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Abbreviation	**Party/Group**
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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
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UUP	Ulster Unionist Party

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House of Lords

Monday 14 March 2016

2.30 pm

Prayers—read by the Lord Bishop of Durham.

Severn Crossings: Tolls

Question

2.36 pm

Asked by ***Lord German***

To ask Her Majesty's Government what are their intentions regarding the tolls on the Severn Crossings when the bridges return to public ownership.

The Parliamentary Under-Secretary of State, Department for Transport and Home Office (Lord Ahmad of Wimbledon) (Con): My Lords, the Government have previously said that we would look at all options and consider the views of others before making any firm decisions. Our intention is to continue tolling after the projected end of the concession in 2018 to recover costs that have been incurred and fall outside the concession agreement.

Lord German (LD): I am slightly disappointed by that Answer, especially as I was rather hoping that the Government might announce that they were going to abolish this tax on business in Wales and on entering Wales. Given that we do not pay a toll when we travel on the raised parts of the M5 and M6 around Birmingham, that the Thurrock-Dartford bridge is not a motorway but an A road and that the M6 toll road is an alternative route, can the Minister tell me any other structures, tunnels, bridges or roads on the motorway network for which a charge is made; or do the Government believe—as they seem to—that these motorway links into Wales should be the only through routes on our motorway network for which we must pay a toll?

Lord Ahmad of Wimbledon: My Lords, there are other areas of the United Kingdom where tolls are charged—through tunnels and on bridges from the Mersey to areas of Scotland, and around other areas of England as well. The important thing is that there is a concessionary scheme in place. As I have already said, we will look at this at the end of that concessionary period, towards the early part of 2018, and I assure the noble Lord that we are working very closely with the Welsh Government in this regard.

Lord Anderson of Swansea (Lab): My Lords, the blunt truth is that Wales is at or near of the bottom of the indices of deprivation in this country. Surely if the Government were serious about tackling the deprivation in Wales this tax on Wales and the Welsh people should be abolished.

Lord Ahmad of Wimbledon: This is not a tax on Wales. As the noble Lord is well aware, it goes towards the running and maintenance of the bridge. As I have already indicated, at the end of the concessionary period the Government will review their position to ensure that, as the noble Lord rightly points out, this is a gateway to Wales. My right honourable friend the Chancellor indicated at last year's Budget that, at the end of the concessionary period, for example, VAT will no longer apply and vans helping small and medium-sized enterprises will be charged the same toll as cars. That is an indication of the Government's belief in encouraging the gateway to Wales.

Baroness Randerson (LD): My Lords, Owens Logistics is a distribution business and a major employer in Llanelli. It spends £380,000 a year on tolls at £20 a time just for crossing the Severn Bridge. Can the Minister tell us what message this sends to similar businesses looking to do business in Wales?

Lord Ahmad of Wimbledon: My Lords, I have just said—I am sure that the noble Baroness heard my previous answer—that the Government are looking to assist small and medium-sized enterprises in that regard. When the concessionary period comes to end, we will review the tolling procedure and will work hand in glove with the Welsh Government to ensure that an effective tolling regime applies on the bridge. However, I remind noble Lords that, even at the end of the concessionary period, £63 million will still be owing to the UK taxpayer, and it is therefore right that we look to ensure that we recover that cost.

Lord Watts (Lab): My Lords, the Minister will be aware that there is already a toll on the Mersey tunnel and that there is a proposal to charge on the second crossing to Runcorn. Can he set out the criteria for deciding whether something is charged for? The charging system seems somewhat confused.

Lord Ahmad of Wimbledon: I will write to the noble Lord on that scheme and provide details of what lies behind that decision.

Lord Harris of Haringey (Lab): My Lords, does the fact that the M6 toll road is so successful demonstrate that people are prepared to pay good money not to go to Birmingham?

Lord Ahmad of Wimbledon: I am sure that that is just the noble Lord's view; it is certainly not my view. Just to put this matter into perspective and to get back to the nature of the Question, people who choose to use the Severn Bridge crossing save, on average, up to 50 minutes on their journey time, so there is a cost benefit. There is also a time benefit for businesses and individual travellers to Wales.

Lord German: My Lords, just to be absolutely certain about what the Minister said in response to my first Question, is it definitely the Government's intention to continue with the toll once the concession has ended and the cost of the bridge has been paid off?

Lord Ahmad of Wimbledon: As I have already said, there is a cost to the bridge. As the noble Lord knows, a concessionary scheme is in place but at the end of the concessionary period money will still be owing to the UK taxpayer for the cost of the bridge, and that needs to be recovered. As I am sure the noble Lord is aware, we estimate that the toll will continue for two years, as there is a need to recoup the—on current forecasts—£63 million which is currently outstanding.

NHS: Mental Health Services

Question

2.42 pm

Asked by ***Baroness Tyler of Enfield***

To ask Her Majesty's Government what plans they have to publish data regularly on the availability and quality of NHS-funded mental health services across the country.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, data on mental health have been a bit like a black hole. We are working with the Mental Health Data and Information Board to improve the data, as recommended by the Mental Health Taskforce. A new mental health dataset will be online by April this year. Starting with early intervention in psychosis, it will comprise data on waiting times, availability and outcomes. We will expand the dataset to other pathways once data become more robust.

Baroness Tyler of Enfield (LD): I thank the Minister for his Answer. The Mental Health Taskforce which he alluded to called for a data and transparency revolution in mental health services, specifically in their availability and the spending on mental health. Its actual words were "absolute transparency on spending". What steps are the Government taking to ensure that the data on spending come into the public domain and how quickly will that happen? Specifically, how does the department intend to respond to the call last week from the Mental Health Commissioners Network for money for children and young people's services to be ring-fenced so that it is not siphoned off elsewhere?

Lord Prior of Brampton: We agree entirely with the recommendations in the task force report regarding the need for a revolution in transparency of information about mental health, and that will include spending. Even when adjusted for need, I think that there is almost a twofold variation in the spending on mental health from one CCG to another, so we entirely accept the recommendations.

Lord Patel of Bradford (Lab): My Lords, going back to the noble Baroness's comment about children and young people, given that one in 10 six to 15 year-olds suffers from a diagnosable mental health condition but that only 25% to 35% access the support they need, can the Minister provide assurances that there are no plans to change the funding for the training of psychotherapists, who do valuable work with these children in the NHS?

Lord Prior of Brampton: My Lords, I can give the noble Lord the assurance he wants. There are no plans to change the way in which funding for the training of psychotherapists is done at the moment.

Baroness Hollins (CB): My Lords, given that people with learning disabilities and autism are at high risk of mental health problems, what specific support, and clarification of that support, will the Government commit to giving to address their needs?

Lord Prior of Brampton: My Lords, our strategy for this area was set out in *Transforming Care*, a paper produced by NHS England some six weeks ago. It shows that we are absolutely committed to treating more and more of these people outside institutional settings and back in the community.

Lord Bradley (Lab): My Lords, I declare my health interests. As we have heard, the collection of financial data on the investment in mental health services is crucial. I am grateful to the Minister for writing to me recently to confirm the Government's support for the Mental Health Task Force's priority recommendations at an additional cost of £1 billion a year by 2021, with investment beginning in 2016-17. How much additional investment will be expected each year between 2016 and 2021? What financial reports will be available for each quarter over these four years to ensure that clinical commissioning groups make the additional investment in local mental health services?

Lord Prior of Brampton: My Lords, the noble Lord is right: we have committed to support the request of the task force to spend an extra £1 billion by 2021. Perhaps I may write to him about the phasing of that money over the next five years; I have seen it but I cannot recall the exact figures at the moment.

Baroness Browning (Con): My Lords, can my noble friend outline the Government's position on future in-patient services for children with mental health issues? Given that these are the most severe cases and that a lack of facilities in geographic proximity to where the children live has an effect on the immediate family, particularly parents, how will the Government resolve the problem of children as in-patients miles from home?

Lord Prior of Brampton: My noble friend raises a problem which is most acute for children and a serious issue for anyone who requires in-patient facilities. We are committed to reducing the number of children and older people who have to go a long way from home to receive in-patient treatment. We have committed to support the task force's recommendation to spend a great deal more money on providing crisis resolution closer to home. This should obviate the need for people to go into in-patient facilities.

Baroness Brinton (LD): My Lords, last week there was a well-publicised case of a young autistic man being held in secure mental health accommodation because there were no spaces in the appropriate autistic support facility. It transpires that the principal cause was that there was nowhere for the young people in the other unit to move to. Can the Minister explain what is happening with mental health services to avoid bed-blocking, in the same way as is happening with other social care?

Lord Prior of Brampton: On the particular case raised by the noble Baroness, the person involved will now come out of that accommodation. I think he has been an in-patient for six months but he is now due to come out of that place fairly soon. This issue is not confined to mental health. There are too many people who, if the right resources were available outside hospital, would be much better off being treated outside an institution than they are at the moment. We are doing our best to address this general concern, raised by Paul Farmer and his task force.

Lord Ramsbotham (CB): My Lords, can the Minister tell the House whether the data to be published will include the provision of services in prisons and other places of detention, including immigration removal centres?

Lord Prior of Brampton: My Lords, it certainly is our intention to include information about people suffering from mental health problems in prison. I will have to check into the immigration removal centres and write to the noble Lord.

Baroness Afshar (CB): My Lords, is there a guarantee that there will be not only no change in funding but a continuation in the training of personnel dealing with children's psychological problems in particular, and in the number of such personnel? Many minority communities have a tendency to ignore such problems or put them aside, and it is therefore essential to have someone from within the community who is familiar with the process and who can pass on their training. So, will the number of personnel be maintained, as well as the quality of expertise?

Lord Prior of Brampton: I agree with my noble friend that it is essential that we have people who come from the communities of those who are suffering and who are receiving mental health care facilities. I cannot give her a specific answer, but I agree entirely with what she is saying.

Baroness Farrington of Ribbleton (Lab): In looking at provision in the community, where people, quite rightly, can be treated for mental health conditions, will the Minister please have regard to the fact that, while the person who is ill may be behaving in an unusual, difficult or even frightening way, those concerned with the patient's care sometimes disregard the problem of children in the family who are trying to cope 24/7 with this difficulty? Will he ensure that, in looking at services at home, due regard is paid to young people who become carers—in a way that, sometimes, other adults in the family have avoided?

Lord Prior of Brampton: The noble Baroness raises a broader point, which is that mental illness and mental health problems can cause chaos in families. Often, those who suffer most are the children of people who are going through a very difficult time, and due regard must of course be given to those children.

Children: Sexual Abuse

Question

2.51 pm

Asked by ***Lord Lexden***

To ask Her Majesty's Government what steps they are taking to ensure that the police, social services and other agencies work together effectively to protect vulnerable children from sexual abuse.

The Minister of State, Home Office (Lord Bates) (Con): My Lords, nothing is more important than keeping children safe from harm, including sexual abuse. How different agencies work together is key to improving outcomes for our most vulnerable children. We have commissioned Alan Wood to review the role and function of local safeguarding children boards in order to improve multiagency working. The Government have made a commitment, through the tackling sexual exploitation action plan, to improve multiagency responses to child sexual abuse.

Lord Lexden (Con): My Lords, is it not essential that all agencies involved in protecting children investigate allegations of sexual abuse fully, fairly and openly? Will my noble friend agree that the more stringent procedures now required of bodies such as our school inspectorates and the Church of England authorities represent real progress? However, are we yet in a position to place total confidence in the church authorities? They failed to give an adequate account of the process which led them to accept last October the veracity of a single uncorroborated complaint of child sexual abuse made against one of our greatest, most venerated bishops, George Bell, Bishop of Chichester, who died in 1958. He was a man held in the highest regard in this House during his 20 years of service to it and the nation.

Lord Bates: On the first point, we have encouraged—in fact, published and put on a statutory footing—legal requirements to work together to safeguard children in order to restore public confidence in these very serious areas. That is also why Justice Goddard is undertaking her inquiry. The last issue which the noble Lord raised is pertinent in the sense that Justice Goddard identified that claims of abuse within the Anglican Church were a line for her to investigate in her inquiry. The inquiry will cover that topic when it meets this week, on Wednesday, and of course that inquiry will be held in public.

Baroness Howarth of Breckland (CB): My Lords, turning to the broader issue of child sexual abuse and child protection, is the Minister aware that a large number of different models of co-operation between the police, social services and other agencies are being trialled across the country? Indeed, my own county of Norfolk is attempting to put services closer together. I am grateful for the investigation into the local boards, but what are the Government doing to ensure that the practice is pulled together and that the best practice is promulgated right across the country? Does he not think that it is as important to do that for children now as it is to investigate historical abuse, with all the resources that we are putting into that?

Lord Bates: One thing we are trialling to get just the type of feedback that the noble Baroness referred to is joint inspections of safeguarding boards by HMIC, the probation inspectorate, Ofsted and the Care Quality Commission. Alan Wood's review will report back into the process. It is taking time, but it is such a vital area that we need to get it right. Learning the lessons of the past is part of what Justice Goddard's inquiry is seeking to do, to make sure that we can establish a body of learning to prevent such abuse in the future.

Lord Scriven (LD): My Lords, will the Minister seriously consider direct intervention by the Government in South Yorkshire Police's performance in dealing with child sexual exploitation? This has been highlighted by the recent report from Her Majesty's Inspectorate of Constabulary, which said that South Yorkshire Police still needs to make major improvements. Following freedom of information requests to 10 forces across the country, a BBC report on Friday showed that, nationally, one in five cases reported is charged, but that in South Yorkshire the figure is one in 16.

Lord Bates: They are very serious claims. The HMIC report at least pointed to some improvement. We have Professor John Drew looking independently into this and will carefully follow his responses. It is very important to have the confidence of the public in that particular area, which has been at the centre of so many cases, so we will be watching very carefully indeed.

Lord Rosser (Lab): The Question makes reference to the police. Is it for a chief constable of a force to decide as an operational matter on the level and extent of a police force's involvement in working together with social services and other agencies to protect vulnerable children from sexual abuse, or is that level of involvement ultimately a decision for the police and crime commissioner to make as a strategic policy matter?

Lord Bates: That is a very good question. I shall write to the noble Lord, because these are very important matters that we have to get right. We have put guidance on individuals' responsibilities on a statutory footing, and that guidance has been published. Operations are matters for chief constables but setting the overall strategies and priorities for the budget are matters for the police and crime commissioner in consultation. I will set out in a letter to the noble Lord where the guidance fits with his question.

The Lord Bishop of Durham: My Lords, I declare my interests in relation to safeguarding for the Church of England, in which connection I shall be at the Goddard inquiry on Wednesday morning. Will the Minister agree that prevention must stay at the top of the agenda for all agencies, both statutory and voluntary, in responding to the crime of child sexual abuse and, in so doing, recognise that potentially every single child is vulnerable and that grooming must be one area of concern?

Lord Bates: That is absolutely right, and it is why we have identified in the National Policing Plan that child sexual abuse is a national threat and should be regarded as a priority. That is so for the Government and, in my view, it should be the same for local government and all organisations and groups within our society until we tackle this issue at cause.

