision is included in the amendment.

**Lord Lansley:** I do not dispute that that is the reason it is in the amendment; I just think that it is wrong. We are not in the business of giving additional borrowing powers to local authorities but of releasing value from high-value assets and determining to what extent that is used to fund the discounts for housing association tenants buying their homes—or, on the other hand, to provide for replacement housing. The first point is very straightforward: if one wants to do this, Amendment 66B would include it in the wrong place; it is too inflexible and would introduce too many rigid criteria.

When the Government begin to create agreements with local housing authorities for replacement properties, I think that many of us would share the wish that, in the right places, where agreements are entered into—which will, of course, not be everywhere—those agreements should look for at least one for one; otherwise, why is the local authority being given that reduction in its payment if it is not in recognition that there is a greater need for housing there than for that money to be made available to housing associations through purchase of the properties by their tenants? It seems to me that the theory is: do you take this into Clause 72 and do you make it a minimum requirement of a one-for-one replacement? That is an issue to look at. I certainly do not think you need a new clause to do it.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, there is not much more I can add to the contributions that have already been made. I support those comments and I oppose the Question that Clause 72 stand part of the Bill.

I agree with the comments the noble Lord, Lord Kerslake, made at the beginning of his speech about the danger of raising the expectations of housing association tenants that they have the right to buy, which they will think has been enshrined in law—and it has not. This is a voluntary agreement in which housing associations may have very good reasons for excluding certain properties. Similar legislation was brought in to allow parental choice over school places. Parents believed that they had choice but they did not. What they had was the right to express a preference about the school they wanted for their child, and that is a very different thing. Great care is needed with the wording on this issue.

**Lord Kennedy of Southwark:** My Lords, all the amendments in this group and the clause stand part notice are ones that either I or my noble friend Lord Beecham have signed up to on behalf of the Opposition. I do not intend to speak for very long as I think the case for the amendments has been made very forcefully by other noble Lords in the debate.

As I said before, the theme running through the Bill is one of undermining council housing, be that in other sections of the Bill or the parts we are looking at today. I am sure the Minister will not agree with me and will suggest that this is all about people realising the dream of owning their own home. I contend that these amendments actually help the Government in that aim.

In particular, I agree with the point made by the noble Lord, Lord Kerslake, about people not being able to walk into social housing as they were able to many years ago. When I was a councillor in Southwark in the 1980s, we had a hard-to-let list. No such thing exists any more. The noble Lord, Lord Stunell, was right to point out that with 160 authorities contributing to the levy, there is a redistribution of money, and homes will be built in areas that have made no contribution and people from the areas that have made a contribution will not benefit from better housing. The noble Lord, Lord Carrington of Fulham, was right when he spoke about the housing crisis in London. As we heard in earlier debates, the city works because of the mix of people and tenures—wealthy people and people on modest incomes living side by side. That is how the city works and the problem with the Bill is that it could very well undermine that.

I hope that the Minister specifically responds to the point my noble friend Lady Hollis made about where the money is going to come from to replace the house when it has been sold. The sums do not add up. Where is all this going to come from? I accept the point made by the noble Lord, Lord Lansley, about how he thinks we can square the circle but, again, without wanting to reopen the regulations debate, that is part of the problem—we do not have any regulations here.

Amendment 66B empowers to the Secretary of State to require the local authority to replace every property sold with a property of the same type. It is much better for a family to be able to rent a social home; for one, it will have a more reasonable rent. They could then save for a deposit to buy their own home or exercise their right to buy. Amendments 68B and 68C seek to put in the Bill different provisions, which are all very valid, ensuring that homes sold under the right to buy are replaced.

I will leave my remarks there and may come back with further points when the Minister responds.

*5.30 pm*

**Baroness Williams of Trafford:** My Lords, I thank all noble Lords who have taken part in the debate. In responding to Amendment 66B, I assure noble Lords

that we are committed to using a portion of receipts from the sale of vacant council housing to fund the delivery of more homes. We have chosen a way that will not require all local authorities to deliver that housing, as we know that in some cases they do not want to be responsible for it. Instead, authorities can choose to enter into an agreement with the Secretary of State to retain part of the payment in order to use it to deliver more homes. This is the same process as currently happens with the sale of properties under right to buy.

**Baroness Hollis of Heigham:** I want to ask the Minister this as I genuinely do not know what the answer is. If the local authority wishes to retain some share of the proceeds, but the demand for discounts, even within its own city area, surpasses the amount that it wishes to retain to replace its stock, how will the decision be made?

**Baroness Williams of Trafford:** My Lords, in that sort of situation, I would imagine that the local authority has a number of options available to it, including the use of capital reserves, or indeed borrowing if it wished to. Alternatively, of course, private sector developers could build housing. A number of options are open to councils in bringing forward more houses within the local authority area, including the retention of a portion of the receipts in order to deliver new homes.

**Lord Shipley:** A moment ago, the Minister talked about vacant homes, and I really would like to be clear whether the Minister is talking about vacant homes or surplus homes. Is there a clear definition that we can have on the record of what a vacant home is and what a surplus home is?

**Baroness Williams of Trafford:** My Lords, when I talked about vacant as opposed to surplus, we were talking about assets that were surplus in terms of government but vacant in terms of local authority homes. Vacant, in my mind, means empty, but there will be more detail later defining at what point a property becomes empty.

**Lord Shipley:** If a vacant home is a home which is empty, for how long does it have to be empty and can a local authority say that that empty home is actually required but just happens temporarily to be empty?

**Baroness Williams of Trafford:** That is precisely the point I am making. We will be defining what empty—that is, vacant—means in due course in the dreaded regulations.

The Government will be able to ensure that under these agreements local authorities will, as I have said, use the receipts efficiently to deliver as many new homes as possible. Where they have an agreement, we want local authorities to have discretion about how the new housing can meet the needs of their local community, rather than being constrained in primary legislation to replacing the housing they sell with homes of the same tenure. Just to help my noble friend Lady Gardner of Parkes, tenure refers to the type of housing, such as shared ownership. I know people use the word differently in different contexts.

I have just received an answer to the vacant homes point. A home is vacant when a tenancy granted by the local authority has come to an end, as defined in Clause 77.

**Lord Shipley:** So it is clear that a vacant home simply means that a tenancy has been given up and that, as a consequence, there is a vacancy. However, it may never be empty, because a tenant might move out and another tenant might move in the very same day. In that case, of course, it may well be that that vacant home is not a surplus home.

**Baroness Williams of Trafford:** When I used the term surplus, I meant surplus assets that government might seek to dispose of, and I gave the example of King's Cross. For local authorities, vacant referred very much to housing.

**Lord McKenzie of Luton:** Could the Minister help me with a definition? Does succession to a tenancy create a vacancy along the way? On the death of a tenant, if someone succeeds to that tenancy, does that cause a break that would bring these issues into play?

**Baroness Williams of Trafford:** It would depend on the context of the succession. If the successor was a spouse, there would not be a vacancy because that spouse would be immediately, automatically entitled to take on a future lifetime tenancy. If, for example, a child wanted to take over a tenancy, it would probably be short term. The only automatic right is with a spouse.

**Baroness Blackstone:** May I also seek clarification? What if a tenancy comes to an end and there is a long waiting list of potential tenants with very urgent housing needs, of the sort described by the noble Lord, Lord Carrington—very large families, homeless people, people living in totally inadequate private rented housing with large numbers of small children? Is the Minister saying those groups are to be ignored, in spite of their acute housing need; that in an authority where there is not enough social housing to go round, the local authority is to be forced to sell that high-value property, which is possibly quite big and therefore suitable for some of these families with acute housing need?

**Baroness Williams of Trafford:** My Lords, the vacant high-value asset may not necessarily be a big property; it could be a small property, but the point is that it is of high value and vacant. The sale of these high-value vacant properties will add to the number of homes for a variety of reasons for people all over the country.

**Baroness Hollis of Heigham:** Does that mean that housing need in a particular local authority will be discarded to fund discounts?

**Baroness Williams of Trafford:** My Lords, no, it does not mean that for housing in a particular local authority because housing need is determined in a number of different ways. We are talking simply about the selling of high-value assets to provide new homes, which are in high demand, in a national context.

**Lord McKenzie of Luton:** Is this not in danger of running in conflict with another government policy—the bedroom tax? If part of the rationale is to encourage people in larger houses to downsize and give up the tenancy to do so, the local authority is then faced with having to sell the high-value property. How does that work?

**Baroness Williams of Trafford:** On the spare room subsidy, if someone is in a property that has more bedrooms than they need to occupy, my understanding of the mechanism is that a suitable property would then be found for them. The noble Lord is asking whether the property that has been vacated would then fall into the definition of a high-value asset. The honest answer is that I do not know but the probable answer is not necessarily at all—probably not—because we are talking about high-value assets across a number of bedrooms. So I do not think it would but I will take that away, think about it and get back to the noble Lord.

**Lord Best (CB):** My Lords, this comes up under Amendment 68A, which we are coming to. If you have moved out, it is a transfer. We will be debating that a little later.

**Baroness Williams of Trafford:** I thank the noble Lord for that.

Where we have an agreement, we want local authorities to have discretion over how the new housing can meet the needs of their local communities, rather than being constrained in primary legislation to replacing the housing they sell with homes of the same tenure. We come back to the term "flexibility". We think it is also important that local authorities are innovative and flexible in their approach to delivering more housing, so there are opportunities for them to contribute their land, make use of their HRA headroom or cross-subsidise from the development of market homes, which I mentioned to the noble Baroness.

**Baroness Hollis of Heigham:** My Lords—

**Baroness Williams of Trafford:** I am just going to make a bit of progress if that is okay by the noble Baroness. Perhaps she can come back to me at the end. Is it really urgent on the point that I have just made?

**Baroness Hollis of Heigham:** It is simply that the people on that waiting list want that which is being sold, which is a socially rented house. They do not want to buy—they cannot afford to—they do not necessarily want to go into a different tenure of house and they do not want to work with a developer; they want what the local authority is being forced to sell with no guarantee of a replacement.

**Baroness Williams of Trafford:** My Lords, I have just been over that. I want to get to the point about the borrowing headroom.

The noble Baroness also asked how a local authority with limited stock that wants to provide more for local residents does so. I mentioned in debate on the previous group that we have made available a significant amount of additional borrowing headroom, and the allocated extra borrowing will support about 3,000 new affordable homes in 2015-16 and 2016-17. Local authorities' ability to borrow will continue to be constrained by whether borrowing is prudential, obviously, and within borrowing limits. Consideration of the former will primarily concern the affordability of the borrowing, which should not be affected by this policy.

The Government are committed to making a deduction from payments in respect of the debt supported by those properties that are taken into account in a determination. This should provide some assistance for local authorities to borrow within their existing caps, as well as utilising other options available to them to finance the building of new homes.

Amendment 68B would ensure that any agreement with a local authority outside London would require the delivery of at least one new affordable home for each property taken into account under the authority's determination. We want the flexibility to enter into agreements that will result in as many new homes nationally as possible, but it would be better to be able to have an agreement that resulted in slightly less than one for one in some cases, rather than have no new homes built at all. Therefore, we would not want to constrain through primary legislation the flexibility to make this choice. The amendment would limit the Secretary of State's ability to support agreements in cases that would deliver less than one new home for each one sold, removing the chance for some local authorities to have agreements to retain receipts and lead on the delivery of new housing, and devaluing the key flexibility in the legislation that receipts can be used to fund new housing or things that facilitate its provision.

The need for services and infrastructure to support new developments has been raised in your Lordships' House, the other place and by local authorities themselves. I understand the sentiments with which the noble Lord, Lord Best, tabled Amendment 68C. If we had specified a target for the delivery of additional homes in primary legislation, we would want to consider carefully how combined authorities could help to deliver that target. However, we do not think that a target is the right approach for local authorities outside London. Instead, the provisions enable the Secretary of State to enter into an agreement with local authorities regarding the additional homes. Local authorities will have the flexibility to work collaboratively with each other, with combined authorities—as they already are doing—or with other housing providers to deliver the agreement. The key thing is that delivery should be a local decision and that the Government will be able to hold them accountable for this delivery.

Finally, I address opposition to Clause 72. Building new homes is at the heart of these proposals. We want as much flexibility as possible in what new housing will be provided and where, in order to ensure that as many new homes can be built as possible. We believe that this will be best delivered through agreements rather than putting restrictions and exemptions in the Bill.

Clause 72 enables the Secretary of State to make an agreement with a local authority to reduce the amount that it is required to pay under the determination. The

local authority will use this amount to provide more housing. To avoid accusations of good money being thrown after bad, we would consider councils' past performance and plans for delivery in deciding whether they should be able to retain some receipts. For example, if a local authority wanted to lead on a programme to build new homes using funds from the sale of vacant high-value housing, it could seek an agreement with the Secretary of State to reduce the amount that it had to pay. If that agreement was signed, the local authority would use that retained amount to fund the provision of new housing, in accordance with any terms and conditions set out in the agreement.

*5.45 pm*

Although there is a national need for more houses, we also know that there are particular housing pressures in London, as many noble Lords have pointed out. When the Secretary of State has an agreement with a local housing authority in London, it must require the delivery of at least two new affordable homes for each high-value dwelling. It is important to stress that every home built using receipts from the sale of the vacant high-value housing is an additional home. We have been clear that funding the building of new homes is one of the two key uses for these receipts, along with funding right-to-buy discounts for housing association tenants. The voluntary right to buy will further increase housing supply, as the housing association will use the sales receipts to fund the provision of another home.

I turn to some specific questions. The noble Lord, Lord Kerslake, asked why there was a special provision for the funding of two new homes for every one that was expected to be sold in London. It is because of the specific needs of London. London has such an acute housing need that it is estimated that about 49,000 to 62,000 additional homes are required every year. Net housing completions stand at 23,986 for 2013-14, and these represent 80% of the 29,830 target in the 2011 local plan. The Secretary of State and the Minister for Housing are continuing to engage with the GLA and local councils on how two new homes will be delivered for each one that is expected to be sold in London.

The noble Lord, Lord Kerslake, also talked about local authorities' borrowing capacity and limitations. The 165 HRA authorities in 2014 had an in-year net surplus of £464 million. They accumulated general HRA reserves of almost £2.5 billion and a borrowing headroom approaching £3.4 billion. Although we will continue to consider the impact on local authorities, we have no further plans to raise the borrowing caps.

The noble Lord, Lord Stunell, asked again about the geographical level at which high value would be set. The Bill provides some flexibility on the detail of the legislation, which is important as we continue to collect data and engage with local authorities on the best way to set the high-value threshold. Although I said that I believed that local authority level is an option, and that we have collected the data to this level, the decision has not yet been made. I probably made that clear already in my previous comments. Again, this debate will inform how we take this forward.

I hope that I have covered all questions that noble Lords wanted answering and that our clear commitment to using receipts to fund the delivery of more housing provides reassurance to noble Lords. Clearly, noble Lords may ask me any further questions if they wish, but, on that note, I ask the noble Lord to withdraw his amendment.

**Lord Kerslake:** My Lords, I am grateful to the Minister for her response and to noble Lords in this Chamber for their contribution to this debate.