Lord Young of Norwood Green (Lab): My Lords, does the Minister agree that, in the age of the internet, potentially all children are vulnerable to grooming and sexual abuse? Does this not stress the importance of sex education in schools?

Lord Bates: It stresses the importance of sex education and we totally agree that PSHE has a vital role to play. Ofsted inspects PSHE. As to whether it should be a compulsory part of the curriculum, the Secretary of State has said that that matter is out for review. What is not out for review is the fact that schools will be held to account on the quality of that teaching. One of the most disturbing things is that the Ofsted report found that 40% of PSHE teaching was less than good. That is an area where some immediate improvement could improve the safety of our children.

Taxpayer Confidentiality

Question

3 pm

Asked by ***Lord Dubs***

To ask Her Majesty's Government what is the public benefit of taxpayer confidentiality for businesses and private individuals.

Lord Ashton of Hyde (Con): My Lords, taxpayer confidentiality is key to the effective operation of the tax system. Taxpayers have confidence that the sensitive information that they give to HMRC will be protected and this trust underpins the high levels of voluntary tax compliance that the UK enjoys. The public benefit of taxpayer confidentiality lies in the overall effectiveness of the tax administration that it significantly supports.

Lord Dubs (Lab): My Lords, with all due respect, I cannot for the life of me understand the Minister's Answer. Surely we have to seek the right balance

between confidentiality and integrity in our tax system. Transparency in our tax returns would add to the integrity of the tax system and ensure that HMRC had an easier job to do. I suspect that most Members of this House pay more in income tax than Facebook does.

Lord Ashton of Hyde: My Lords, I agree with the noble Lord that there is a debate to be had about greater transparency, whether on the part of HMRC or on the part of large businesses. The Government have signalled this by recently proposing to take forward a system of country-by-country reporting for large businesses on a multilateral basis. But we think that there are good reasons for having confidentiality within which transparency can work. It promotes trust and voluntary compliance and it encourages businesses to be more open and to share proprietary information with the tax authorities.

Lord Campbell-Savours (Lab): My Lords, how can the Minister possibly say that when Clause 88 of the Housing and Planning Bill will make it possible for HMRC to reveal information to people who are not in the government department? There is an inconsistency in the Government's position. I am sure that the Minister sitting next to him will explain that what I am saying is correct; I have the Bill here.

Lord Ashton of Hyde: I do not need the Minister who is sitting next to me to believe that what the noble Lord has said is correct. The fact is that HMRC has a principle of confidentiality. It is obliged under a law passed by the Labour Government in 2005 to respect confidentiality. The only time that it is able to divulge information is when it has statutory authority to do so as passed by Parliament.

Lord Davies of Oldham (Lab): My Lords, is it not incumbent on the Government to recognise that the public are losing patience with the fact that large companies, in particular multinationals, are getting away with paying minuscule amounts of tax in relation to their turnover in the United Kingdom? This issue needs to be tackled. Surely the Government should be addressing why HMRC was unable to get more than £130 million out of Google over a decade when the company had a turnover of more than £4 billion in any one year. As we know, Google is not the only case. Starbucks and of course Amazon were brought to book by public response, when the public set about boycotting those businesses as they were being so unfair. The Government must recognise that just hiding behind the doctrine of confidentiality will not do and that the tax authorities have to be much more efficient than they have been in the past.

Lord Ashton of Hyde: I do not think that it is true to say that the tax authorities are hiding behind the doctrine. The doctrine of confidentiality that the noble Lord mentioned was passed by a Labour Government under the 2005 Act. As for Google, which is not the subject of this Question, the noble Lord should know, if he does not know already, that the tax that Google paid was based on taxable profits, not on turnover.

Baroness Kramer (LD): My Lords, I find transparency very attractive, but does the Minister agree that a company's tax should not be determined by the attitude of its PR department or even by its charitable ethos and that HMRC needs to put in place tough standards? Will the Government review the structure of business taxes so that global businesses cannot use tax manipulation as a way to outcompete domestic businesses and small businesses as they do today?

Lord Ashton of Hyde: My Lords, the Budget is on Wednesday. I am not going to talk about tax policy.

The Countess of Mar (CB): My Lords, the noble Lord said in response to a previous question that confidentiality engenders trust. Is it not the case that the current furore has been caused by the fact that the public do not trust those companies?

Lord Ashton of Hyde: My Lords, the question is whether the public trust HMRC. It has a system of challenge. It is challenged by Parliament and the Public Accounts Committee, and the National Audit Office is entitled to look at all the records of HMRC, which it has done in the past.

Baroness O'Cathain (Con): My Lords, poor old HMRC comes in for a bashing the whole time. Is it not a fact that it is trying very hard to get this tax and that it is improving year by year? I received my form for the next tax due at the weekend and, for the first time in my life, I was able to understand it—and it is not that I have been to Specsavers.

Lord Ashton of Hyde: My Lords, I am very pleased to answer my noble friend's point. It is a good opportunity to pay tribute to the people who work in HMRC, who do a fine job. In fact, last year HMRC raised more tax than it has ever done in its history.

Lord Dubs: My Lords, would not HMRC have an easier job to do if there was more transparency? Surely it is the air of confidentiality and secrecy that enables people to get away with things that they would not if everything were in the public domain.

Lord Ashton of Hyde: My Lords, as I think I said earlier, we agree that there is a debate to be had about transparency. That is why the Government have already proposed to take forward a system of country-by-country reporting on tax payments from multinationals. The Chancellor asked that that should be made public. We are publishing details of avoidance schemes and of deliberate tax defaulters. Following consultation last year, large businesses will be required this year to publish details of their tax strategy.

Housing and Planning Bill

Committee (6th Day)

3.07 pm

Relevant document: 20th Report from the Delegated Powers Committee

Clause 68: Housing to be taken into account

Amendment 66CA not moved.

Amendment 66D

Moved by ***Lord Cameron of Dillington***

66D: Clause 68, page 30, line 17, at end insert—

"( ) it is not in a rural area.

( ) A rural area is defined as—

( ) any settlement with a population of fewer than 3,000 people at the most recent national census, or

( ) any settlement with a population of between 3,000 and 10,000 people at the most recent national census, and designated as a rural area by the Secretary of State following representations from the relevant local authority."

Lord Cameron of Dillington (CB): My Lords, I rise to speak to all of the amendments in the group, for two of which I am the lead name and two of which I am an also-ran.

I must apologise, first, because the ground we are covering in this group is very similar to the ground we covered on Thursday, except that in this context we are dealing with the rural perspective. I controlled myself and bit my tongue several times on Thursday waiting for this moment. In fact, there was a moment at about quarter past 2 when I was nearly chewing my tongue for lack of lunch. Anyway, I apologise for covering much of the same ground.

I realise that increased home ownership, including the right to buy, is a manifesto commitment, but the most important need for the average voter in the countryside, as has been said so often in our discussions over the last week or so, is to ensure that there remains adequate affordable housing for their children—or even themselves if they are young adults who could not possibly afford to buy a house or even a local starter home. This is why in previous debates I and others sought, if possible, to ensure a good mix of different sorts of affordable housing on rural Section 106 sites; to protect exception sites from the transience of starter homes; and even to use the right-to-buy clauses to provide more homes in the countryside, because we desperately need more homes—above all, more affordable homes—in the countryside.

So, it is absolutely no good at all if the discount being provided by the Government for the right to buy comes from a reduction of affordable housing in our countryside, owing to both rural and, more particularly, mixed urban and rural local authorities being forced to sell their most valuable houses, which, inevitably, will be those in desirable rural England. This, as was said many times on Thursday, is robbing Peter to pay Paul. It will seriously not help the provision of more affordable houses in the countryside, and do not forget that we are already hard done by when it comes to affordable rural homes, compared with our urban counterparts. Some 8% of our homes are affordable, compared with 19% in towns. The Treasury seems intent on making that situation worse. I say the Treasury because I detect its dead hand and lack of social awareness in all this: as long as more people own their own homes, which might be good for the nation's overall economy, and the public debt is simultaneously unharmed or even reduced, that is all that matters; but the fact that it is adding greatly to rural housing problems and possibly to the number of rural homeless seems to be of no consequence to it.

I know that the noble Lord, Lord Carrington, said last Thursday that he believed that London was a special case because it has "intractable housing problems", but we have intractable problems in rural England, too. For years and years we have needed thousands of homes per annum and for years and years we have had them only in hundreds. There is now a huge backlog. It therefore really would be best if these local authorities, as set out in Amendment 66D, did not have to include their rural housing stock in the sums involved in Clause 67(2), and that they were thus discouraged from selling these houses.

If it is not possible totally to exclude such sales as of right in the Bill, the alternative is that they certainly must be excluded where it is not possible to replace them in the same parish or adjoining parishes, as proposed in Amendment 67A. If the manifesto commitment is actually about building more homes, as interpreted by various Peers on the government Benches, then that amendment should be totally acceptable to the Government. It goes without saying—others have already said this more eloquently and in more detail—that these sales must include a one-for-one replacement requirement in rural areas if we are not to go backwards in the provision of affordable homes in the countryside, which, as I have already said, we really must not do. We cannot afford to.

The situation is already desperate in rural England, hence my Amendment 68D. I do not wish to give the Minister a hard time, but if the Government want to fund their right-to-buy manifesto promises they really must put some of their money where their mouth is, or look very carefully at the equity loan scheme of the noble Lord, Lord Kerslake, or at some possible variation of it, as proposed by the noble Lord, Lord Horam. If two-for-one is right for London, the countryside deserves at least one-for-one. That means leaving the local authorities enough money to pay for the new houses by whatever means possible, including, possibly, raising their cap, although I recognise that that affects the PSBR; or better still—this seems the simplest of all solutions and therefore the best—just allowing them to retain more of the proceeds of sale. In other words, the right-to-buy promise in the manifesto should be paid for not only by the local authorities, but to some extent by central government.

I am tempted to wish that we had a Conservative rural mayor to be elected; if so, I am sure we would solve the problem in a jiffy. Actually, on second thoughts, one should be careful what one asks for. I speak, of

course, as an ex rural tsar, or rural advocate—one of those funny titles—without wishing in any way to see the return of such a post.

On the subject of electoral priorities, the Government should not forget that in the currently clear blue waters of the south-west—where rural housing problems are probably at their most critical throughout the whole of England because of the seeming desirability of living there, and thus the high price of houses, combined with the lower average wages paid there—housing looms particularly large as an issue for voters. I would have thought it to the Government's advantage to see serious action on housing in the south-west before 2020.

3.15 pm

The Government may have noticed that Amendment 69B in this group, in the name of my noble friend Lord Best, echoes the wording of Clause 9, entitled,

"Duty to grant planning permission etc",

referring in that case to self-build housebuilding. The aim of this amendment is to overcome one of the main challenges associated with both the right to buy, which we discussed previously, and the sale of these very important local authority council houses in rural areas: finding the necessary sites to replace the sold affordable homes, providing that the local authorities are allowed the money to pay for them. The aim of this amendment is to encourage a more proactive and positive approach by local authorities to finding and supporting development on rural exception sites through windfalls, and, in some cases, allocation of land. This could be through their own local authority endeavours, through their work involving neighbourhood plans and through co-operating with all parishes, farmers and landowners. More positive action is required by all parties to make this happen, and this includes more than just filling in SHLAA forms. These amendments speak for themselves, and with those short but relevant explanations, I commend them to the Government. I beg to move.

The Lord Speaker (Baroness D'Souza): If this amendment is agreed to, I cannot call Amendment 66E by reason of pre-emption.

Lord Best (CB): My Lords, we are coming to the end of the debates on the forced sale of council homes. The Minister has noted that, through regulations, the Government will be excluding certain categories of council housing and, since no decisions have yet been taken, she has welcomed proposals from your Lordships. The amendments in this group address what I maintain is an essential exclusion, namely council properties that become vacant in rural areas, as my noble friend Lord Cameron of Dillington has explained. If vacant council properties in rural areas are removed from the calculation of the new levy that pays for discounts for housing association tenants, there will be no pressure or obligation on councils to sell these valuable homes.

Almost by definition, council housing in villages is likely to be more sought-after than that on council estates in urban areas. These are the properties most likely to be in the higher-value bracket and therefore most vulnerable to the requirement to sell to pay the levy. The circuitous route whereby funds circle round from council house sales to housing association discounts to tenants, to the housing association building programmes, sounds like a new version of the house that Jack built: here is the levy paid by the council, that sells vacant homes, that funds new discounts, that goes to the housing association that pays for the house that Jack built. It is certainly a convoluted process with particular ramifications for rural communities.

The bungalows issue revealed by the recent report of the Joseph Rowntree Foundation is highly pertinent. If the calculation of "high value" for the levy is to be related to the size of the property, the most high-value one-bedroom and two-bedroom homes are likely to be bungalows. Of course, council bungalows, which are important for the downsizers, who can then free up family houses, are prevalent in villages because land was available there in the past.

A lot of attention has been given to the potential loss of rural social housing if housing associations choose to opt in to the right to buy for their rural properties. However, the issue here—the loss of council homes in villages when they become vacant—could be far more damaging to the prospects of local families obtaining an affordable home where they have been brought up or at least are working. First, I suspect that few housing associations will feel it right to sell their rural homes, because they are so difficult to replace. Secondly, the impact of the new right to buy will not be felt until the existing occupiers, the buyers, move out—maybe in several years' time—but the loss of vacant council housing will be felt immediately as local families needing a home in the village cannot move into properties that become vacant.

The existing council right to buy has led to a much higher proportion of sales—over twice the level—in rural settings compared with urban areas. If, as I believe, the Government recognise the importance of rural communities, I hope that these properties will be taken out of the levy requirements. At the very least—as set out in the amendments in the names of myself, my noble friends Lord Cameron and Lord Kerslake, the noble Lords, Lord Beecham and Lord Stoneham, and the noble Baroness, Lady Bakewell—if these precious homes are sold, steps must be taken to replace them, perhaps through support to a rural housing association, and land must be allocated for this purpose, often no doubt on rural exception sites. Best of all would be the simple removal from the levy system of the virtually irreplaceable affordable homes serving our rural communities.

Lord Campbell-Savours (Lab): My Lords, last week I mentioned the position in my former constituency, where you have on the west coast of Cumbria council housing that is fairly inexpensive when it is sold and, in the Lake District part of my former constituency, which includes the town of Keswick and a number of villages in that vicinity, council property that is very expensive when it is sold off. In Workington and Maryport, you could buy a former council house today on a subsequent sale—not straight after right to buy—for as little as £50,000 or £60,000. A similar

[LORD CAMPBELL-SAVOURS]
house in the Lake District part of the constituency would now cost between £250,000 and £300,000. The latter group of houses will now fall under the provisions of the Bill in the sense that the local authority will be required to sell them.

The problem is very simple: those houses are irreplaceable. They cannot be replaced, as there is no land. I understand from a letter to my noble friend Lady Hollis today that local authorities will be able to rely on housing associations to replace property lost under right to buy through this one-for-one arrangement. However, that does not deal with the problem if there is no land. You cannot expect the Lake District planning board—or any national park planning board anywhere in the United Kingdom—to compromise all its principles and provide for planning permission on land where otherwise it would not, simply to meet the objectives of the Government and this one-for-one replacement.