I will present the position simply. In relation to London, the Government have recognised a housing need and have a stated intent to achieve two for one. That is, therefore, specified in the Bill. In relation to the country as a whole, the Government have also recognised that there is a housing need and stated their intent to have one-for-one replacement. That is not in the Bill, and we have, as we sit here today, no way of knowing the mechanism by which that will be delivered. The amendment here seeks to put this point about the Government's intent beyond doubt. It puts no more prescription on local authorities outside London than the Government are seeking to put on local authorities inside London, so this is an important aim.

**Baroness Williams of Trafford:** I apologise for interrupting the noble Lord, but does he agree that the one-for-one replacement is in the voluntary agreements?

**Lord Kerslake:** There are, of course, two one-for-one policies here. There is one-for-one replacement in housing associations, which is one thing that we will need to focus on, but it is in a voluntary agreement. I am now talking about the one-for-one policy in relation to high-value sales—or higher-value sales, as I like to call them—which is in the Bill and statutory. That is what I have focused on in my amendment, not the housing association part.

The central point is that we see the need in London, and I would be the first to acknowledge the London need. Indeed, that was the subject of the London Housing Commission, whose report I published this week. There is also a big issue of need across the country. Some parts of the country do not match London but have very severe problems. For example, we have heard today that Bristol has huge housing need. The purpose of my amendment is to give the same degree of confidence about the national policy that we are clearly achieving in relation to the London policy. That does not seem an unreasonable thing to seek. It does not give the absolute confidence, which some noble Lords have sought, that you will get the same property in the same neighbourhood at the same time. Indeed, that is part and parcel of the flexibility to which other noble Lords have rightly referred. However, if there is complete flexibility, there is no confidence about the delivery of the policy, and that is where there must be some statement of intent. I do not care where this assurance is given within the Bill. I think I have put it in the right place, but the noble Lord, Lord Lansley, might have a different view. The key point is that we do not have the assurance.

[LORD KERSLAKE]

I shall finish on two points. First, there are surplus resources in local authority HRAs to deliver maintenance and investment, but they have plans to use that funding. The question is how we deliver the plans that they already have and secure the delivery of this new policy that will put an additional demand on their borrowing requirements. It is perfectly possible and consistent with other government policies to say that if we are putting in additional demand, we will give the wherewithal to enable the delivery of that demand, hence the proposal in relation to capital. Secondly, in the amendment I very clearly sought to say that, in terms of tenure type, it should be the same where that is practical. We have not dictated that it has to be the same tenure type because clearly practical issues will come up in individual authorities.

This set of amendments addresses a central issue that concerns people about the practical delivery of one for one and would put the Government's intent beyond doubt within the Bill. That said, in the normal fashion, I beg leave to withdraw the amendment.

*Amendment 66B withdrawn.*

***Clause 68: Housing to be taken into account***

*Amendment 66C*

*Moved by* ***Lord Beecham***

**66C:** Clause 68, page 30, line 16, after "Account)," insert—

"( ) it is not managed by an existing tenant management organisation, as defined by the Housing (Right to Manage) (England) Regulations 2012, and managing 1,500 or fewer local authority tenancies,"

**Lord Beecham:** My Lords, the Bill's provisions in relation to higher-value council properties and pay to stay—I beg your pardon; I think I may have the wrong group. Let me just check.

I am sorry, I got slightly confused after so many hours in the Chamber. I dare say I am not alone in that. I was right to start where I began.

The Bill's provisions in relation to higher-value council properties and pay to stay, which we are dealing with later, but not today, are predicated on a myth; namely, that council housing is subsidised by the taxpayer. In reality, housing revenue accounts have to balance their books, matching their expenditure to their income, and we have heard that the Government are deliberately reducing that income by their imposed cuts on rent levels for the entire social housing sector—councils and housing associations alike. As I have said, this single action will cost the sector billions over time. In Newcastle's case alone, it will cost £593 million that otherwise would have gone into maintaining or improving the existing stock and investing in new homes. Similar effects will be felt at different levels by housing associations.

The ostensible reason for selling high-value homes is that this will release money with which to build new ones—but, as we have heard, in reality most of it will go to the Treasury, ostensibly to facilitate right-to-buy housing association properties. This is not likely to lead to new building, let alone to new building in the locality whence the sales proceeds derive. I refer again by way of example to the situation that this will create in Newcastle. I suppose I ought to remind the Committee, if it needs reminding, of my interests as a councillor in Newcastle and generally in local government. Newcastle has some 26,000 council houses, 1,651 of which would fall under the Government's definition of "high value", according to Shelter—I particularly like the "1" in that figure—although I understand that the city council believes that the number could be greater.

On the Shelter figure, some 82 higher-value homes a year could be the subject of forced sales in the event of their becoming vacant, or deemed sales if they do not, which would generate a very substantial payment—on this sort of figure, something like £1.2 billion, if one took a median figure of a two-bed house at around £155,000. There are proposals for different levels of assumed value in London and elsewhere, and the Shelter list indicates a range in Newcastle for two-bedroomed houses of £125,000-£155,000 and, for larger houses, a figure of £250,000. Clearly, very substantial sums could be raised by the sales of these 82 homes—or, as I say, a likely larger number, obviously yielding a larger amount.

This group of amendments identifies a series of house types that will be exempt from this levy. Amendment 66, in my name and that of my noble friend Lord Kennedy, would exempt housing managed by existing tenant management organisations, to which we have had some reference already in Committee—the very kind of organisation that one might have thought would be attractive to the Government and indeed to the Policy Exchange think tank that spawned the concept.

Amendment 68 would require regulations to provide that housing forming part of a housing regeneration scheme, or consisting of specialist housing or recently improved housing, should be excluded. It defines housing regeneration schemes and describes specialised housing as that designed or intended for occupation by the elderly, people needing care or support with mental health problems or learning disabilities, or that with other features designed to make it suitable for use by disabled people. These are clearly priority areas that should be protected. Equally, the amendments propose that where properties have recently been improved or substantial repairs have been being carried out in the previous two years, where again, clearly, the local housing revenue account will have contributed substantially to the current state of the property, they should also be exempt.

The amendment chimes well with the views of Nottingham City Homes tenants, about whom we have heard from the noble Baroness, Lady Bakewell, who clearly have written to a number of Members of the Committee. The chairman is a tenant of 40 years' standing, who asserts in her letter:

"Our properties have been adapted for tenants with disabilities. If they are sold then other homes will have to be adapted too, at extra cost".

Clearly that will be a burden on the local authority housing revenue account, and the benefit will accrue

to the Government or those who buy the home if it is sold on the market. She makes a telling point:

> "There will no longer be any affordable council housing in certain neighbourhoods—council housing will be marked out as something that is only in poorer areas".

That trend is already under way. The street in which I live, in my non-£5.9 million house, is a nice street in a residential area of Newcastle, at the bottom of which there used to be a block of council flats. All those council flats have long since been given over to other tenures.

*6 pm*

I subscribe to Amendments 67B and 67C, in the name of the noble Lord, Lord Kerslake, and to Amendment 68A, in the names of the noble Lords, Lord Best, Lord Kerslake and Lord Stoneham, and in my name, which respectively refer to the exclusion of properties that have been built since 2008, are tied to a regeneration scheme, used as supported housing, exempt from local authority right to buy, or vacant due to restoration or tenant transfer. Underlying these amendments and many others that we have discussed is a fundamental issue; namely, the centralist approach of the Bill on what ought to be matters for local decision, affecting as they do local communities and the aspirations of local people, whether existing tenants or would-be tenants, as well as those who wish—perfectly properly—to own their own home.

The imposition of a universal prescription for all circumstances of this kind is of a kind that would make Stalin blush. The notion that the Government not only tolerate the activities of Mr Putin, which they seem to do, but are reverting to the practice of one of his less amiable predecessors is quite astonishing. I beg to move.

**Lord Shipley:** My Lords, I have put my name to Amendment 66E, which relates to the point made a moment ago by the noble Baroness, Lady Blackstone, about demand and whether a local housing authority would be required to sell off a high-value home which perhaps has a large number of bedrooms, even though that property could be in demand for rent. It also goes back to the discussion we had about the meanings of the words "vacant", "empty" and "surplus" in the previous group, so I do not seek to go over that ground again.

I will emphasise two points, the first of which is that the noble Lord, Lord Kerslake—again, in a previous group—clarified something which we all know: there is no surplus of council and local authority housing in this country. Maybe there was a few years ago but today there is not. So it is very important that we understand what the impact of selling vacant high-value properties will be on those who are on social housing waiting lists—and, as we know, 1.6 million people are on those lists. This amendment simply says that the local housing authority should deem that there is no demand for that high-value property for rent. That is it, and it is a perfectly legitimate test to apply. If there is a waiting list in that area for that property, there should be no compulsion on a local authority to sell it.

**Lord Kerslake:** My Lords, I will speak to Amendments 67B and 67C, which are in my name. Both amendments relate to the exclusion of certain types of property from the forced sale programme, which would therefore be suitably amended with regard to the formula for the so-called levy.

The first category identified in Amendment 67B seeks to exclude properties that any reasonable authority or person would regard as sensible not to be included in a forced sale policy. I will not go through all of them but will give a few examples. A local authority would seek to achieve the maximum flexibility possible in the progression of a regeneration scheme. To be forced to sell off certain properties that are critical to the delivery of the regeneration would be a perverse outcome indeed. The exemption of properties that are themselves exempt from the right-to-buy policy would also seem absolutely logical, and this comes back to the formula that we might see. Again, the regulations may do this—but we have no regulations to fall back on.

Another area is vacancy, which we have spoken about. Under the bald definition of "vacancy" that we have had hitherto, if a property becomes vacant, it will be put up for sale. For the purposes of the Bill, it will be essential that it is regarded as being considered for sale, albeit that it is covered by a formula rather than an individual requirement. If, however, existing tenants wished to move into that property because they had already been identified as being in need, the property would be excluded. That sits alongside the amendment in the name of the noble Lord, Lord Best, which covers much the same point. At the very least, the amendment would cover high-value properties where there is clearly an existing tenant in another property in the authority who might move into it on a transfer basis.

I hope that noble Lords will see that the intention behind Amendment 67B is sensibly to exclude properties that any rational assessment would judge to be not appropriate to form part of a forced sale policy. I hope that the Minister will explain why any of these properties should be in contention for being expected to be sold or for being taken into account in the formula. I would be grateful for the Minister's response on that point, given the nature of the properties involved.

My second amendment in this group, Amendment 67C, relates to the issue that we discussed this morning. If a local authority is fortunate enough to be in the position of the authority of the noble Lord, Lord True, who spoke earlier, and has transferred its stock, it will not be subject to the levy. If, on the other hand, for very good reason it decides at a subsequent date to transfer its stock, it will continue to be subject to the levy. As we heard from the Minister, this will be a levy in perpetuity and there will be no situation in which the authority can escape it. This will happen despite the fact that the authority transfers the stock to another organisation and therefore has no direct role in relation to the efficiency or otherwise of the management of that stock. That seems perverse, and it will be extremely difficult for the Government to deliver without some form of challenge. One local authority, through a sheer accident of timing, will be subject to a levy when another authority which takes very similar action is not subject to it. That seems perverse.

**Lord Stunell:** Is this not actually a back-door way of abolishing stock transfers? There will be no more in the future.

**Lord Kerslake:** The noble Lord makes a very strong point. The stock transfer mechanism has been available to local authorities of all political persuasions as a means of improving the quality of the stock for, and therefore the well-being of, their tenants. It has been a very powerful model for improvement. Indeed, there are plenty of examples of transfers. They are not always appropriate but, where they have gone well, they have resulted in significantly improved stock. The question here is: why would a local authority continue to progress such a transfer when it would carry on paying a substantial levy with no means of financing it? Therefore, the noble Lord makes a very good point.

Local authorities are now in quite challenging circumstances in relation to managing their stock. A number of smaller authorities are asking whether they can sustain the management of their stock, given such things as the rent reductions and the impact those have on the viability of their stock. I know this for certain because I have been in conversation with a number of them. For some local authorities, the logical answer is to deliver a stock transfer. So, not only does it prevent the opportunity of transfer because of the positive benefit to a local authority; it also inhibits the transfer where local authorities have very significant issues that they need to address and that can only really readily be dealt with through a transfer process.

I should emphasise that I am not suggesting local authorities should or must transfer their stock—that must be their decision. What I am saying is that it is a perverse position that those authorities that choose to do that in a year's time will be subject to a levy that those who chose to do it a year ago will not. I cannot believe that it is fair or reasonable for that to stay in the Bill. Therefore, I suggest that it be taken out.

**Baroness Grender (LD):** My Lords, I rise to speak to Amendments 67, 68E and 69 in particular, but am generally supportive of all other amendments in this group. Other noble Lords have talked about how concerned they are that this part of the Bill will reduce the number of low-rent social homes in places where they are needed most. I am a governor of an inner-city school where over 50% of children are on pupil premium, but in an area where market rents are at a premium and house prices have continued to rise, even during the 2008 recession. I want to use that small community as an example of some of the challenges posed by this particular part of the Bill and to raise the questions that I have. I will then go on to explain my amendments.

How will key workers be able to live near a place such as I have described on reasonable rents? How will government objectives on the need for cohesive communities be met? We need a mix of tenure in every block and every street. I was particularly struck by what the noble Lords who spoke about that earlier had to say, especially the noble Lord, Lord Carrington of Fulham. What about children in the most challenged families who need a stable home near a school like the one I have described, in a very expensive part of inner-city London, so that they can have the stability they need to help them overcome all the other challenges in their lives? The school must stick with them throughout their childhood. For that reason, I support many of the amendments in this group and have extreme concerns about the sale of these high-value asset houses. I make those general comments as this is the first time I have spoken in the debate.

The amendments tabled by me and my noble friend Lady Bakewell of Hardington Mandeville are about newbuilds for local authorities and an exemption of those from sales. Without an amendment of this nature, the threatened forthcoming sell-off puts at risk existing building programmes. I will focus on that because councils are pausing, rather than building an asset, because they believe that they may lose the value of that asset almost as soon as it is built.

Shelter estimates that almost 113,000 council homes are likely to be above the value threshold, of which 78,778 will be lost from the most affected local authorities, of which half are in inner-city London. As other noble Lords have said, we are basing this on Shelter figures because, at the moment, that is our best grasp of figures in this area pending more detail from the Government. The top 20 councils that are most impacted currently have plans to build 20,390 homes. However, even the threat of this legislation means that they are pausing in building these homes. For example, Islington Council has said that the policy could end its newbuild programme. I would be interested to hear how the Minister believes councils can even borrow at the moment to build, given that lenders can have no confidence in future revenue from that property if, as soon as it is built, it is in jeopardy of being sold. Indeed, existing council building programmes are often partly financed from the revenue projected from the sale of a small number of high-value council homes, with one fundamental difference, which has been much debated already: the councils get to keep the money.