I think of villages and small hamlets where there might be only six or a dozen council houses at the moment. If we are required to sell those because of this nonsensical levy, all that will happen is that those properties will be lost to the young people who want to stay in the Lake District National Park—or in any national park in the United Kingdom where young people have been driven out because of high prices already. The properties end up on the second-home market in exactly the same way as the problem has developed over recent years in London.

The noble Lord, Lord Best, referred in speaking to his amendment to there being perhaps some flexibility in the Government's position. I appeal to Ministers to look favourably on the position in the national parks, exempting them from the levy and from the requirement to sell in the event that they are approached to buy. Let us see some sanity in housing policy.

Baroness McIntosh of Pickering (Con): When my noble friend sums up in this debate, will she look carefully at national parks? It is a pleasure to follow the noble Lord, Lord Campbell-Savours, who was my first opponent—I never felt confident enough to buy a property, in the national park or otherwise, in the constituency of Workington because he did such a good job there. Housing is a real problem, particularly for younger people who want to remain in rural areas, in or outside a national park. There are situations where planning permission has been granted for a major housing development only on the basis that a proportion of the houses would be given up for affordable social housing, but the developers then renege on that commitment. Will the Minister undertake to look carefully at such situations, to ensure that we are not going to lose, through the levy, that cohort of houses in national parks, or those affordable homes which have been agreed to but which the developers then find that they cannot afford to build?

Lord Taylor of Goss Moor (LD): My Lords, last week I spoke about the importance of protecting housing association properties in small, rural communities where they are effectively irreplaceable. The exact same point leads me to speak in support of the amendments tabled by the noble Lords, Lord Cameron and Lord Best, with whom I shared work on the rural housing review last year. As well as being president of the National Association of Local Councils, I am extremely aware of the concerns of parish councils about this area of policy. I hope that the Minister will listen seriously to the concerns that are being raised.

The issue here is a combination of two questions that we should ask ourselves. First, are these homes necessary? Secondly, are they replaceable if sold? On the first issue, of necessity, it is clear that in smaller rural communities, particularly in areas of outstanding natural beauty, the national parks and coastline villages, there should not, as a matter of policy, be endless growth of new housing, in order to preserve that which is best in the natural beauty of the environment. There is no question but that the people who work in those communities, in the school, in the pub and on the land—maintaining through farming the wider natural beauty that we are seeking to preserve—must be able to access a home that they can afford. If there are no affordable rented homes, provided either by housing associations or councils, it is simply impossible for people on low incomes to live in these communities. That impossibility gets worse every year. Communities are not sustainable if a wide section of the population, particularly those who work in the countryside, cannot afford to live in them. The necessity is clear.

The second question is replaceability: if they are sold, are they replaceable? It is self-evident that, in many of these communities, they are not. We decide to limit development because of the nature and history of the community, the beauty of the surrounding landscape and its protected designation. We know that they are necessary; they may not be replaceable.

These amendments directly address those two issues, by saying that either we should not make a sale where the homes are necessary and irreplaceable or, at the very least, we should not make the sale unless they are clearly to be replaced within the community where they are needed. The Minister may feel that the particularity of the amendments is not appropriate, but I ask her to go away and think hard about how the Government can address the specific concerns so eloquently raised by my colleagues.

3.30 pm

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I support Amendment 66D. I refer your Lordships to my entry in the register of interests as a vice-president of the LGA and a district councillor. I also support the amendments tabled by the noble Lords, Lord Cameron, Lord Best and Lord Kennedy.

As I expounded last Tuesday—probably for longer than I should have done and I will not repeat myself today because the arguments are on the record—I am passionate about the nature of our English countryside and that it should be preserved, with a true mix of people from all income brackets and all walks of life being able to live there. If social, affordable or other low-cost housing is sold off under the right to buy, that will have a very detrimental effect on rural and smaller communities, as the noble Lord, Lord Cameron, eloquently laid out.

I am grateful to the Minister for listing last Tuesday those types of properties, organisations and locations where right-to-buy exemptions would exist, including the national parks. It is useful to have those in *Hansard*, but I have to press her on the categories listed in the amendment: rural populations under 3,000 and settlements of between 3,000 and 10,000 people. Many of these, as has been said, will be small but vibrant market towns, essential for serving the small villages and communities around them. This vital lifeline must be protected for all classes of residents, not just the well-off. I support all the amendments in this group.

Lord Beecham (Lab): My Lords, I, too, support the amendments in this group. The noble Lord, Lord Best, made a very powerful case in relation to the problems that would arise from the right to buy of council housing. Rural areas have commanded and will continue to command a great deal of concern in your Lordships' House as the Bill progresses.

I confess that I am old enough to recall listening to "The Archers" when Grace Archer was consumed by a fire in, I think, about 1954. I have not been a particularly regular listener since, but I understand that, by chance or otherwise, the question of rural housing has featured rather largely in recent editions. I believe I am right in saying that the Grundy family have encountered enormous difficulties in finding suitable local accommodation and may be driven to palming off their ancient father into some sort of care. Whether this was motivated by concerns over the Housing and Planning Bill is perhaps questionable but nevertheless it illustrates a real concern in those areas.

Of course, there has been right to buy council housing for some considerable time. I wonder whether the Minister can indicate to us the extent to which the right to buy has been exercised and what proportion of houses that have so far gone under the right to buy have ended up as second homes or private lettings, and what the impact generally has been on the provision of council housing in rural areas.

Needless to say, I searched in vain for any reference to this issue in what passes for the impact assessment on the Bill, which makes no reference at all in relation to the relevant clauses that we are debating today to the impact of government policy. Again, the Minister may or may not have the information. Those who drew up the impact assessment clearly were not interested in having it. If the information is not available today, and it may not be, will she take steps to ensure that by the time we get to Report we will have an assessment of what will happen to the existing stock of council housing that will be subject to the right to buy—and, for that matter, to housing association properties that will also be subject to the right to buy—given the unlikelihood of like-for-like replacement being achieved?

I find it very frustrating—and I am afraid it is becoming a constant refrain of Members around the House—not to be able to form a judgment about what the Government's policies are actually going to lead to. They are leading us, and perhaps themselves, into a blind valley, as it were, without any apparent awareness of the impact of their policies upon communities, where unfortunately there is very little political gain to be made by my party as they are regarded as the natural territory of the Conservative Party. Perhaps they take it for granted. However, they cannot take for granted the needs of young and older people with very little choice of accommodation, a choice likely to be increasingly narrowed if this legislation goes through without the kind of safeguards that the amendments in the group would provide, limited though they are but nevertheless very desirable. I look forward to hearing some kind of explanation from the Minister as to how the aspirations of people in those communities are going to be met if the legislation passes in the form it is presented to us at the moment.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Williams of Trafford) (Con): My Lords, before responding to the specific amendments on the sale of high-value vacant housing, I will say a few words about more detail on the policy of the Bill as a whole. Last Thursday I undertook to the noble Lords, Lord Beecham and Lord Foster—and I am sure there were several other noble Lords—that I will ensure that your Lordships will have a timetable of secondary legislation in a week or so. Later this week, I shall write to all noble Lords setting out the timetable for laying, and in some cases debating, the secondary legislation.

As I said on Thursday, and as noble Lords have pointed out during our debates, there is a healthy set of regulations to follow, but I hope to provide an overview of what your Lordships can expect and when. The finer grains of details may be subject to change—my senses tell me to expect some debate at Report, for instance—but I hope the general outline will be helpful. In addition, I have asked my officials to provide policy notes in lieu of secondary regulations wherever possible with the ambition that these will be sent to noble Lords before Report. These will build on the policy fact sheets and the information sheets which we have already circulated to noble Lords. The noble Lord, Lord Foster, also asked me to confirm again today our response to the DPRRC report and I can reconfirm that that will be done by Report.

Before responding to the specific amendments, I will respond to a suggestion from my noble friend Lady Hollis—I have just called her my noble friend but I am sure she will not be offended—during the previous Committee discussion about setting up a working group with the LGA, the housing practitioners and others, to ensure that any fraud experienced through right to buy in the local authority sector is not repeated when we extend the right to buy to housing association tenants. I did watch the "Dispatches" programme over the weekend. I am delighted to confirm that I am happy to commit to setting up a working group with the local government sector and others to learn from their experiences in operating right to buy. For example, such a group could gather evidence about what has worked and what has not worked so well. It could also potentially build on the experience of a number of local authorities in tackling fraud more generally.

In extending the right to buy to housing associations, we are keen to ensure that we identify where any potential abuses could arise so that the right to buy goes from strength to strength and helps more people

[Baroness Williams of Trafford]
to achieve their dream of home ownership. We would also be interested in exploring whether such a group could usefully input on other related issues, including, for example, the provision of additional homes by local authorities that enter into an agreement with the Secretary of State following the sale of high-value vacant properties. This proposed working group will further extend our extensive engagement with local authorities and other stakeholders on high-value vacant housing. It will also help to inform our consultation with local authorities, representatives of local government and relevant professional bodies on the determination that will set out the payment required from each local authority.

Baroness Hollis of Heigham (Lab): My Lords, before the noble Baroness moves on, I say thank you for the firm proposal. Whatever our views about the Bill—and they are very divided—the one thing that we all want is, as far as possible, to build abuse out of the system. I am glad that the noble Baroness had the chance to see the "Dispatches" programme, which confirmed some of our worst fears. Many of us have had similar experiences to boot. I am very pleased that the Minister has responded to that, and I hope that with the help of the noble Lord, Lord Porter, she will be getting together a really strong group to do exactly as she suggests.

Lord Campbell-Savours: On that matter, what happens if the working group comes up with conclusions which we are unable to resolve during the course of Committee or Report because the group reports after the Bill becomes law? What happens in those circumstances? That is my first question.

My second question is this. The Minister may recall that we were given an undertaking—two weeks ago now, I think—that we would receive information on starter home demand figures in the various parts of the United Kingdom. Despite repeated references to them in the Chamber by me and others, we have simply not received them yet.

Baroness Williams of Trafford: Before the noble Lord, Lord Kennedy, stands up, that is on the list for the end of the week, definitely.

Lord Kennedy of Southwark (Lab): I just wanted to thank the noble Baroness for both her announcements; they are very helpful. On the first one, she talked about noble Lords receiving various policy position papers. Would it be possible, when she does that, to sketch out when she thinks—we will not hold her to this, but just some idea of when—we will get the various regulations? That would be very helpful.

Baroness Williams of Trafford: We will endeavour to the best of our abilities, if we know when those dates will be, to bring them to noble Lords. In reply to the noble Lord, Lord Campbell-Savours, I do not want to pre-empt any discussions that the group will have; I go into it with an open and clear mind. I am sure that we will glean information useful not just for the Bill but for housing policy generally.

Lord Shipley (LD): My Lords, I am very pleased to have the movement that the Minister has announced. Perhaps I can make one further suggestion, because I am still not entirely clear what the timing of all this is, because, as I recall, last Thursday, the Minister said that we would not have further information about regulation on aspects of the Bill until after Royal Assent. To pursue the point made by the noble Lord, Lord Campbell-Savours, there is an issue about the Government's plan to use the negative procedure, as opposed to the affirmative procedure, in secondary legislation. I draw the Minister's attention to the two reports by the Delegated Powers and Regulatory Reform Committee, which had a lot to say on that. If the negative procedure is used and if the working group comes up with proposals which post-date Royal Assent, that makes it very difficult for the House to make any changes to the Bill. Therefore, accompanying the proposal to have a working group I hope that the Minister can now at least think with colleagues about how the strong criticisms of the committee about overuse of the negative procedure can be addressed.

Baroness Williams of Trafford: I will bear the noble Lord's point in mind. It has just come to me that I may have sent that list to the noble Lord, Lord Campbell-Savours, last week, so it may be in his post pile today.

Lord Campbell-Savours: I looked for it.

Baroness Williams of Trafford: If the noble Lord cannot find it, I am happy to resend it.

I think noble Lords for their contributions on the amendments. I understand the pressures faced by rural communities, about which we have spoken a lot in your Lordships' House, which are many and complex. I am pleased that we are taking time to consider them again today. Amendments 66D and 67A propose that housing in a rural area be excluded, or excluded if it would not be reasonable to expect at least one new affordable home to be built in the same or an adjoining parish for each property sold.

Turning to Amendment 68D, we have discussed the need for new homes across the country and the particular pressures in some housing markets in both rural areas and some of the high-value urban centres, including London. However, we have also heard many arguments on the protection of rural areas and the need for Government to continue to ensure that we do not adversely impact rural communities with large amounts of new housing. We come to the conundrum of not being able to have it both ways: we can build more housing across the country, including in rural areas, or we can restrict where housing is built. That is an issue that we need to consider.

3.45 pm

The noble Lord, Lord Best, brought up the selling off of all bungalows in rural areas, which are obviously vital for some people to live in. The legislation also allows for types of housing to be excluded from the policy. We are considering the suggestions put forward by noble Lords and in the other place, as well as local authorities, as to what these exclusions could be. We are

engaging with local authorities and other stakeholders about the details of the policy. These include the threshold for high value—we spoke about this the other day—which would be set out in regulations, and the consideration of possible exclusions, which would also be set out in regulations. We will consider the views expressed by noble Lords on all of these elements as we develop the details of the policy.

Amendment 68D would require a new home in the same parish or the neighbouring rural area where a sale has taken place. This would place significant restrictions on local authorities with rural areas which wish to have an agreement. Their assessment of housing needs may find that it is more appropriate for new housing to be built in a different part of the authority; for example, where the necessary infrastructure and services are already established. It would reduce the flexibilities that we think are so important in this chapter, as local authorities would have to consider whether they could build a new affordable home in a rural community when they are considering which vacant properties to sell, regardless of whether or not this is where a new home is most needed.

We have been clear that we want as much new housing as possible, and we are aware that this requires negotiation and collaboration, as well as funding. We do not want to place restrictions on the flexibility to do this in primary legislation, which is why we would not want to restrict where local authorities can choose to build new housing with the receipts they retain. I would hope that local authorities know their housing markets and ensure that new housing is delivered where it should be, and where it can be built.

Amendment 69B is more specifically about replacing housing in rural areas. I agree that it is important to recognise the particular issues facing rural areas in terms of housing supply and affordability. Housing plays a really important role in supporting the broader sustainability of villages and smaller settlements.

Our National Planning Policy Framework is clear that we expect local authorities to plan to meet their needs for all types of housing, including in rural areas. Housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a neighbouring village. Local authorities should plan housing in rural areas to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Councils should consider whether allowing some market housing would facilitate provision of significant additional affordable housing to meet local housing needs.

Our planning guidance also recognises the important role of rural housing in ensuring thriving communities. It sets out that blanket policies restricting housing in some settlements, and preventing other settlements from expanding, should be avoided unless their use can be supported by robust evidence.

Our guidance is also clear the local authority should update its assessment of sites that may come forward for development as part of its authority monitoring report. We are of the view that existing planning policy and guidance already strongly supports provision of housing, including affordable rural housing, into local and neighbourhood plans.