*6.15 pm*

In those 20 most affected council areas—and this is so important to these Benches and other noble Lords who have expressed opposition to this part of the Bill—159,014 people are on the waiting lists, 22,371 of whom are children, who right here, right now and even as we speak are living in temporary accommodation. As we focus on those children, can we please learn from this Government how they will be helped into permanent housing by the sale of these assets? Shelter believes that this sell-off will reduce overall stock. High-value homes sold are likely to become buy-to-let properties—other Members have spoken at length about the danger of that, so I shall not expand on it. Those families in temporary accommodation are not even back to square one; it is even worse, and this is not solely an inner-city or London problem. This comes on top of the 1% rent reduction. The noble Lord, Lord Lansley, talked about South Cambridgeshire council, his own area, which it recently said in evidence that its housebuilding programme of 1,000 homes had ceased overnight because of its concerns about what is coming down the track in terms of sales of high-value assets. It has built four houses from its programme for the next 20 years, but as I understand it, it has now

ceased building entirely. Joseph Rowntree estimates that the recent rent cut has already resulted in 34,000 fewer homes being built. I know that we have been very attached today to commitments in the Conservative manifesto, so I simply remind the Government of that manifesto commitment to 275,000 additional affordable homes by 2020. However, if 34,000 fewer homes are being built because of the rent cut—and some councils, including Conservative councils, are now pausing their housebuilding programmes—even that target, which we would prefer to be larger, is in jeopardy. In Lewes District Council, the Conservative cabinet has mentioned the uncertainty over future plans for council housing as a reason to put on hold its current housebuilding plans. I am concerned that we will look back at this moment and see a drop in the level of council house building while this policy is being debated.

The current trend of reduction in social housing is bad enough, as Joseph Rowntree makes clear, with the figure of one in seven people being so housed today projected to decline to just one in 10 by 2040, but those projections were made before the freezing and pausing of housebuilding that I have described. We would like the sale of those assets to be held back when it comes to new build in order to encourage councils to get on with building social housing.

It is our understanding that, in communication which DCLG has so far had with councils to develop this policy, it has been clear that the department considers new-build homes to be subject to sale under the terms of the Bill as it currently stands. In Committee in the Commons, the Minister ruled out newly built homes that had yet to be occupied as counting as high-value vacancies, but, as far as we are aware, DCLG has not committed to limiting the scope of new-build sales beyond that. Therefore, a new home could potentially be sold off months after it was occupied only for the first time if the tenant moved or died. Although I appreciate that the Minister is working within the constraints of how much material and information have been provided to her through regulations, particularly in this area, it would be great to know what the Government intend. As someone who worked for a year at No.10, I know what will be happening there right now. This place and our complaints about the lack of regulations will feel very remote. Instructions will come through to Ministers, as they always do, "to just get this Bill through and land it, and those pesky Lords are being very annoying in all these questions". I understand and sympathise with the situation that the Minister is in. Constructive amendments such as this one are meant to be helpful. It gives reassurance to councils that they can carry on with their building programmes and hold on to a valuable asset.

Many of these amendments—we have seen this throughout the day—are like a guessing game. Why are they a guessing game? We all know that it is because we do not know the detail so we cannot debate it. For example, I also have in this group Amendment 68E, which simply says that a property should be allowed to be vacant for six months. That is a complete stab in the dark, because we have nothing else to build on. The Government may say that if a property is vacant for six minutes that means it is a vacant property. I am saying six months. I would love us to be able to debate the detail of that, but we all know where we are with that. If new-build homes are not excluded, the risk that homes will have to be sold shortly after being occupied will be a major disincentive to new council building, hence the amendments that we have tabled in this group. The same applies to homes that have been brought back into use through significant renovation.

I want to return to the small catchment area I described—a school with a high level of pupil premium, in an area of high market rents. Key workers are priced out of the area. Mixed tenure is gone and the mixed community is gone. Children on pupil premiums are priced out of the area altogether. That is not a community that I ever want to live in or want to see in the future, and I do not think this Government should either.

**Lord Best:** My Lords, I support all the amendments in this group, not least those in the name of the noble Baroness, Lady Grender. My name is added to Amendment 68A, but I begin by supporting Amendment 66C about tenant management organisations in the names of the noble Lords, Lord Kennedy of Southwark and Lord Beecham. That amendment relates to the council housing that is managed by tenant management organisations. This is in a quite separate context from the earlier discussions about TMOs, which the noble Lord, Lord Young of Cookham, raised an anxiety about. This time, these managed properties are not in danger of losing a right to buy. Instead, this is just about excluding the tenant management organisation properties from the calculation of the vacant high-value local authority housing levy.

That may seem a rather specialist exclusion from the levy, and indeed tenant management organisations do not count for more than a few per cent of council housing, but these organisations, as the noble Lord, Lord Kennedy, said, merit special attention. They were a product of policy from an earlier Conservative Government who wanted to devolve responsibility to tenants on self-help principles. They have attracted significant input from volunteers giving up endless time to make their council estates better places. Of course, housing co-operatives are excluded from the sales under the vacant properties programme because they are registered as housing associations. However, although tenant management organisations are similar to housing co-operatives, the homes that they manage remain classified as council housing and therefore their property gets caught up in the new levy.

I recognise that local authorities must choose for themselves which vacant properties to sell to pay the levy imposed on them, so a council could opt not to sell TMO stock; but for most councils, the very serious money involved on top of the 12% cut in income in rents over the next four years means that whatever housing goes into the calculation of the levy is very likely to have to be sold as vacancies occur to pay that levy. So this amendment seeks to take them out of the equation altogether.

As a case study, I have had a chance to consider the circumstances of a Southwark-based TMO, the Leatherhead JMB. It has been going for 22 years and

[LORD BEST]
over time has turned around an unpopular collection of estates and has created a well-liked and settled community. It has an extraordinarily high level of tenant satisfaction. On a 78% turnout, 92% of tenants expressed their support for the TMO. The London Borough of Southwark, using the Localism Act 2011 introduced by the last Government, has devolved to the TMO financial control of what is in essence a separate housing revenue account. Two government Ministers have visited to celebrate this great example of localism in action. The Leatherhead JMB is currently engaged in building new homes in addition to its very cost-effective management role. It is willing and able to sell a small number of vacant properties selected by them to raise the necessary funds for new build. But, of course, if the properties all went into the calculation of the levy and its parent body, the London Borough of Southwark, then felt compelled to sell all the vacant homes, two-thirds of the funds would go to the Treasury and this would scupper its plans.

What we have here is really a housing co-operative by another name and as such it seems entirely appropriate to treat the TMO as if it were a co-operative and therefore a housing association outside of the levy. Because the tenants themselves have made this a popular place, they have raised its value and therefore its vulnerability when it comes to compulsory sales of high-value council-owned, but not council-managed, properties. This settled community will also be disproportionately affected by the sales of vacant flats, very often to overseas buyers because of its London location close to the river. This particular issue may not have crossed the Minister's desk, and I would make a special plea for her to call in the papers and have a good look at the special status of tenant management organisations.

Amendment 68A concerns people who want to transfer from one home to another within the social housing stock. My concern is about the calculation of the levy on councils which is gleaned from selling vacant properties. As Shelter points out, "Households need to move within the social stock for a large number of legitimate reasons. They may be under-occupying their current home and want to downsize or be subject to the under-occupancy penalty, the bedroom tax, and need to move. They may be overcrowded in their property and need extra room. They may need to move for work, or to move closer to relatives in their old age". No one wants to discourage transfers since they ease problems of both under-occupancy and overcrowding.