I reiterate that we will carefully consider the suggestions that noble Lords have made today, but I stress that no decisions have been made on what types of housing may be excluded from the policy, and we do not wish to place restrictions on the building of new homes using these receipts, as we want to ensure that as many new homes can be delivered as possible. With this in mind I hope that the noble Lord will agree to withdraw the amendment.

Lord Cameron of Dillington: I thank all noble Lords who supported the amendments. I was struck, when listening to the noble Lord, Lord Campbell-Savours, and the noble Baroness, Lady McIntosh, that it is a bit like Morton's fork. You are offered two unpalatable options—one is to lose the incredibly important affordable housing that we have in the countryside and the other is to lose our countryside, which is also very precious to us, particularly in national parks and AONBs. I do not believe that we can afford to lose what we treasure most, and not just to pay for what I consider to be a fairly rash manifesto promise. I believe that the rash manifesto promise should be paid for by the Government and not, ultimately, using the contorted trail described by the noble Lord, Lord Best, by those desperate for housing in our rural communities.

The Minister has very kindly agreed to meet us before Report to discuss some of our rural housing problems. I give notice to her that this matter will undoubtedly be on the agenda. In the meantime, I beg leave to withdraw my amendment.

Amendment 66D withdrawn.

Amendments 66E to 68A not moved.

Clause 68 agreed.

Clauses 69 to 71 agreed.

Clause 72: Reduction of payment by agreement

Amendments 68B to 68D not moved.

Clause 72 agreed.

Clause 73: Set off against repayments under section 67

Debate on whether Clause 73 should stand part of the Bill.

Lord Kennedy of Southwark: My Lords, as this is my first detailed contribution during today's Committee consideration of the Housing and Planning Bill, I draw Members' attention to my entry in the register of interests and declare that I am an elected councillor in the London Borough of Lewisham. However, I feel bound to repeat the point, notwithstanding the points made by the noble Baroness earlier, about the complete failure of the Government to provide the regulations

[Lord Kennedy of Southwark]
that enable proper scrutiny of this Bill. I again place on record how unacceptable it is that a Bill as complex and controversial as this is brought before Parliament in such a poor state of preparedness. It is nothing short of an outrage that not only have the Government treated the House of Commons and House of Lords in such a manner, but that local authorities, social housing tenants and others affected by the Bill are being treated in the same way. The consequence is a failure to allow the proposals to be properly considered. The line from the Minister last week that the contributions from noble Lords are helping and informing the consultation just underlines the weakness of the Government's position. We have also heard a variety of apologies and expressions of frustration, and I am sure that the noble Baroness must be frustrated with the problem, which is entirely of the Government's own making, and the effect it is having on the proper consideration of the Bill by your Lordships' House. At the end of the day, the power is in the hands of the Government to make the process considerably more acceptable, but they have not gone far enough as yet.

Of course, the Minister is a Minister in the department responsible for this Bill. Instead, we have heard the manifesto defence deployed in Committee, even though it is more usually deployed when the Government are fearful of an imminent defeat on Report or during ping-pong. I shall not be surprised if I hear it suggested from the government Benches that it is all the fault of the last Labour Government that we have not got the regulations before the end of consideration of this Bill.

I oppose Clause 73 standing part of the Bill because it is totally unnecessary. It really is a bit rich: when a local authority has paid too much money in a particular year, that money should be returned to them immediately. The clause will put it the Government's back pocket as a deposit for next year's bill. That is totally unacceptable.

However, it gets worse. In our debate last Thursday the noble Lord, Lord Young of Cookham, told noble Lords that there was a process to return money overpaid by local authorities under Clause 67. Through this clause, that process is totally negated. There is not even a suggestion that a local authority would get any interest from the Government's holding its money. There is more. The money can also be offset against liabilities owed under Section 11 of the Local Government Act 2003. I am sure we will be told not to worry and that it will be offset only against housing debt, but the fact is that Section 11, on my reading, goes wider than the Government suggest, and that is unacceptable. This clause should not form part of the Bill and should be removed.

I take a similar position regarding Clauses 74, 75, 76 and 77, which I also oppose standing part of the Bill. Clause 75 appears to add in a further matter that could lead to a local authority being refused permission to dispose of an asset: any reduction in the amount the local authority would be liable to pay under Clause 67. By way of belt and braces, the Government propose to add a similar provision to Clause 43(4)(a). In respect of local authorities in Wales, Clause 76 makes sure that the Secretary of State can offset against what they should pay to an authority amounts they believe should be paid by the authority under Clause 67, or the relevant section of the Local Government Act. It is like a Government money-hoovering operation.

Clause 74 sets out the conditions and requirements for a local authority to sell its vacant council houses. We on these Benches believe that that is just wrong. It is an attack on council housing, whether by selling the council house or by paying the levy. It is making the duty of an authority to meet its housing need much harder. It does nothing for large families, who often live in larger properties that are usually of higher value. I have said before that I come from a large family, by modern standards, and grew up in a large council property. Living in such a property improved all our lives and helped us progress as a family. I fail to see what this measure does for families in similar situations today who cannot afford to buy their own home.

Amendment 69A, in my name and that of my noble friend Lord Beecham, seeks to help the Government change this disastrous course of action in future if they will not see reason today. It places a sunset provision on Clause 74, meaning it would expire three years after the Bill is enacted. This should not cause the Government any real problems. I specifically set the expiry at three years because we are in the first year of a fixed-term Parliament which is due to run for five years until 2020, so it is this Conservative Government who would be making the required regulations to prevent the clause being repealed. I do not have a crystal ball but unless there is some unforeseen event, it is not unreasonable to assume that the present Government will be in office in the summer of 2019 and able to take the action they need with the benefit of seeing the policy in action.

That is all I have to say at this stage but I may intervene later, as in Committee, that is permitted. I beg to move.

Lord Stunell (LD): Does the noble Lord agree that the potential for overpayment by local authorities is made much worse by the capacity of the Government to change the meaning of words and interpretations as they go along? A "new affordable home" means what the Government say it means in Clause 72(7); then Clause 72(9) states:

> "The Secretary of State may by regulations amend this section so as to change the meaning of 'new affordable home'".

In other words, local authorities are going to be charged under a regime that may change as the period of the agreement goes on, leading inevitably to miscalculation and overpayment.

Lord Kennedy of Southwark: I agree entirely with the noble Lord. I know the Minister is trying to deal with the point I made earlier about regulation, but where we are today really is unacceptable.

Lord Campbell-Savours: My Lords, I want to intervene only briefly on this question of the sunset clause. Members of this House regularly peddle—if I might use that word—the view that we are brilliant at scrutinising legislation; indeed, we claim to be better than the House of Commons on many occasions, although I

often doubt that. The problem is the procedures that the Commons introduced in 2001, which made it impossible to consider certain parts of Bills.

However, this Bill cannot be properly considered and mistakes will be made because most of the measures that warrant consideration will be in statutory instruments, which we cannot see. Despite the undertaking the Minister has given us today, we will not see most of the regulations until after Royal Assent. Therefore, if the Bill cannot be fully considered and mistakes are going to be made, and we will not be able to amend the regulations when they are brought forward because that is the way this place works, it seems to me there has to be some kind of contingency arrangement whereby the Government can renew the Bill if they feel it is not fit for purpose after three years' experience. Perhaps the Minister would have that in mind when she discusses this matter with her officials in the department.

The public should know that the Bill cannot possibly be properly considered. They should know that the great majority of the controversial issues in it cannot be considered by Parliament because we cannot see them and will not see them until the Bill has received Royal Assent.

4 pm

Baroness Williams of Trafford: My Lords, I hope that I have made clear my intention to bring forward information to your Lordships' House by the end of this week as a "starter for 10", and more in due course as the Bill progresses. However, we have debated the principle and the elements of this policy in some detail, and I rise for the last time to make the case for Clauses 73 to 77. I will also respond to Amendment 69A.

As I have previously explained, this chapter, on the sale of vacant high-value local authority housing, is an important contributor to the Government's aims of increasing home ownership and increasing housing supply. Clause 73 simplifies accounting arrangements by reducing the total number of payments made between the Secretary of State and a local authority. It will apply if a local authority has, for example, made an overpayment through an incorrect data entry as a result of human error. It enables the Secretary of State to offset the amount that needs to be repaid against another payment that the local authority is due to make under this chapter or under Section 11 of the Local Government Act 2003, which concerns capital receipts from the disposal of housing land.

Clause 74 imposes a duty on local housing authorities that keep a housing revenue account to consider selling any vacant high-value housing which they own, recognising the importance of making the most effective use of valuable assets. The Secretary of State may exclude housing from this duty through regulations. The intention is that this will be in line with any exclusions made under Clause 68—that is, if we do not include housing in the calculation of payments, we propose that local authorities will not have a duty to consider selling it under Clause 74.

Lord Beecham: The Minister mentioned high-value properties but, as we have heard before, there is a greater proportion of high-value properties in rural areas. Does that not make the concept more difficult to apply in those areas in terms of the consequences of the policy for that category?

Baroness Williams of Trafford: My Lords, we will see how the mechanism works when it comes out, but I think I have said a couple of times in your Lordships' House that we do not want to adversely and disproportionately affect one area compared with another, so the calculations will be made by area and by type of property according to the number of bedrooms. Noble Lords will have ample opportunity to scrutinise this through the regulations, and we may have more detail through the Bill as time goes on.

Lord Kennedy of Southwark: Can the noble Baroness tell the Committee how often these payments will be made? Will it be monthly, half-yearly or yearly? If an account overpaid an amount of money, when would that be put right? If a payment was due to be made in April and it was to be paid again the following April, the timing might be an issue.

Baroness Williams of Trafford: I take the noble Lord's point. A local authority may be disadvantaged for quite a period of time if the payments were not made very often. I shall take that point away and consider it.

Clause 75 seeks to amend Section 34(4A) and Section 43(4A) of the Housing Act 1985 to add to the list of matters to which the Secretary of State may have regard when considering whether to give consent to a local authority wishing to dispose of housing. These amendments will mean that if a disposal of housing by the local authority to another person or body could result in a reduced payment to the Secretary of State under Clause 67, the Secretary of State may choose to take this into account, among other factors, when deciding whether to give consent to the disposal. Making this change will ensure that there is important clarity on the issues that the Secretary of State may choose to take into account when organisations are considering such transfers and that he or she can consider if disposal of housing by the local authority to another person or body could result in a reduced payment.

Clause 76 is a technical amendment to Section 11 of the Local Government Act 2003, existing legislation which concerns the pooling of capital housing receipts. It replaces the existing power in Section 11(5) which enables the Secretary of State to set off payments owed to a local authority under that section against any payments the Secretary of State is liable to make to the local authority, with a more limited power which mirrors the provision in Clause 68 of this chapter. Like Clause 73, this aims to simplify accounting arrangements by reducing the total number of payments made between the Secretary of State and a local authority.

Clause 77 deals with the interpretation of certain terms used in this chapter, the great majority of which are self-explanatory. However, I would like to mention one term in particular. Housing "becomes vacant" for the purposes of this chapter,

"when a tenancy granted by the authority comes to an end and is not renewed expressly or by operation of law".

[Baroness Williams of Trafford]
We have discussed this previously. There may be some circumstances where a high-value home would become vacant under this definition but we would not want it to be counted in the vacancy rate set out in the determination. The power in subsection (2) will enable such exclusions to be made. Providing this power through regulations will provide flexibility to ensure that if circumstances change over time, or if a need for further exclusions is identified in the future, this can be addressed more quickly.

The department is engaging widely with local authorities and other stakeholders and no decisions have been made yet on the circumstances in which housing that becomes vacant may be excluded from the chapter under subsection (2).

Turning now to the specific amendments, Amendment 69A seeks to end the duty for local authorities to consider selling high-value housing as it becomes vacant three years after the Act is passed. Noble Lords have provided many considered lines of debate today but I do not believe the amendments would have the effect they envisage or be beneficial to local authorities or to people in need of new homes. While they would prevent the duty to consider selling from applying for six months following a vacancy arising and would end the duty after three years, the requirement for payments to the Secretary of State would not be changed. The Secretary of State would still be able to make determinations, which would be based on the sale of high-value housing that is expected to become vacant, but these amendments would mean that local authorities would no longer have to consider selling their vacant housing to make the payments.

This moves away from the intentions outlined in the Government's manifesto. The legislation is framed to provide local authorities with some flexibility 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 the payments are focused on high-value housing, both in the calculation by government and the way they are met by local authorities. These amendments would move away from the aims of the policy. Six months is a very long time for a property to sit vacant before the duty to consider selling arises, particularly given the need for housing across the country. On this basis, I hope the noble Lord will consider withdrawing the amendment. When the question is asked, I hope noble Lords will withdraw their opposition and allow the clauses to stand part of the Bill.

Baroness Hollis of Heigham: Can the Minister help me on a question that we have been pursuing through several Committee days? It is clear that there will be a time gap—even if one accepts the push in policy, which of course I do not—between selling more valuable property and the deployment of the money to fund housing association discounts. Housing association discounts will be required on day three after the Bill gets Royal Assent. The sales to fund it may take a year, two years, three years or four years to come through to fund the presumed demands that will come very quickly in the direction of local authorities.

Therefore, many local authorities will instead be levied in view of their sales. The information I had from my authority, Norwich, this morning was of a housing revenue account of around £50 million facing a loss of £7 million a year on its rental income as a result of the 1% reduction. The levy, in lieu of sales, because of the delay in sales coming through, is likely to cost up to—we do not know yet—£11 million. A quarter of its net housing revenue account will, therefore, be lost to funding housing association discounts until—and if—the sales come through in lieu

Can the Minister tell us when local authorities will have some idea what that levy is likely to be? Will it be governed by the pent-up demand or otherwise of housing association tenants? Will the Minister expect this to be rationed so that it proceeds on an equal path along with the diversion of local authority resources through high-value sales? How exactly will this work? At the moment, it stands to wreck my local authority's housing revenue account.

Baroness Williams of Trafford: My Lords, that is precisely why we are engaged with local authorities to make sure that we get this policy right. The noble Baroness has given me some figures for Norwich. I do not doubt that she is correct, but could she send me the figures so that I can have a look at them and perhaps comment on them?

Lord Beecham: The noble Baroness has said that there will be time to see how the matter develops. I remind her that Amendment 69A, in my name and that of my noble friend, would allow for that because it is a sunset clause. It would allow a three-year period to see how the process worked. If it did work, it could be renewed by the affirmative procedure, which, as we know, should not take all that long. Why do the Government not accept that amendment and give some reassurance that they will not press ahead with this irrespective of the outcome? The amendment would allow them to affirm the policy, assuming they are still in office, after a three-year period and on the basis of experience. Is that not a more pragmatic way of dealing with a difficult issue?

Baroness Williams of Trafford: My Lords, the amendment moves away from the intentions outlined in the Conservative manifesto, but while the amendment would prevent the duty to consider selling applying for a period of six months following a vacancy, the requirement of payments to the Secretary of State would not be changed. However, we monitor all policy as we go along.

Baroness Blackstone (Lab): I once again press the Minister on the issue of moving to the affirmative procedure. I have raised this question on other days. It has been raised twice this afternoon. On no occasion has the Minister answered the question of when the Government will let this House know whether they are prepared to move in this direction. That would be a much more satisfactory approach to dealing with the detail of the regulations.

Baroness Williams of Trafford: I do not think the noble Baroness was in her place when I outlined, at the beginning of today's session, my intention to bring forward that sort of information by the end of the week.

4.15 pm

Lord Sutherland of Houndwood (CB): My Lords, before the noble Baroness finally sits down, perhaps I may indulge myself with a comment on procedure. This is not my patch, which I am here to learn, but we have been here before. There was a very similar procedural wrangle and difficulty over the Childcare Bill. The Bill came forward without sufficient detail to allow the House to debate fully some of the very important issues in it. There was a common mind with the Government and, I think, around the House that two factors could alleviate the problem. One was affirmative resolution, which was agreed for many of the regulations; the other was groups of people convened by the two Ministers responsible to talk through the process of developing regulation and implementation. I think that helped immensely and I hope that something similar could be done here.

Baroness Williams of Trafford: I thank the noble Lord for his information. As I have just said, I will bring forward as much as possible, but I have also undertaken to meet noble Lords to discuss matters for regulations as we go forward.

Lord Kennedy of Southwark: Can the Minister repeat for the Committee what the Government's problem is with Amendment 69A? It would not stop them doing anything. It is just a sunset clause and would provide them with the ability, if they proceed with the policy and find an issue with it, to stop it. If they wanted to carry on, they would bring forward the affirmative regulations to do so. I do not see what the major problem is. If the Minister could repeat her reasons, it would be very helpful.

Lord Beecham: Before the noble Baroness answers my noble friend, perhaps I may add to his question—it is the same point but viewed from a slightly different angle. If it turns out that the scheme is not working, on the face of it that would require the Government to bring in primary legislation to change the duty. What the amendment offers is a way of dealing with matters, if required, by secondary legislation, where that difficulty is much less—in fact, we complain about it being less much of the time. In this case, it would surely be a better way of dealing with it than imposing a duty to come back with primary legislation if the scheme proved not to be working properly.

Baroness Williams of Trafford: My Lords, it is not usual for a Government to bring forward legislation that they want to end. There have been sunset clauses in certain legislation, but, in this case, we do not particularly want to end it after three years.

Lord Lansley (Con): I do not know whether the Minister agrees, but Amendment 69A would not only allow, as it would intend, that after three years one might examine the success or otherwise of the policy but risks significantly distorting any potential implementation of that policy, since in the intervening period any local authority which was disinclined to implement the duty to sell vacant high-value housing might well for a substantial part of that three-year period delay such sales in the hope that the duty would repealed under this amendment and not reinstated? Clearly, it would be inappropriate for the Government to pre-empt Parliament's decision on any such regulation by making it clear that they wanted to extend it indefinitely, so local authorities would be placed in a position which allowed them to frustrate the policy and the Government would not be in a position to insist.

Baroness Williams of Trafford: My noble friend makes a very good point.

Lord Campbell-Savours: Is there evidence of that from any other legislation which has been subject to a sunset clause?

Baroness Williams of Trafford: My Lords, I think I have said what I can say on this matter. I recall legislation that has gone through this House with a sunset clause for a very specific purpose.

Lord Kennedy of Southwark: My Lords, I thank all noble Lords who have spoken in today's debate: the noble Lords, Lord Stunell and Lord Campbell-Savours, the noble Baroness, Lady Williams of Trafford, and my noble friend Lady Hollis of Heigham. I was not particularly convinced by the points made by the noble Baroness, Lady Williams, and was struck by the intervention of the noble Lord, Lord Stunell, on the wide powers that this part of the Bill grants to the Secretary of State. I am obviously disappointed that the Government have not taken up my offer of a sunset clause. I thank the noble Baroness for undertaking to take away the issue I raised about when payments would be made.

Baroness Williams of Trafford: I now have an answer for the noble Lord: it is quarterly.

Lord Kennedy of Southwark: I thank the noble Baroness. That is interesting and I will reflect on it.

As I said, I will reflect on the points that have been made in the debate. We may bring this issue back—or some variation of it—on Report after Easter. With that, I beg to withdraw my opposition to Clause 73 standing part of the Bill.

Clause 73 agreed.

Clause 74: Duty to consider selling vacant high value housing

Amendments 68E to 69A not moved.

Clause 74 agreed.

Clauses 75 to 77 agreed.

Amendment 69B not moved.

Clause 78: Mandatory rents for high income local authority tenants

Amendment 69C

Moved by ***Lord Best***

69C: Clause 78, page 34, line 9, leave out "must" and insert "should"

Lord Best: My Lords, my noble friend Lord Kerslake is unable to be with us today, but I am grateful to the noble Lords, Lord Kennedy and Lord Stoneham, for their support. I shall speak also to Amendments 70D and 75C. They all relate to the proposed mandatory rent increases for council tenants. I would guess that all of us who are known to have an interest in this Bill will have been lobbied more vociferously on the issue of "pay to stay" than anything else in the legislation. This is because the potential immediate impact of the measure is more frightening than any of the other ingredients in the Bill.

It threatens to reduce significantly the incomes of some 350,000 tenants. Rumours had suggested that those earning £1 more than the threshold of £30,000 outside London and £40,000 in London could see their rent doubling overnight. As the IFS pointed out, that cliff-edge approach would have a disastrous impact on incentives to work or work harder. I have heard of numerous cases where those who are just over the threshold would have been coerced by the huge rent rise to cut back on their working hours so that they could afford to keep their tenancy.

The good news for these very anxious tenants is that the options which the Government have now published are far less onerous than was feared. We now have the prospect of either a rent rise of 20p for every £1 earned over the limit—which is £4 per week on the rent for every £1,000 over the threshold—or £40 per week for someone earning £10,000 over the threshold, and 10p for every extra £1 earned, which is £20 per week for someone earning £10,000 over the threshold.

Lord Campbell-Savours: I am sorry to intervene on the noble Lord, but I wonder if the Minister could indicate at this stage whether she intends to give us some real figures on the taper today to save us having to guess what they are during the course of the debate.

Lord Best: I have some figures. The Minister has put forward two propositions, one for tenants to pay another 20p for every £1 earned over the limit and the other to pay 10p more in rent for every £1. These are the two propositions and my sums are based on the Government's suggestions.

Lord Campbell-Savours: We need to know which one it is because it directly affects people's incomes. Will the Minister not intervene at this stage and give us the information that will help us in the debate?

Baroness Hollis of Heigham: I would suggest that the noble Baroness should do that because otherwise an awful lot of speeches could be made on false assumptions.

Baroness Williams of Trafford: My Lords, all I can confirm at this stage is that, as the noble Lord, Lord Best, said, there are two options on the table.

Lord Best: I hope I am right in thinking that the Government are minded to choose the lower of these two options. It would be cruel to suggest the lower figure and then choose the taper that costs tenants twice as much. For a household with two earners together earning £40,000 per annum outside London, with a 20p taper they would face an extra £40 per week on the rent—a serious loss of income. If the taper was at 10p in the pound, their extra rent would be £20 per week, which seems quite enough of an extra burden for two people both earning well under the national average.

I recognise that such increases will be offset to some extent by the Government's cut in council rents over the next four years. Of course, for the relatively small number of households—well under 1% of council tenants—where household income is more than £50,000, the increases would require substantial cuts to the household budget. That does sound a painful change. Nevertheless, the headline here, following the letter to Peers from the Minister, is that pay to stay will not be quite as dreadful as it appeared earlier.

The amendments address the underlying problem. They would remove the compulsion on local authorities with council housing to introduce any higher-rents regime dictated by central government. Local authorities may well have their own ideas on schemes that would suit local circumstances, local rent levels and local incomes. Whitehall does not always know best. On top of losing their autonomy over relatively micro decisions on rent setting, local authorities will also lose all the extra rent which the pay to stay arrangements generate.

Since all financial benefits from the new arrangements accrue to the Exchequer, not to the local authority, once again it seems that every avenue is being blocked for councils that want to engage in providing more and better housing. Housing associations, including those where councils have transferred all their housing to a housing association, will be able to decide for themselves whether to adopt a scheme of this kind. I think that many will choose not to do so. If they do increase rents for better-off tenants, the housing associations will keep the extra money, not least to make up for some of the loss of rent they will suffer over the next four years due to the Government's recent requirement on them to cut rents by 12% in real terms—but not councils.

In earlier sittings of this Committee we heard from noble Lords who are understandably aggrieved about other costs falling on councils but not—in just the same circumstances—on housing associations. Driving a wedge between the two providers of affordable housing is a very unfortunate by-product of the Bill. As a strong supporter of councils doing more not less to ease the nation's housing problems, and as a very long-standing advocate for the contribution of housing associations, I find it very troubling to see the two set against each other in this way.

Surely councils, like housing associations, should be able both to decide on any rental schemes for higher-income tenants and to retain any extra rental

income from tenants with higher earnings just as housing associations can. Many of your Lordships have already argued that councils should be able to retain receipts from sales of vacant properties, as housing associations can, and as councils can today but will be prevented by the Bill from doing tomorrow.

The nation needs all hands on deck—all sectors to join the fight to get more homes built. All of us in the housing world need to pull together and not allow ourselves to be pulled apart. These amendments would let councils continue to decide for themselves on any new rental arrangements and, as with housing associations, keep any rent receipts to help meet housing need. I beg to move.

4.30 pm

Lord Shipley: My Lords, I rise to speak to Amendments 69D, 70E, 76A and 79C in this group. I have already declared my vice-presidency of the Local Government Association in Committee, but in view of what I am about to say, I will simply draw attention to it again.

The noble Lord, Lord Best, covered all the key issues on pay to stay, although I will say something further when Amendment 81 in this group has been spoken to. These amendments basically challenge the nature of Clause 78, which is about a mandatory approach to local authorities. They require an element of discretion for local authorities to make decisions that they think are best for their areas. It is difficult to understand why, if it is voluntary for housing associations to do this, it is not voluntary for local authorities. The noble Lord made clear that there is to be a change in the nature of what the Government have been proposing on pay to stay, so the "cliff-edge approach" that he talked about is apparently no more—although we have yet to see the detail. I associate myself with what the noble Lord said about the lower sum being better.

Will the Minister give some further thought to the administrative cost to local authorities and others of pay to stay? I think that the cost will be much higher than the Government currently think. On a later group we will come to the issue of access to HMRC data, but it would be easier to raise the thresholds than simply apply a taper, partly because so much of what is being proposed could relate to levels of household income that exist a number of months before the information is made publicly available under HMRC timescales. The Government need to be very careful about the administration and bureaucracy that will be put in place, particularly relating to the taper, whatever its level—and let us hope that it is the lower one.

My objection to what the Government have been proposing on pay to stay is that it reduces the aspiration to work more and actually encourages people to work less. If they are to lose out with the amount of rent they have to pay it is not worth their while to work, or work as much, so there will be a tendency for people to decrease their hours, with a growth in part-time working. That is particularly dangerous in the public sector, where pay levels are not that high. It might encourage people to work less and take qualified people away from public-facing duties.

I say to the Minister that I hope that it is understood that any extra income deriving from higher rents should be kept for reinvestment in the housing stock locally. I know that there are discussions on that. In the end, the requirement for social housing for rent is such that this cannot be seen as some kind of source of taxation for the Treasury to get its hands on. Actually, money needs to be reinvested by local authorities in providing the right level of housing for their areas.

I hope to come back at a later point on Amendment 81 in this group, which relates to the delegated powers that the Secretary of State will have—but I will wait until a later moment to do that.

Baroness Hollis of Heigham: My Lords, I will speak to this group of amendments, and in particular in support of Amendment 69D, which would make pay to stay voluntary for local authorities.

The government argument for RTB for housing association tenants is the level playing field—or, as the noble Lord, Lord Porter, said, similar treatment of people on either side of the street. The Government have also proposed pay to stay, under which so-called high-earning council tenants outside London on £30,000 a year between them—£15,000 times two—were to pay a full market rent. But whereas for housing associations pay to stay is voluntary, for local authorities it is compulsory. We need the level playing field of the noble Lord, Lord Porter.

As the noble Lord, Lord Best, absolutely rightly said, whereas housing associations can retain any proceeds from this, local authorities must send theirs to the Exchequer. The reason for that, according to page 56 of the impact analysis, is that the policy of sending the proceeds to the Exchequer will help the Government "reduce the deficit". Will the Minister tell us why council tenants have a special duty to reduce the deficit while housing association tenants do not?

Secondly, how does this interact with the 1% social rent reductions? Let us assume that a local authority family with two children on gross £30,000, net £24,000, income a year might now have a social rent of about £100 a week for a three-bedroom house. Social rents will be coming down 1% a year, while market rents will grow, it says, with overall private-rental inflation. So the gap between the two will therefore widen. With the push to market rents, if that family's rent rose to £150 a week, they would get housing benefit; if it rose to £250 a week, their housing benefit would be £100 a week. Even the Government think that that is daft.

So the Government are now proposing, as the noble Lord, Lord Best, said, that rent increases should be tapered and should not apply to those on housing benefit. What would be the result? As the noble Lord, Lord Shipley, asked, what family on housing benefit would increase their pay and lose their housing benefit firewall? Work incentives would be badly damaged. Fraud would certainly increase—and, incidentally, contaminate HMRC records. Part-time work would move into the grey economy and couples would come to more informal living and financial arrangements, and so on. In a single-parent household, with an adult son living there, what happens to adult non-dependent deductions? Around

[Baroness Hollis of Heigham]
25% of their income is taken into account in determining HB. The son may move out—and then there lurks the threat of the bedroom tax.

And how—I am puzzled by this—will all this interlock with universal credit? If you are on HB, you will not be paying market rent; but what happens if you are on universal credit? The Government say, in their consultation exercise, that they will consider the links to UC "in due course". That is very odd. DCLG is treating housing benefit and universal credit as two separate streams of benefit. Having sorted HB, they will turn to UC. But of course, as the Minister must know—and I am sure that she does—UC is absorbing HB. UC will be based on monthly real-time information. Pay to stay—ultimately part of UC; whether the Minister or the department are fully aware of this or not, I do not know—will be based on out-of-date tax records, perhaps one year behind. So UC will be based on real-time information on a monthly basis, and housing benefit on the taper will be based on records perhaps a year out of date.

The effect for the tenant of the 20% taper on the move to market rent takes UC withdrawal rates—and there is not a word about this anywhere in the impact analysis, needless to say—from up around 73p in the pound, which is already a high work disincentive, as the noble Lord, Lord Shipley, said, to 93p in the pound. As a result of this, you work for 7p an hour. Would any of your Lordships do that? This really screws UC. There is not much point in rolling out UC—which I very much support and which was based on improving work incentives, which I very much support—if you return to pre-UC deduction rates, keeping just 7p in the pound.

Let us turn away from the effect on tenants to the effect on local authorities—again, as mentioned by the noble Lord, Lord Shipley. At the moment, tenants coming forward for housing benefit know that their finances will be scrutinised—of course they will be; it is an income-related benefit. But in future, as far as I can see, local authorities will need blanket information from HMRC on every adult living in a council home not already on HB, reversing separate taxation and matching it by household and address, in order to increase their rent on an individual, tailored basis. So, if you go down the street mentioned by the noble Lord, Lord Porter, almost every tenant could pay a different rent, personally tailored, for the same kind of property—or worse, based on out-of-date details of their previous year's income.