The question raised by Amendment 68A is this. When working out the amount of the levy that a council must pay, will the DCLG's calculations exclude those vacancies created by transfers; that is, by people who vacate one council property but move immediately into another council or housing association property? Obviously a mutual exchange between two tenants does not create a vacancy since both of the homes that are vacated are instantly refilled. The process with a transfer is that a property becomes vacant, enabling a transferring tenant to move in and thereby theoretically creating a second vacancy in the home they are leaving. But the person transferring will immediately occupy the other council property, so it cannot be right to count two properties as empty because of a transfer. We know that the DCLG is already well into the consultation process for determining the levy, and I would be grateful for clarification from the Minister that this point has been taken on board. From what she said earlier, I think that the answer may be in the affirmative.

*6.30 pm*

**Baroness Hollis of Heigham:** My Lords, I strongly support Amendment 67B, moved so well by the noble Lord, Lord Kerslake. I want to talk about two aspects of this: proposed new subsection (2)(e), on restoration work, and paragraph (f), on transfers, about which the noble Lord, Lord Best, has just been speaking.

Unlike housing associations, local authorities retain a statutory responsibility for seeking to meet the whole housing need across their authority—whether they do it directly or indirectly, whether they are helping to place homeless people in temporary accommodation in the private rented sector, giving advice, or whatever. That is their responsibility. It belongs to them, and rightly so. Councillors are elected to deliver that legal requirement.

Why am I picking on these two paragraphs? I could have spoken on the others and on supported housing, but that would repeat some of the debates we had earlier on rent reductions for supported housing and how that will affect housing associations. I will just say that if supported housing has to become vacant, we will end up hoping that housing associations can pick up the slack. Many years ago I purpose-built supported housing for people with severe learning disabilities. I think it was probably the first in the country. It was hugely expensive. We had to provide extra sound insulation because of head banging, different types of carpeting, insulation, all the fittings and fixtures and so on, smart appliances to reduce the risk of gas leaks, along with all the other things we were advised to provide by the admirable architects from the then DoE, such as John Goldsmith. Those individual units would now fetch quite a lot of money. It was basically a sheltered housing scheme. If they were sold off, no one else would meet the needs of those severely disabled people and their families, for whom they had been purpose built. I certainly do not think that any housing association could have afforded to take that on.

I want to talk about restoration work in particular. My city, like Bristol, Cambridge, Oxford and others, is an historic city. We have a lot of older properties, including some that are medieval, which were due for demolition. The city council moved in. We saved a street of 14th-century weavers' cottages by one vote. We turned them into homes, which people rented. We maintained the ownership of them to assure proper maintenance. The maintenance on those properties was far too high for any owner-occupier reasonably to afford.

I also remember buying five gothic houses when high Victorian gothic was deeply unfashionable. We could have sold them off. Developers wanted to buy the site, knock them down and build three-storey blocks of flats. Instead, we rehabbed them and worked

with a local housing association—indeed, the housing association I went on subsequently to chair. They became a network of houses in which, again, disabled people and their carers could live, courtesy of the housing association. The housing association could not have bought them; we bought them through DOs and CPOs, as an alternative to seeing them sold in the private sector and demolished. That was partly for their streetscape value, at a time when high gothic was not yet popular—but I thought it was "coming up in the lift"—but also to meet a local need that would otherwise not have been met.

During the last 20 to 30 years, my local authority has bought one-off Victorian houses around the city for Carr Gomm, Nacro, St Mungo's, Edmund's and so on. They could not afford to buy the property. We rented to them at very modest rents indeed—virtually token rents. At one stage we had some 40 of these properties going directly to housing associations supporting specialist, unpopular groups in the local population, such as anorexic young women—you name it. In addition, we bought houses that would otherwise have been DOed. I rehabbed them to make them available as temporary housing so that people did not have to go into bed and breakfasts.

All that required restoration and sometimes removal from clearance programmes. Sometimes I had to use CPOs. I avoided DOs, but as long as you render a house fit at reasonable expense, you are allowed to acquire on improvement grounds. Under the Bill, unless such properties are exempt, such recycling by the local authority of whatever comes their way would not happen. For example, the county council decided that it was going to widen a road. I remember this well. As a result, it bought a lot of properties along Duke Street. It subsequently decided not to do it. Those properties came to the local authorities and we were able to recycle them, for the most part, for special needs that otherwise would not have been met. Unless we protect the capacity of local authorities to use powers that housing associations have never had—legal powers of acquisition, such as CPOs, road widening and so on—and then recycle them into best use, we will strip out the ability of communities to meet needs that, unfortunately, are not always very popular but which it is absolutely right that we as a community should seek to meet.

My second concern here—I am very grateful that the noble Lords, Lord Kerslake and Lord Best, referred to this—is about transfers and exchanges. The Minister has not had very much to do with the bedroom tax, I think. The bedroom tax affected those who were not pensioners and who had one bedroom spare. Unlike the rather more civilised DCLG definition of underoccupation, which is two spare bedrooms, DWP decided to produce a new definition of underoccupation of its own, which hitherto did not exist in English law, of one spare bedroom. Some cases are now going through the courts as to whether, for example, people with severe disabilities are entitled to a bedroom each, and so on.

DWP sought to tackle something like 500,000 families that had, in its view—though this is being tested by the courts—one spare bedroom. If such a family "wished" to stay, it would expect to see something like £14 a week removed from its housing benefit. What do those tenants do? Of those who stayed, something like 65% are now in arrears and local authorities are having to decide how best to help them—whether they have to seek eviction notices and all the rest. What mattered here was that local authorities did not have the stock or the capital resources to build the single-bedroom units that DWP thought it was cost-effective for such tenants to occupy. Why? Because local authorities and housing associations had, for the most part, been building two-bedroom flats because they are the most flexible form of accommodation whatever your need—whether for young families, older people with disabilities, or the frail elderly.

Because we have been unable to build, tenants have been faced with a choice. They have not been able to move within council house stock to a local authority new build, because local authorities have not had the resources to do it. They have not been able to downsize into a local authority property. So what have they done? Either they have stayed put, as I have said, and the arrears have mounted—this is now a really serious problem across local authority housing revenue accounts—or they seek to exchange. They cannot move into the private rented sector, because not only are the resources scarce but the housing benefit bill goes up and they then get caught by the local housing allowance. So their only option is to transfer.

DWP will tell the Minister—perhaps she knows these figures already—that nearly all the movement that has come from downsizing as the result of the pressure of the deeply unfair bedroom tax has come from transfers. Without that, the downsizing could not happen and the tenant would be locked into paying the bedroom tax almost in perpetuity and arrears and possible evictions would grow and grow. What the Minister will do, unless she is prepared to accept the substance of the amendment in the name of the noble Lord, Lord Kerslake, is lock those tenants into that situation. They will not be able to exchange, because that property would then immediately be available for forced sale by the local authority, so they will be locked into making good the reduction in their housing benefit, as a result of the bedroom tax, of £14 a week.

What does the Minister suggest that they do? It is not possible to go into the private rented sector and not possible to downsize into an existing housing association or local authority new build, because they do not exist. Good housing authorities rely on trying to encourage transfers and exchanges between their tenants to make best use of their space. If we say that the moment such a transfer or exchange comes into the purview of local authorities, that property is immediately available for forced sale, what the Minister will do is freeze the sensible use of local authority housing stock. I cannot believe that this is what she wants to do. It makes no sense, but as far as I can see, all the flexibility that she is talking about is actually the flexibility of the Secretary of State, not the flexibility of local authorities, which are being stripped of it, left, right and centre.

Will the Minister please understand the decades of social policy behind some of these exclusions that the amendment in the name of the noble Lord, Lord Kerslake, seeks to put into the Bill? If she does not,

[Baroness Hollis of Heigham]
and if she does not give those assurances, the ability of local authorities to work with housing associations to provide the homes they need for their special needs, as well as our ability as local authorities to allow our tenants to escape the problems of the bedroom tax, will come to a stop.