At the moment, because rents are standard in local authorities, HB is fixed for the most part for 12 months at a time, apart from major reportable changes of circumstance. Yet even now, local authorities are unable to deliver HB as speedily as they would wish, while losing more and more staff because of their 40% cuts. Given, as we found with tax credits, that income fluctuates quite markedly over the course of the year with overtime, commission, children's school holidays and periods of sick pay, will the tenants' pay-to-stay rent fluctuate by the month alongside their income?

If it does not fluctuate, or the Government rely on end-of-year HB adjustments, tenants will find it impossible to avoid debt, arrears, poverty and probably eviction. But if it does fluctuate monthly, the local authority will find—as with tax credits—that the pay-to-stay rent it charges on a monthly basis is always a couple of notifications behind the facts and will never catch up. It will be a nightmare. As local authorities said in response to the very perfunctory consultation exercise as reported by the Government, their systems are not designed to do any of this. The Government breezily say that they can keep their administrative costs. But the system will crash—constantly.

Then, any extra rent goes to the Treasury. Local authorities already have the power to pursue an individual on more than £60,000 a year for a rent rise—what we call the Bob Crow amendment—if they see fit. But the last thing they will want to do is proceed with mass investigations of almost every council tenant—some will be on HB; those who are not will need to be investigated—at huge administration and probity costs. This is almost literally another poll tax. And the sums at the end of all this go not to local authorities but to the Exchequer.

Only local authority tenants, not housing association tenants, are being levied to fund huge discounts under the voluntary deal. Only local authorities, not housing associations, are required to pursue market rents. Only council tenants, not housing association tenants, may see their UC taper rise from 73p to 93p in the pound so that poorer council tenants get less financial support than the housing association tenant on the other side of the street of the noble Lord, Lord Porter, while having an identical property, identical family and identical income. Finally, only local authorities, not housing associations, are required to send the proceeds to HMT. Local authorities have become the whipping boy at every point in the Bill. Yet local authorities are publicly elected, fully accountable and entirely transparent bodies, open to the public and the press. None of that is true of even the best-run housing associations.

4.45 pm

Finally, I turn to the implications for HMRC. The Chancellor has been very clear in the past—it was repeated today in the fourth Question—about the need to protect taxpayer information. I understand that in 2016 he discouraged the Prime Minister from releasing his personal tax statements—which he was willing to do—because it would violate the principle of taxpayer confidentiality. In 2011, Dave Hartnett wrote to the Public Accounts Committee that,

"if taxpayers believe that their information may be disclosed, it will make it very much more difficult for us to collect tax".

The Minister made the same point earlier today.

On 25 January 2016, David Gauke, the Treasury Minister, told the House of Commons:

"The principle of taxpayer confidentiality is not new. It has existed for as long as we have had a tax system".

He added that to abandon it would reduce,

"the attractiveness of the UK as a place in which to do business".—[*Official Report*, Commons, 25/1/16; col. 38.]

Yet the income of every adult living in council housing, not having come forward voluntarily for HB—a million or more people—may have to be disclosed by HMRC to local authorities. By 2017, perhaps 200,000 tenants will be paying to stay.

The administrative and security logistics are absolutely frightening. The administrative complexity of a taper doubles the problem. As we try to move on to monthly housing benefit adjustments in line with income which, in turn, determines the rent people are expected to pay, the consequences for families of computer failures will be far worse than any that we have seen with tax credits. Is it possible to conceive of a more open goal for computer collapse than that?

Never before will there have been such a mass transfer of data. Such was the ferocity of the confidentiality rule that when I was a Minister, 15 years ago, my DWP team, which was chasing errant, absentee fathers for maintenance, was allowed only about 20 interrogations of the Inland Revenue a month—and this was between fellow government departments. But at least the transactions for HB are between two public bodies: HMRC and local authorities. Now, housing associations, whose tenants' housing benefit is handled by local authorities, and which insist they are private bodies, would, if they introduced this policy, have access to taxpayer information on all their tenants.

Worse still, many local authorities will expect to use the private companies they already employ for housing administration—Serco, Capita, Liberata—to handle this. These are commercial, profit-seeking companies, which do not always have a good record in competence or confidentiality. For example, I understand from its website that Liberata, a private, commercial company, handles data for North Somerset, Bromley, Hillingdon and Hounslow, Redcar and Cleveland and Barrow-in-Furness, among others.

I understand, from HMRC sources, that, for the first time ever in the history of the Inland Revenue, private commercial companies will be handling the gold dust of confidential taxpayer information on thousands and thousands of council tenants. I do not believe that it will not be abused. Perhaps it will be quietly sold on to insurance companies, pay-day loan companies, mail-order companies or wide-boy equity release companies. Who knows? Would any of your Lordships like their named, personal data swanning around such companies? Or is it only council tenants, refusing to buy their homes, who are going to be exposed in this way? Under the Bill, and pay to stay, they will have fewer legal and civil rights to privacy than any other section of our society. It is outrageous.

Baroness Lister of Burtersett (Lab): My Lords, I support Clause 78 not standing part of the Bill, although what I have to say applies also to Clause 79.

This policy is perceived by tenants as a punitive policy and one that goes against the Government's own social policy objectives of promoting security, aspiration and social mobility, mixed communities and reduced bureaucracy. I think that Nottingham City Homes has written to a number of noble Lords—as I live in Nottingham, this is of particular interest to me—saying that it was "overwhelmed" when it organised a meeting on the Bill, with tenants angry and upset, particularly about the pay-to-stay proposals. One of them dubbed it "an assault on ambition".

Welcome though the confirmation of a taper is, it in no way constitutes a U-turn, as was spun in the media, giving the impression that the Government have somehow climbed down on the policy. After all, a taper has been on the cards ever since the consultation document was first published. The IFS has warned that a taper would still "weaken work incentives". There are two aspects of this that particularly concern me.

First, no account will be taken of family needs and the costs associated with children, as in a normal means test, nor of the costs associated with disability and caring, which I will talk about in the next group. As the Joseph Rowntree Foundation warns,

"this proposed threshold may be too blunt to accurately reflect the differing needs of households".

There is no "may" about it. I know that child benefit will be ignored in the income calculation, but according to Professor Donald Hirsch's calculations of the cost of a child for the CPAG, it covers less than one-fifth of that cost, and that is without taking account of childcare costs, which the most recent survey by the Family and Childcare Trust showed can be astronomical, especially in London. Where is the fairness in treating a childless couple and a couple of two working parents, whose disposable income available for rent is effectively reduced by the costs of children and childcare, in the same way when assessing whether their income is high enough to warrant paying to stay? As the Social Market Foundation has argued, the assessment,

"must relate to equivalised resources".

My second concern is the likely impact on second earners, mainly women. Despite what I think is now five requests, I still have not received an equality impact assessment for this clause. I can conclude only that one has not been prepared. But, as the Equality and Human Rights Commission has argued:

> "To be most effective, Government departments should analyse the equality implications of a policy proposal at a formative stage, so that the assessment can inform policy development and the content of legislation. This will also ensure Parliamentarians have the information they need in order to scrutinise and debate Bills".

We do not have that information. As I said, I have sent I do not know how many emails, I have made phone calls, I have asked for it in a technical briefing meeting. I still do not have it, even though it is pretty obvious that the policy is likely to act as a particular disincentive to women in couples to stay in or enter paid work. At the same time, it undermines government policy on promoting paid work as the route out of poverty, as all the evidence suggests that the presence of a second earner reduces the risk of child poverty significantly.

Just what such a work disincentive to second earners could mean was brought home to me by a woman who came to see me with the support of TPAS. I think she has also written to a number of noble Lords. She has lived in north Kensington for 35 years and has lived in her current home and worked in a local primary school for 25 years. She kept saying how much she loved her job and the children. She is utterly devastated at the prospect of giving it up but that is what she fears she will have to do if the policy goes ahead because the combined modest earnings of her and her husband take them above the threshold. In her letter to some noble Lords, she wrote: "I have never felt so insecure as I do now and it seems so unfair that I'm being penalised for working". It was quite clear that by no

[Baroness Lister of Burtersett]
stretch of the imagination was this a well-off, high-earning couple. It may be that her worst fears will be unfounded when the taper is applied, but how can we know? Until the details are published she will no doubt continue to feel insecure.

We use the term, "the devil is in the detail". As we have already heard, the crucial devilish detail is still missing. It is totally unclear how the compulsory means test is going to work—in particular, as has already been said, how fluctuating incomes are to be taken into account. Cross-national research, which looked at other countries that had tried something similar, concluded that the administrative burden could well outweigh any supposed efficiency or equity gains. Indeed, I understand they have been discontinued for the most part in Germany, partly because of the bureaucratic costs involved in keeping tabs on incomes. At least the Government have stated that recipients of housing benefit will be exempt, which will be a relief to local authorities and to them, but there remains a big question mark over the interaction with universal credit, which my noble friend Lady Hollis of Heigham underlined with devastating clarity—in so far as one can have clarity in the midst of all this confusion.

The tenants who came to see me about pay to stay said over and over again how bitter they felt. "Punitive" and "punished" are frequently used words because this is how people feel. It is clear that the thought of what might happen is causing acute anxiety. Another tenant from Kensington and Chelsea wrote to say that she and her husband are just about getting by. She said: "I am truly stressing out over this as I don't want to move away from the area I have known all my life or my family and also leave the job I love".

On Second Reading, the Minister advised us to keep coming back to the word "home" as we discuss the Bill. This is one of a number of measures that threaten people's homes. While a taper will mitigate the worst effects of the policy, it does not address the basic fact that people on modest incomes will be affected by a policy spun as aimed at high earners in the name of fairness. There is nothing fair about this.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I support all the amendments in this important group. I shall speak particularly to Amendments 69D, 70E, 76A, 79C, and Clauses 78, 84, 85 and 86 stand part. I will try not to repeat previous contributions but I agree with the comments made, especially by the previous speaker.

There is something inherently abhorrent in central government imposing their will on locally elected councils and insisting that they must do the Government's bidding. In some cases this may be justified, where they are protecting the very vulnerable in our society—children, the frail elderly, and the chronically sick and disabled—but not on housing. The provision of housing has always been, and currently remains, the responsibility of local authorities. They have discharged this duty for decades always with the needs of their local communities in mind, as my noble friend Lord Shipley has already indicated.

We now have a situation where a local authority must charge a high-income tenant a high rent. This might be acceptable if the tenants were, indeed, earning a high income. I welcome the Government's commitment to introduce a taper and look forward to confirmation of what that taper will actually look like and mean for tenants. However, I would much prefer that we leave the discretion to local authorities, which know their communities, to determine at what point they start charging individual tenants higher rents. The words "may" and "enable" give all those involved the opportunity to assess actual incomes, individual needs and the likelihood of the higher rent being paid.

Absolutely the last desirable outcome is for the tenant to be evicted for non-payment of rent. They will have to move to a cheaper housing area, the wage earners will have further to travel to work or lose their jobs and the children will be forced to change schools. Where is the sense in this?

5 pm

I am sure that your Lordships have all received many letters from members of the public on the subject of pay to stay. I could spend the next 30 minutes reading out some of these heartrending stories; your Lordships will be pleased to know that I shall read only one. For reasons which will be obvious, I have not included the name or address of the writer, but I have it in my office. The lady writes:

"I am writing to let you know how Pay to Stay will affect my household.

I was homeless about 15 years ago due to a family trauma and it took me many years to get back on my feet. It took me five years to get my son back from my ex-husband who had kept him in America. During this time I experienced a severe depression and homelessness.

I was finally housed in a secure tenancy for rough sleepers. I had to give this up when I got my son back and we now have a 2 bedroom flat in a housing association flat in Camden with an assured tenancy.

I managed to obtain work again working with women with mental health needs in prison and the community. My son is now 25 and earning about £20,000. Last year I earned £26,000. This puts us over the proposed threshold for pay to stay.

I will have to give up work if this is the case. I have no savings and will not have a very big pension as my husband 'forgot' to pay some of my NI stamps when we had our own business about 20 years ago.

How will my son ever be able to save enough to leave home? All properties in Camden will have very high rents. I want to work as long as I can, at least another 7 years hopefully. I am 63 now.

Please look at raising the threshold of pay to stay. £40,000 is not a large wage for 2 people, especially if you are not a couple like my son and me. I feel very threatened by the housing bill and feel my flat should go to someone else when I die, not be bought and sold on for lots of money".

That is a very poignant story, and typical of those that I have received. One lady wrote to me last week giving me a breakdown of all her household budget, including putting away a very small sum each week to pay for Christmas. She and her husband are both working and have children, the eldest of whom is six. Her husband has been in the same job for 17 years, and she has worked for the past 18. They know exactly where every penny goes. Their joint income will take them over the limit for London. If they have to pay the market rent, there will be no money for childcare.

The introduction of the taper is good news, but I urge the Minister to raise the threshold of income at which it begins; otherwise I fear that we will be hearing a lot more heartrending stories. I support the amendments.

The Duke of Somerset (CB): My Lords, I shall comment briefly on this group of amendments on the pay-to-stay extension. There has been a lot of consultation, but only 46% of the housing authorities or local authorities actually replied, and it is a pity that that statistic is not broken down between the two entities; it would have been interesting to have had that result. As usual, regulations will set out the thresholds where the proposed taper will bite. I trust that these will not be set too harshly to disadvantage even more tenants.

As the Government state, it should not be a disincentive to work. A joint income of £30,000 outside London may seem about right where accommodation is being subsidised below market rent levels, but it is not really a very high income for the two highest-earning people in the household. As usual, the devil is in the detail, and we have not yet seen the regulations, so what will happen if a tenant is made redundant or there is a pressing family crisis? Can the Minister give assurances that the authorities will still be able to react swiftly, despite all the funding cuts from which they have been suffering?

The explanatory paper states that the Government do not expect frequent rent adjustments, but I wonder what is meant by "frequent". Is it going to be monthly or yearly or what? Will every pay rise mean a review or a new assessment? What about the drag that is going to follow on from such an event?

I suggest that the cost to housing associations and to local authorities should not be underestimated in bringing this policy into the Bill, especially where new IT systems are needed. We know the record that public authorities have on IT systems—it is not good. This may make this whole part of the project counterproductive.

As other noble Lords have said, the involvement of HMRC is a very dubious practice that will slow up assessments and—worse still—incite distrust and resentment among the parties involved, let alone disturbing the code of confidentiality that we have heard so much about already today.

I would like to end on a good point: I am pleased that those on housing benefit will be outside the scope of this part of the Bill. I look forward to hearing the Minister's response with more detail on the taper proposals.

Lord Foster of Bath (LD): My Lords, I thank the Minister for her earlier remarks, which offered at last to provide us with the information about the state of play regarding secondary legislation, and for her commitment to provide us with a response to the Delegated Powers and Regulatory Reform Committee's two reports—the 20th and 21st—before Report. I draw noble Lords' attention to pages 7, 8 and 9 of the 20th report, which give the committee's response to some of the issues we are discussing.

I genuinely believe that a case can be made for a discretionary, flexible, locally set pay-to-stay arrangement, with the money raised reinvested locally to meet locally identified housing need. It is very difficult to make a case for an imposed, inflexible scheme with no opportunity for the money to be reinvested at the local level and no account taken of individual circumstances or of local conditions. That case is made even more difficult by some of the language that has been used—not by the Minister but, for example, by the Chancellor of the Exchequer, who has talked about the burden of this being placed on other working families by the subsidy made on social rent.

I remind the Chancellor that the taxpayer and those working people make very large subsidies to other forms of tenure, whether it is to the owner-occupiers who attract relief from capital gains tax and are not taxed on the value of their homes, right the way through to the first part of this Bill where we are going to give very large subsidies to those who choose to acquire a starter home. Of course, the right to buy itself is another form of subsidy. The case is not made easy by the language in this part of the Bill about rents for "high income" social tenants. As the noble Lord, Lord Best, has pointed out, a family with two people on the living wage would have an income that puts them only just below the threshold level proposed as a "high income" for the imposition of the right to stay.

It is not as if the right to stay is new. It was introduced in 2012 by the coalition Government when they introduced a voluntary scheme starting for payments over an income of £60,000. During the preparation for that introduction there was another consultation that looked at what people thought of such a scheme. It is quite reflective to look back at some of the things that people said during that consultation—indeed, they said all the very things that people are saying this time round. They said, first, that you had to be very careful about the threshold levels so you did not create a disincentive; secondly, that there had to be locally determined setting of levels because of fluctuating local circumstances; and thirdly, above all, that it should be a discretionary scheme enabling, for example, local authorities to decide whether or not to introduce it and the details of doing that.

That is why I am so supportive of the amendments before us, in whichever combination you choose, because in one way or another they are all basically saying that we should change the compulsory nature, get rid of the imposition of pay to stay and allow a voluntary scheme of one sort or another. But, as I said, we have already had a scheme introduced. I am assuming that the Government would have looked in detail at the operation of the current voluntary scheme in coming forward with a revision of that scheme, which is what is before us in the Bill today. Can the Minister tell us in some detail what information has been gleaned about the scheme introduced in 2012? She will be in some difficulty, because last July, in answer to a Parliamentary Question, the Government admitted that they had collected no data whatever and had no information whatever about whether any local authorities or any other providers of social housing had even introduced such a scheme. But they have had time since July, so—not wishing to embarrass them—I am assuming that they have that information, and we look forward to having it.

[Lord Foster of Bath]

Of course, lack of information is the problem that we have had throughout this Bill. I am absolutely delighted that the Government have now said that they are going to introduce a taper scheme. It is amazing that that was not included at the very outset of the Bill, because only a couple of years ago the previous Government made it absolutely clear that a pay-to-stay scheme must not have a built-in disincentive for people to go out and earn more by getting a better job or working longer hours. That was very clear—yet the failure to include a taper at the beginning of this scheme has led to a very large number of people being extremely concerned about what the future may hold.

It is equally bad that we are in a situation whereby, notwithstanding the fact that there is a taper or, as we have heard from the noble Lord, Lord Best, there will be either a 10% or 20% scheme, we do not know which it is—we do not know the details of it or what level of income is going to come in as a result, and we do not know how much local authorities are going to be allowed to keep back to pay for their costs. So we have no idea what the impact of the legislation that we are debating today is going to have either on the people whom it will affect or on the Exchequer of the country. The sooner we get that information, absolutely the better.

Above all, the best thing would be for the Government to do what they have already done and back down in respect of something being compulsory. We know that the Government have backed down in respect of requiring housing associations to impose right to buy, and we hope that on this occasion they might back down on imposing pay to stay on councils. After all, it makes much more sense for a local council to have that discretion and be able to take account of local circumstances and invest the money in providing for local housing need that it has identified. It does not make sense that housing associations are to have that freedom both to decide whether or not to do it or to be able to use the money, if they introduce it, to invest in housing stock to meet what they have identified as housing need.

I have a second question for the Minister, because it is important that we at least have this on record. Could she confirm that one reason why there has not been an imposition on housing associations to introduce pay to stay is because it is part of the package of measures to try yet again to get the ONS to reclassify housing associations so that they are no longer public bodies? If that is the case, we need to know and, if there any other reasons, we need to know. Above all, these amendments would get rid of compulsion, give flexibility and give an opportunity for local determination. That is why I am so keen to support them.

5.15 pm

Lord Campbell-Savours: My Lords, the case made by my noble friends Lady Hollis and Lady Lister on this amendment has been utterly devastating. They have totally undermined the Government's case and one is left wondering, having listened to their contributions, how this section of the Bill managed to clear the officials. They would have had access to the data produced by my noble friends and I simply cannot understand how the Minister will be able to respond to what they have said—in particular to the comments of my noble friend Lady Hollis, who said that information of a private nature, on private incomes, will now, within the law, for the first time ever, be given to private companies acting on behalf of local authorities.

At this end of this debate we need a clear statement from Ministers as to whether they accept that that is the case. We believe that it is the case, but Ministers should be prepared to say at the Dispatch Box whether it is true that information of a private nature on personal incomes can now be handed over to private companies—with all that that implies. It means leakage within communities where people may well find that they are in a position to discuss the private incomes of individuals.

I support the first five amendments in this group and would like to ask some questions that have not been asked during this debate. I do not really want to repeat anything that other noble Lords have said, apart from what my noble friend Lady Hollis said. Clause 78(2) states:

> "The regulations may, in particular, require the rent—(a) to be equal to the market rate, (b) to be a proportion of the market rate".

I think we should at this stage know where. When the people were on the streets of London yesterday—I understand there were thousands of them—demonstrating about the consequences of this Bill for them as individuals and the breach of privacy that it entails, many of them were perhaps unaware that in many parts of the country the full market rate will be the target. It might well be that some of them thought that their properties might be simply covered by the provision of the "proportion of the market rate" in paragraph (b).

That question is relevant because in the Shelter briefing—and Shelter has been one of the main sources of information on this Bill rather than government departments, certainly when it comes to statistics—we find from DCLG tables 702 and 704 that the London average social rent in local authority-owned housing is £455 per month. If that property were in the private sector, according to the private rental market statistics summary of monthly rents recorded between October 2014 and September 2015, that rent would be £1,626 per month for a two bed flat. In other words, the rent nearly quadruples. So if the target is market rents, people in London have to expect that the Government's ultimate objective is to secure a market rent of £1,626 a month on a property that currently on average costs £455 a month. That is a huge increase.

I move now to Clause 79. Again, we have the problem that we have a skeleton Bill. We are not given the answers. This is a classic example of the problem of this Bill. It says:

> "Meaning of 'high income' etc … Rent regulations must … define what is meant by 'high income' for the purposes of this Chapter".

We had a debate about that and we broadly know what the figures are—the £30,000 and £40,000 thresholds. But then Clause 79(2) says:

> "The regulations may, in particular … define 'high income' in different ways for different areas".

What will that mean for London, Newcastle or Birmingham? Is a different area going to determine what the high-income level is? Again, that will be in regulations, so we cannot see what it means. The differential in England may well be very controversial but we cannot debate it at this stage of the Bill.

Clause 79(2)(b) says that the regulations may,

"specify things that are, or are not, to be treated as income".

Will they include unearned income, pensions, all benefits, the benefits of dependants, the unearned income of dependants, or the unearned income or benefits of relatives who might stay in the property? Once again, a whole area is excluded from consideration by this House. My noble friends Lady Hollis and Lady Lister at least tried to put wings on it but we still do not know the detail.

Clause 79(2)(c) then says that the regulations may,

"make provision about the period by reference to which a person's income is to be calculated".

Is it to be weekly, monthly, annually or biannually? Again, we are not told.

Paragraph (d) says that the regulations may,

"make provision about how a person's income is to be verified".

Noble Lords should remember that my noble friend Lady Hollis said that everyone who lives in a council house and is not on housing benefit could be subject to an inquiry about their income by their local authority. Can we presume that if you live in a council house in the United Kingdom and your total household income exceeds £30,000 a year, the local authority will be able to ring up your employer or anybody they want—for example, your pension provider, your private pension provider or any other organisation that might be paying someone an income—to ask how much you are being paid? We know that that already exists in law for means-testing systems, but now we are talking about people who are outside the benefits system and will suddenly be brought into the whole world of means testing. I believe that that is fundamentally wrong.

That brings me to my final objection. This Bill will fail for the reasons that have been given by my noble friends. If the annual income for your household outside London is over £30,000 a year, you are going to be very tempted to go on the fiddle. There will be hundreds of thousands of people who say, "I'm not going to declare that income. I'm going to take a little job here and get a bit of extra money there. I'll go and work in a hotel and do a few little jobs here and there". They will find all sorts of ways to get round these rules.

I do not normally attack officials but I cannot understand how even officials do not realise what is going on in the real world. Parliament has become unwieldy—it just does not understand what is going on in the population. People calculate how they can maximise their income, and if they are going to be caught by the £30,000 threshold, as a lot of people in the United Kingdom will be, they will find ways of getting round it. There will be an army of people trying to track down people's incomes, and people will get very upset. As my noble friend Lady Hollis said, this will turn into another poll tax. We have warned the Government: there will be abuse and massive fiddling. I think that, even at this late stage, the Government should take stock of the nonsense provisions in this stupid Bill.

Lord Beecham: My Lords, as we have heard, this group deals with the Government's extraordinary assumption of powers to determine for every local housing authority the rent they must charge to high-income tenants—an even greater trespass on their right to manage their own affairs than those we have previously discussed in relation to this Bill. We support the amendments in this group, which would leave councils with discretion in this area and would transform government prescription to responses better determined at a local level, taking into account but not being bound by the Government's views.

Later as we proceed with the Bill we will debate permission in principle in relation to planning. In the clauses in Chapter 3 we have legislation in principle. The rent regulations which the Bill requires councils to apply are potentially wide ranging as they may require the rent to be equal to the market rate; or a proportion, needless to say unspecified in the Bill, of the market rate; or to be determined by other equally unspecified reference to other factors; while Clause 8(3), as my noble friend has said, provides different rents for people with different incomes or for different areas.

Clause 79(2) extends the scope of these regulations to define what constitutes high income, how it is to be calculated—including different ways for different areas—and specifying what is and is not income, the period to be taken into account for the purpose of the calculation, and how a person's income or a person's household income is to be calculated, and requires the housing authority to have regard to guidance when calculating or verifying a person's income. All this, of course, will come in regulations we have yet to see but hope to see—we have an assurance—before we finally reach Report. However, even they are only possibilities. They will not be prescriptive but what councils and housing authorities may do. It is unclear whether they will be binding.

Clause 80 deals with information about income. Again it sets out a series of regulations which may require housing authorities to do things and may, in particular, make provision about the kind of information or evidence that may be required. Interestingly, subsection (4) defines a tenant as including a prospective tenant. That rather concerns me and perhaps other noble Lords. There is a suggestion there that, if a tenant's income is found to be rather low in relation to the property, that will affect the granting of a tenancy. It opens up the possibility that tenants will be picked from those who can, on the Bill's definition, afford a particular property and that it will not be let to tenants who cannot. If that is not the case—if I am being unduly suspicious—perhaps the Minister can tell the House why subsection (4) is in Clause 80 at all.

This complex bureaucratic exercise will have to be undertaken up and down the country. What is the Government's estimate of the cost of this cumbersome system and how will it be met? Will it be met by the Government or by the Housing Revenue Account and, therefore, by the tenants themselves,

[LORD BEECHAM]
effectively, in the end—and tenants not only of these properties but, presumably, across the housing range?

We will encounter in later groups other aspects of this extraordinary example of naked centralism, but can the Minister tell the House how far the drafting of regulations has got? She has indicated today that we will be seeing regulations—she is nodding her head—so it looks as though these particular regulations will be included, for which we will be grateful. However, when she replies to this debate, can she say who has been consulted in the matter and with what outcomes? In particular, have the Government consulted representatives of tenants? Tenants' federations and tenants' associations exist in many places. Have they discussed the matter with them or has their conversation been confined to the housing authorities themselves?

If this approach is appropriate for this area of public policy, can the Minister say which other areas of public provision by local authorities can be certain of avoiding the imposition of similar manifestations of democratic centralism that would have made Stalin, Nicola Sturgeon or even Eric Pickles blush?

5.30 pm

Amendment 81, in my name and that of my noble friend Lord Kennedy, deals with the particularly egregious provision in Clause 84 that regulations may require an authority to make a payment to the Secretary of State,

"in respect of any estimated increase in rental income because of the regulations",

which will prescribe how a payment is to be calculated. Among the provisions in this clause is the following amazing formulation:

"The regulations may provide for assumptions to be made in making a calculation, whether or not those assumptions are, or are likely to be, borne out by events".

I challenge the Minister to cite any other piece of legislation which comes even close to resembling this extraordinary wording.

Amendment 81 removes the word "estimated" such that only actual rental income would have to be paid. What possible justification could the Minister have for failing to accept this amendment? There have been some particularly forensic analyses of the provisions here. I draw attention particularly to my noble friend Lady Hollis's critique. She has raised a lot of questions. The Minister may not be in a position to reply to them fully today—that would not be her fault. One has to say, however, that as we go through this Bill, in clause after clause we are finding similar problems. It is a Bill that has been ill thought out and rushed, and its impact on people has not, as it so far appears, been reasonably calculated.

We will endeavour to do our best, as a Committee, to improve this Bill, but this clause in particular highlights almost everything that is wrong about the Government's approach.

Lord Shipley: My Lords, I said earlier that I wanted to comment on Amendment 81 when it had been spoken to. It is part of Clause 84, and therefore Clause 84 stand part is relevant. This is a very important issue. The noble Lord, Lord Foster of Bath, referred to pages seven, eight and nine of the Delegated Powers and Regulatory Reform Committee's report. I do not seek to repeat what the noble Lord, Lord Beecham, has said, but I hope that the Minister will have a clear reply because, as the Delegated Powers and Regulatory Reform Committee says in paragraph 37:

"It could be viewed as a form of taxation because it enables the regulations to require local housing authorities to make payments to the Secretary of State in respect of 'any estimated increase in rental income because of the regulations'".

It goes on to say that the memorandum of explanation that it received,

"gives only the barest explanation or justification for this power; indeed, it seeks to dismiss this highly important provision as 'quasi-technical'…. The intended meaning of that expression wholly eludes us, and the House may wish to ask the Minister for an explanation".

We have asked for this. Given that this has been available since 5 February, clearly the Government have time now to respond through the Minister's reply as to how they plan to deal with that matter.

In paragraph 38, the Delegated Powers and Regulatory Reform Committee says:

"The Henry VIII power in Clause 83(4) will be subject to the affirmative procedure. Otherwise, the negative procedure applies to regulations made under all the other powers in this group of clauses. The justification in the memorandum is that the negative procedure follows 'a clear policy framework that has been set in Clause 78 and the related clauses of the primary legislation'….We strongly disagree with the suggestion that the clauses in question offer anything like a clear enough statement of discernible policy to justify the delegation, far less the negative procedure".

I want it to be clearly understood by the Minister that this is a very serious matter. I hope and anticipate that she will be able to give a full explanation of why this clause has been worded in this way.