**Lord Carrington of Fulham:** My Lords, this afternoon we have heard many examples of potential housing crises and disasters caused by the way that tenants will be treated under this Bill. Most of the examples, of course, depend on the properties in consideration being high-value properties, and therefore available for sale. So a lot of the problems would be resolved if the Secretary of State determined what a high-value property was in negotiation with representatives of local authorities.

Clearly, there will need to be further negotiations in some cases to decide how you tackle particularly difficult cases. Putting all that in the Bill would indicate that we could produce a solution to these problems covering the whole of the country rather than one which reflects local circumstances, local authority by local authority. That is what we need to do, perhaps by means of the regulations which—as has been said many times, not least by my noble friend the Minister—we have not yet seen. We do not know when we will see them, but a resolution of this issue will be down to the good will between the Secretary of State and the local authority negotiators.

Some problems have not been addressed, one of which applies particularly in London. The noble Baroness, Lady Grender, touched on it slightly but I thought rather overegged the issue, if she will excuse my saying so. If a local authority sells a high-value property and uses the proceeds to build two other properties, the two other properties will probably not be high-value properties. Just the arithmetic, apart from anything else, makes that unlikely. However, London house prices are going up at a very high rate, and have done so historically. They are not going up at a high rate at the moment. In fact, in some places they are positively coming down. I am told by my friends in the property world that that trend may well continue for some years. If that is the case, the point I am about to make will not arise for some time. But I think we can expect that in due course the replacement properties that the central London local authorities build will rise in value.

It is conceivable that in a very strong domestic property market, a local authority will build a housing unit—if I can use that ghastly expression—which is currently below the high value but, because of its land value, is still quite a high-value property but not high enough to trigger the sale. But within a very short period of time, which could be as short as 12 months, or possibly two years—who knows?—it could become vacant, and at that time its value could rise just above the threshold. So there is a problem here. I think it applies particularly to London. I suspect that it will be less of a problem elsewhere. But it depends totally on the definition of high value in each area, as I said earlier. The key to making this policy work is to get the definition of high value right area by area and district by district.

**Lord McKenzie of Luton:** My Lords, I shall speak briefly to Amendments 67C and 68A. I apologise to the noble Lord, Lord, Lord Kerslake, as I did not mean to pre-empt Amendment 67C with my earlier question. I support the thrust of what the noble Lord said. The measure seems to look through a stock transfer and treat it as though it were still with the local authority. It is pernicious in the extreme.

I can see why the Government may want to do this. It goes back to the point about the possible ending of stock transfer, because one way of thoroughly undermining these provisions is for there to be a series of stock transfers, with the result that the remaining base of those authorities with housing revenue accounts diminishes. But if that is the fear of the Government, there ought to be another way of dealing with it; otherwise, if these provisions pertain in the Bill, it will be necessary to try, presumably by all sorts of contract means should a stock transfer take place, to pass the levy liability on to the RSL and away from the local authority. Whether that is practical or possible in any way, I do not know, but it seems entirely wrong to have this provision and I hope that the Minister will give a very clear explanation as to why it is here and why the Government consider it necessary.

*6.45 pm*

So far as Amendment 68A is concerned, my noble friend Lady Hollis covered the territory extensively. The most effective way for people to avoid the bedroom tax is to downsize into a smaller property—or, I think the DWP said, they should take in a lodger. I am not sure that many have done that. But if there is a risk that by encouraging a tenant to downsize to help their personal circumstances and their benefit position the local authority is opening itself up to another high-value property which could add to the levy, you can see the dilemma that councils are faced with. So this needs to be clear in the Bill.

These things are not a matter of individual local authorities. They may impact local authorities differently. These two issues—the stock transfer and protection from the bedroom tax—run throughout the country. That is why I support the amendments.

**Baroness Williams of Trafford:** My Lords, I thank the noble Lords, Lord Kennedy, Lord Beecham, Lord Best, Lord Kerslake, Lord Shipley and Lord Berkeley—in his absence—and the noble Baronesses, Lady Bakewell and Lady Grender, for their amendments. I welcome this opportunity to discuss their suggestions for possible exclusions from the housing that is to be taken into account in calculating the payments required from local authorities.

The legislation already includes the ability for the Secretary of State to exclude categories of housing from the calculation through regulations. Regulations will provide flexibility to ensure that if circumstances change over time or a need for different exclusions is identified in the future, this can be easily addressed by adding to, amending or removing exclusions in the regulations. We will carefully work through the suggestions that have been put forward, considering the points noble Lords and others have raised, while balancing the need for the policy to support the delivery of right to buy to housing association tenants.

Any exclusions of types of housing that have been suggested today would reduce the amount of money that would be available to increase overall housing supply and to extend home ownership, as the Government committed to in their manifesto. Therefore, we will be considering the data that have been submitted by local authorities, which I referred to earlier, covering the 1.6 million council properties, to identify the potential impact that these possible exclusions would have on the funding available to deliver our priorities.

While no decisions have yet been made, I assure noble Lords that we will be carefully considering the views expressed in your Lordships' House and the other place and through our engagement with local authorities and other stakeholders when making these decisions. With this in mind, I hope that noble Lords will support our ongoing engagement with local authorities in looking at possible exclusions, and will agree to withdraw or to not move their amendments.

Turning to the detail of the amendments, Amendment 66C, tabled by the noble Lords, Lord Kennedy and Lord Beecham, concerns tenant management organisations. We are collecting data and engaging widely to inform the types of housing that will be excluded from the policy, but homes managed by TMOs that are in scope of this legislation must be owned by councils. We think that councils should not keep hold of their vacant housing, the value of which could be released to fund both the building of additional homes and the extension of right to buy to housing association tenants. Excluding housing managed by TMOs would result in less funding being available for these two aims.

**Lord Beecham:** Does that not effectively spell the end of tenant management organisations, and are they not a form of dealing with housing which is rooted in communities and self-management?

**Baroness Williams of Trafford:** Would the noble Lord explain why he thinks that this would be the end of TMOs?

**Lord Beecham:** Because if the properties become high-value ones, on becoming vacant they will be sold. The whole concept of a tenant management group—a sort of co-operative, if you will—managing the property will not last.

**Baroness Williams of Trafford:** My Lords, if the property were sold, surely the TMO would exist for different types of tenures.

**Lord Beecham:** I cannot see how that is going to happen. As people move out, the people who move in will be buying the house: they will not be part of a tenant management organisation at all.

**Baroness Williams of Trafford:** My Lords, that is not the intention at all, but I am very happy to take that away and have a think about it. I would not want to spell the end of tenant management organisations, because they fulfil a vital role.

It is important to say at this stage that under the formula approach, if a local housing authority has discretion not to sell properties and does not want to sell a particular property—for example, one managed by a TMO—it should choose not to do so, provided that it makes the payment to the Secretary of State. I accept that that does not answer the noble Lord's point. Perhaps he could just let me think about this—although it may be too late, as I cannot think very well at the moment.

Amendments 67, 67B, 68 and 69 seek to exclude various types of housing when calculating the payments required from local authorities, including newly constructed or renovated homes, homes in regeneration areas, recently improved housing and specialised housing. Amendment 68A, in the name of the noble Lord, Lord Best, would exclude dwellings that become vacant as the result of a transfer to alternative social accommodation from being taken into account. I assure noble Lords that we will look carefully at all these suggestions and consider the points that have been made today, while balancing the need for funding from the sale of high-value vacant homes to support the delivery of right to buy to housing associations.

The noble Lord, Lord Best, is concerned about two social tenants being unable to exchange properties. I can reassure him that the two tenancies do not come to an end, so a vacancy is not created. I therefore confirm that, in these circumstances, mutual exchanges will not fall into the scope of the policy. The legislation allows the Secretary of State to specify other cases where housing would not become vacant for the purposes of the chapter.

**Lord Best:** I am delighted to hear that from the noble Baroness. My amendment was specifically about transfers, where we did not want two vacancies to be scored when clearly there is only one, since the person moving immediately occupies another home. I think that the noble Baroness hinted earlier that transfers would probably be treated in the same way as exchanges.

**Baroness Williams of Trafford:** I think that the noble Lord is right—he is more alert at this hour than some of us.

I also hear the reasons behind Amendment 68E, in the name of the noble Baroness, Lady Grender. I am afraid that I cannot accept it, because it would radically change the duty for local authorities to consider selling high-value housing by preventing the duty from arising until a property has been vacant for more than six months. She talked about the policy increasing homelessness, temporary accommodation costs and the housing benefit bill. We have, as I have probably said to her on a couple of occasions now, invested more than £500 million to help local authorities prevent almost 1 million people from becoming homeless. The two-for-one replacement in London will mean that more families can be housed in the capital.

I bring us back again to the intentions outlined in the Government's manifesto. The argument is similar to that which I spoke to last Tuesday. The legislation is framed to provide local authorities with some flexibility

[Baroness Williams of Trafford]
on what housing to sell and how to make payments to the Secretary of State. The duty is an important part of this, to ensure that the payments are focused on high-value housing, both in the calculation by government and the way they are met by local authorities.

I have listened to the noble Lords, Lord Kennedy and Lord Kerslake, and thank them for Amendment 67C, but I cannot accept it. It is right that the Secretary of State should be able to continue to take into account housing stock that has been subject to a transfer when making a determination.

My noble friend Lord Carrington of Fulham asked whether we were trying to stop any stock transfers. Local authorities are still able to transfer their stock to a private registered provider. The legislation does not stop the transfer of stock, but it is important that local authorities do not try to avoid having to sell off their high-value assets by making stock transfers. Where there is a need for more homes, we should be unlocking the value that local authorities hold in vacant high-value housing in order to fund more homes and help people into home ownership. The legislation means that the sale of vacant high-value housing will have to be one area that local authorities consider as part of their negotiation of any transfer, just as it will be one of the considerations of the Secretary of State when deciding whether to grant consent to the transfer.

The noble Lord, Lord Kerslake, and my noble friend Lord Carrington talked about perpetuity and how long the Secretary of State will continue to demand payments. We do not intend to place a restrictive provision on the length of time after a stock transfer when a determination could still be made. This will be considered on a case-by-case basis, recognising that every local area is different.

**Lord Kerslake:** I want to come back to this issue, although I am conscious of the hour. The Minister said that it is right that the Secretary of State should have this power to take transfers into account, but she did not say why it is right. What about the potential consequences that would flow where some very valuable transfers were prevented as a consequence of this provision? It looks like a small technical provision but it is not. It will adversely influence the future well-being of many tenants. I would be grateful for an explanation of why it should be taken into account when the clear intent is transfer with a view to improving the stock and the tenants' quality of life.

**Baroness Williams of Trafford:** It is important for the Secretary of State to make the decision because he can make a judgment on why transfer is taking place.

**Lord Kerslake:** I accept that in the Bill it is a discretion—it says "may"—but we have no sense of knowing in what circumstances the Secretary of State might allow a transfer to go ahead without a levy and in what circumstances he would not. It is not unreasonable to want to know those circumstances. Perhaps the Minister could write to me on that point.

**Baroness Williams of Trafford:** I was about to say that, if I may, I will get back to the noble Lord in due course with a bit more detail on circumstances et cetera.

The noble Baroness, Lady Grender, made a very valid point about key workers. The two-for-one replacement goes to the heart of meeting the demand that is so significant in London and will bring into the market a supply of houses that could be used for people on whom we rely every day to get around London and go about our business.

I assure noble Lords that it is not our intention to prevent stock transfers. As I have said, we will consider on a case-by-case basis the implications of this chapter for these transfers.

With that in mind, I ask the noble Lord to withdraw the amendment, but, before I finish, I am looking forward immensely to our debates next week. I just draw your Lordships' attention to the fact that yesterday, the Government published our response to the consultation on how income thresholds for Chapter 3 of Part 4, the pay-to-stay clauses, should work. The document summarises the consultation responses and sets out the Government's way forward and, in the spirit of trying to give more information, I hope that it helps noble Lords in our debates next week.

*7 pm*

**Lord Beecham:** My Lords, I am glad that the noble Baroness recognises that debates will take place next week. I hope that we will have proper time to complete our deliberations on the Bill and will not be asked to sit until the early hours of the morning, as is apparently being currently threatened. That is not in the interests of good legislation or the House. More particularly, if I may say so, it is not in the interests of the noble Baroness, who has once again single-handedly represented the Government today for about six-and-a-half hours. Those responsible for government business should ensure that she has some support at the Dispatch Box—with respect, not just alongside her—in discharging the responsibility of dealing with this very important, complicated and controversial Bill. We are indebted to her for her patience, good temper and, if not for the substance of her replies, at any rate for her genuine attempts to reply to the variety of comments made across the Chamber. I hope that she has a restful weekend, and that those who are responsible for government business wake up to their duty to see that she continues to be able to have restful periods, not just at weekends, after the extremely arduous performances she has been called on to carry out.

Having said that, I will be relatively brief—for me. I congratulate all noble Lords who have contributed to this particular debate: the noble Baroness, Lady Grender, my noble friend Lady Hollis and, in particular, the noble Lord, Lord Carrington. The noble Lord shed relevant light on an aspect of the problem which affects London, but perhaps also other places. I suspect that places such as Oxford and Cambridge may be in a similar position.

I am particularly indebted to the noble Lord, Lord Best, who has once again proved that the best is not the enemy of the good, but is certainly the enemy of

the inadequate, which is the only way that the Bill could be described. I entirely endorse what he and others said about tenant management organisations and the impact of the bedroom tax, which has driven people out of properties which will presumably now go for sale. In my authority and many others, people are waiting to move into such properties. The paradox is that the rationale for the bedroom tax was to facilitate people moving into those properties, but if they go under the right to buy, there will be no requirement for the occupiers to occupy every room. If it is a three-bedroom house, it will no longer be expected to accommodate three people. That makes nonsense of the Government's whole approach in that respect.

In its briefing, the National Federation of Arm's-Length Management Organisations reminded me that the Prime Minister, launching his party's 2015 election manifesto, made it clear that homes bought under right to buy would be replaced on a one-for-one basis in the same area with normal affordable housing. Those were the Prime Minister's words, which the Bill does not achieve.

Finally, I refer to a particular situation that arose in my own ward and demonstrates the downside of what we have been discussing. In my ward, I was honoured by the naming of a small development of 12 very well-designed bungalows for elderly people; they had walk-in showers and everything fitted for elderly people who might have a disability. They named it Beecham Close, after me. I was very touched on that occasion—some people might think I am fairly touched anyway—and seeing the pleasure that people got in that splendid accommodation was very heartwarming. The notion that those properties, if they become vacant, might then be sold—and they would be sold at a premium, with all the features that I described—not necessarily thereafter to the people for whom they were designed, strikes me as a really sad commentary on the Bill. With that, this Beecham will close. I beg leave to withdraw the amendment.

*Amendment 66C withdrawn.*

*House resumed.*

## Northern Ireland (Stormont Agreement and Implementation Plan) Bill

*First Reading*

*7.06 pm*

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

## Enterprise Bill [HL]

*Returned from the Commons*

*The Bill was returned from the Commons with amendments.*

*House adjourned at 7.07 pm.*

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