Baroness Williams of Trafford: My Lords, before I turn to the amendments I want to outline the Government's latest position on the policy for high-income social tenants, which I outlined in a letter late last week. I hope this will address some of the concerns from noble Lords, particularly those who have stated their opposition to the policy and the clauses in the Bill.

I recognise and share the concern about the level of detail that has been brought forward with regard to our policy for high-income social tenants. My priority over the past few weeks has been to finalise key aspects in order to give that detail. This is particularly important, as the greater part of the policy will be set out in secondary legislation. Although I do not have regulations to share with noble Lords today, I am able to set out a significant amount of detail about what will be included in those regulations.

I am clear that secondary legislation is necessary for this policy, as we need the ability to keep the policy under review and bring forward changes in future based on a thorough review of the effectiveness of the policy and its impact. I am sure that that will be supported.

It is fair to ask how the legislation will be used in the first place. Before I turn to that, I remind the Committee of the Government's reasons for introducing the policy. The 2015 Budget set out that households in

social housing on incomes of £30,000 or above nationally and £40,000 or above in London would be required to pay a higher amount of rent if their current rent was below the market value. It is simply not right that social tenants continue to benefit from lower rates of rent as their income rises when households in the private sector on comparable income levels do not have this luxury. Households in the private sector on those kinds of incomes would, in many cases, be expected to pay the market rent. This is fundamentally unfair when it is those same taxpayers who are contributing to the lower rents enjoyed by tenants on similar incomes in the social sector. The position cannot continue.

Many taxpayers will be surprised to learn that there are more than 40,000 households in the social sector on annual household incomes of over £50,000 a year who are continuing to benefit from taxpayer-funded lower rents. Of course, that figure is at the top end of the household income scale, and we recognise that there are far more social households in receipt of incomes between £30,000 and £40,000 a year. We have always recognised that we must not damage the incentive to keep and find work, as the noble Lord, Lord Foster, says, and I know this important aim will be shared by many in the Committee. Households earning above £30,000 should be able to contribute a little more towards their housing costs, and it is on that basis that we consulted in October 2015 on a proposal for a taper to ensure that rents would increase gradually above the proposed income thresholds.

There was a strong level of support for the proposed taper, with just under 90% of respondents to the question supporting the proposal. I am pleased to be able to confirm to the Committee that the Government will be introducing a taper, and we will use regulations to set out the design of the taper. There are a number of ways in which this could be done. For example, a taper set at 20% would mean an extra 20% in rent for every £1 earned above the income threshold. A taper set at 10% would mean an extra 10% in rent for every £1 earned above the threshold. Both examples would mean that, for households just above the starting income thresholds, the rent rise would be a few pounds each week, not the doubling of rental payments that has been a prominent accusation in recent weeks. I am sure the Government's confirmation of the taper will provide some reassurance to members of those households who have been worried that rents will jump straight to market rental values.

Lord Campbell-Savours: My Lords—

Baroness Williams of Trafford: My Lords, perhaps I may finish this statement and then the noble Lord can intervene.

The noble Baroness, Lady Bakewell, mentioned a lady who wrote to her who was a housing association tenant. Of course, this measure would not apply to her.

Of course, for those households earning far more than the proposed starting thresholds, the rent increases would be greater. However, the taper will reflect what we consider to be the best balance between ensuring fairness between the social and private rented markets, and protecting the incentive to find and keep work.

I should take the opportunity to remind the Committee about the Government's home ownership offer to social tenants, particularly those on the kind of incomes we are talking about. If a social tenant were to make the move into home ownership, via either Right to Buy, shared ownership or Rent to Buy, the policy for higher rents simply would not apply to them. This is an important message.

The consultation also asked for views on how the administrative costs for local authorities should be dealt with. The proposal was to allow local authorities to retain a reasonable amount of admin costs, and I can confirm today that the Government will honour this proposal—the noble Lord, Lord Shipley, asked about this. Further work with local government is necessary to understand what the actual costs will be, and we will explore in detail how to implement a policy that minimises the burden on local authorities.

Moving forward over the next few months, the priority for my department is engagement with local authorities and housing associations. The work will inform much of the rest of the regulations and will be focused on three key areas: how "income" is defined for the purposes of the policy; how market rents should be established; and the process for returning money raised from local authorities to the Exchequer. I assure noble Lords that we want a policy that is workable, and this is why the engagement work is so important. I will pick up on these areas in more detail as we move through the amendments.

I hope that these opening remarks have been helpful to noble Lords and that some reassurance has been provided on key aspects of the policy on the taper and the treatment of admin costs.

Lord Lansley: Just for the avoidance of doubt, when my noble friend referred to the two illustrations on the taper, she referred to 10% and 20%. I understood that we are in fact talking about 10 pence and 20 pence in the pound.

Baroness Williams of Trafford: My noble friend is absolutely right. I had not realised that I had made that error. At this point, I shall let the noble Lord, Lord Campbell-Savours, intervene.

Lord Campbell-Savours: I think that the noble Lord, Lord Best, said that he thought that the Government were minded towards the lower taper. If he thought that, he must have had some indication, either from officials or from within the department. Has any discussion gone on and who is privy to it?

Baroness Williams of Trafford: My Lords, I think that the noble Lord spoke in hope rather than anything else. I have not had private conversations with him about what those figures would look like. I am sure he will speak for himself if he wishes to do so.

The amendments would give local authorities the option to adopt a voluntary policy for high-income social tenants. While I understand why this may seem an attractive way forward, particularly for local authorities,

[Baroness Williams of Trafford]
a voluntary approach does not help achieve our aim of a consistent and fair approach for all local authority tenants.

Amendment 69C, tabled by the noble Lords, Lord Kerslake, Lord Best, Lord Kennedy and Lord Stoneham, would give local authorities the choice about whether to raise rents for high-income social tenants. As I have explained, the policy will be mandatory for local authorities to ensure fairness and a consistent approach.

It may be that noble Lords have in mind that the policy will still be voluntary for housing associations, and it may help if I provide more detail on that decision—this goes to the point raised by the noble Lord, Lord Foster. I am sure that noble Lords are all aware that following the reclassification of the housing association sector as public by the Office for National Statistics, the Government have taken the necessary steps to persuade the ONS to reverse that decision. This means not putting in place controls over the sector, and there are clauses elsewhere in the Bill that aim to deregulate it. Part of this approach is to make sure that we do not tell housing associations how to run their business and, on that basis, we cannot force them to operate a pay-to-stay policy. However, we want as many housing associations as possible to operate a voluntary policy, and my department is taking forward discussions with the National Housing Federation and housing associations to ensure that the majority do so. Early indications are that housing associations are interested in adopting a voluntary policy and, as these conversations develop, I will bring forward more detail.

The noble Lord, Lord Foster, asked about the data from the right to stay—I think he called it—in 2012. We did not collect those data because so few housing associations and local authorities operated it, and that is still the case today.

5.45 pm

Lord Foster of Bath: I meant on pay to stay.

Baroness Williams of Trafford: No, I am afraid not.

Amendments 69D and 76A, tabled by the noble Lord, Lord Shipley, and the noble Baroness, Lady Bakewell, would have the same effect as the previous amendment: they would make the policy voluntary for local authorities. I have explained why that is not our preference.

The noble Baroness, Lady Hollis, asked how pay to stay would work with taxable years. We have not yet decided how it will work. We have not decided whether it will be calculated by looking at taxable income and we are also considering whether it should be based on previous income or current income.

Baroness Hollis of Heigham: Can the Minister help me on this? Under UC and so on, we are dealing with real-time information, where people's income fluctuates month by month. Does this mean that the Minister will not be interested in that fluctuation month by month in terms of the taper? As far as local authorities are concerned, and as far as I can see, they will be required to have personally tailored rents, probably revisited every month, and a different rent for every house in the street. The Minister may go on to answer that, but as far as I can see, almost no thought has been given in all the papers that I have read to the interaction between what is proposed for local authorities and what a fellow department, DWP, is seeking to achieve.

Baroness Williams of Trafford: My Lords, on the interaction between UC and the policy, we are doing as a priority a piece of work to explore that relationship, but there will obviously be an exemption for those on housing benefit. Officials and I have given some thought to that very point about fluctuations from month to month—for example, for someone who is on a zero-hours contract. That is the very type of thing we are looking at in terms of making this policy fair, because there will be many situations where that is the case.

Baroness Hollis of Heigham: Does the Minister therefore not accept that the path that she appears to be going down is individually tailored rents which will fluctuate month by month, which local authorities will be expected to determine and collect?

Baroness Williams of Trafford: My Lords, I may not have articulated it properly, but that is the very sort of issue that we are looking into. I hope that in due course we will see an equitable conclusion.

The noble Baroness, Lady Lister, asked about the equality impact assessment. As if by magic, by the end of this week—in fact, as we speak—I believe that it is going on the Bill website, and I have asked for a copy to be sent directly to her. If by Thursday it is not with her she knows where to come.

Baroness Lister of Burtersett: I am very grateful, but I remind the Minister that the Equality and Human Rights Commission said that the whole point of the assessment is that it is done while policy is being made, not in the middle of Committee, when we are discussing it.

Baroness Williams of Trafford: I take the point made by the noble Baroness. I can give her that confirmation today.

The noble Baroness, Lady Hollis, talked about the problems relating to data sharing. We will come on to this issue in a later group. Suffice it to say for now that HMRC will not collect any new information. The landlords collect it and confirm it with HMRC. It is a criminal offence to disclose HMRC data unlawfully, but as I say, we will come on to this matter in a later group.

Lord Campbell-Savours: Will the Minister answer the direct question I asked of her? Is it true that private companies will have access to information on the incomes of council tenants where the total income of the household exceeds £30,000 a year? The answer to that is yes or no.

Baroness Williams of Trafford: The answer is yes. The landlord will collect the information and confirm it with HMRC, which is slightly the other way around, if that makes sense. As I say, perhaps we should leave the discussion about HMRC—

Lord Campbell-Savours: Having agreed that that is the case, will the noble Baroness confirm that this is the first time in history that that has happened?

Baroness Williams of Trafford: My Lords, landlords collect the information and they send it to HMRC. It is not a question of HMRC collecting any new information; HMRC will not be doing that. Perhaps we should park the HMRC issue because we will come on to it in a later group.

I turn to Amendment 70D tabled by among others the noble Lords, Lord Best and Lord Beecham. This would give local authorities a choice about how to set rents for high income social tenants. Taken together with previous amendments that seek to make the policy voluntary, this would mean that a number of different approaches would be taken up and down the country. As I have said, that is not our preferred route as we want a consistent approach for all local authority tenants. This is best achieved by the introduction of a taper, which I hope I have covered thoroughly already. Regulations under this clause will be used to confirm the taper.

Housing associations will be free to decide on the most appropriate level of rent, although we hope that the majority will copy the approach of the taper that will apply to local authority tenants. The housing associations we have spoken to have suggested that this will be the most likely scenario.

Amendment 70E would enable local authorities to decide how rents should be set, presumably after they had taken the decision on whether to adopt a policy. I refer the noble Lord, Lord Shipley, and the noble Baroness, Lady Bakewell, back to the previous discussions and the commitments I have given on rents by way of a taper. This will apply to all local authority tenants and will link rent rises to increases in household income.

Amendment 75C, tabled by among others the noble Lords, Lord Best and Lord Kennedy, would change the status of the guidance issued by the Secretary of State. Local authorities will be very clear that if they are to be required to operate the policy, they need guidance about the steps they should take. The purpose of guidance will not be to prescribe exactly the processes and technical support needed to operate the policy within an authority but it may set out, for example, how income has been defined under the policy and the types of evidence that may be acceptable to help to verify declarations made by tenants. I am sure that noble Lords will be interested in any guidance that we intend to issue, and I will certainly share it when it becomes available.

Amendment 79C is concerned with the approach for non-declaration of rents by social households. I thank the noble Lord, Lord Shipley, and the noble Baroness, Lady Bakewell, for the amendment and I will turn to the reasons for the power in a separate part of the debate. This amendment seeks to make the power voluntary for local authorities, but we believe that where action is needed for tenants who do not declare, the approach should apply consistently across the country. We are considering how this power could also be used by housing associations in discussion with them, and I am clear that there should be a fair and consistent use of the approach for non-declaration.

Finally, Amendment 81, tabled by the noble Lords, Lord Kennedy and Lord Beecham, would mean that payments made to the Government under the policy could not be based on an estimate of the rental income increase or on a formula approach based on a set of assumptions. We have not taken a decision on the approach as further engagement with local authorities is necessary. I think that also answers the point put by the noble Baroness, Lady Hollis. However, there needs to be flexibility in the power to ensure that the most appropriate approach can be taken. I will carefully consider both the benefits and the drawbacks to an approach based on actual receipts and one based on estimates. Engagement with local authorities will continue over the next month, and the issue of how to return money will be at the top of the agenda. We will listen carefully to the arguments before making a decision.

As I have said, I recognise why there is a desire for local authorities to operate this policy voluntarily, but I hope I have done enough to persuade noble Lords why that would not be the best way forward. The Government have a clearly stated policy that high income social tenants should pay a fairer level of rent. On that basis, it is only fair that it should apply consistently across local authority tenants. I have outlined why we cannot do the same for housing associations, but that we are working closely with them to ensure they take up the policy. Alongside this, I have provided confirmation of our commitment to a taper that will meet a reasonable level of the costs of operating the scheme for local authorities. On that basis, I ask that the amendment be withdrawn.

Lord Kennedy of Southwark: I think I heard the noble Baroness correctly, but I might be wrong, when she said earlier that council tenants receive a taxpayer-funded subsidy. If that is the case, will she say a bit more about it?

Baroness Williams of Trafford: My Lords, I talked about council tenants on higher incomes benefiting from a taxpayer subsidy when many people in the private rented sector who are on lower incomes would not be able to avail themselves of such a subsidy.

Baroness Hollis of Heigham: Could the noble Baroness specify what form that subsidy takes? Certainly in the local authorities I am familiar with, the rents charged cover maintenance, repairs, collection, administration and the like, and receive no taxpayer subsidy—unless the Minister is saying that anything below market rent is a subsidy by definition, which I think is an absurd position. As far as I am aware, there is no subsidy. Perhaps the Minister can specify in what ways the taxpayer subsidises council tenants.

Baroness Williams of Trafford: As the noble Baroness says, the rents are below the market rent.

Baroness Hollis of Heigham: What the noble Baroness is saying is that every time private landlords' rents go up, the subsidy to council tenants from the taxpayer is increased. That is Orwellian.

Baroness Williams of Trafford: My Lords, I think that we will have to agree to differ. I recognise that there are different opinions across the Committee on this, but I have made the point because social rents are lower than market rent.

Lord Beecham: Market rents are artificial. There is nothing God-given about market rents because they are determined by landlords, largely on the basis of a shortage of affordable housing anyway. In so far as there is a subsidy, surely it is the subsidy that is paid in the form of housing benefit for private tenants, about which the Government propose to do nothing at all.

In addition to that, the noble Baroness referred to the need for consistency across all local authorities. She has not made an argument for that, she has merely stated it as a given. The Government do not take the same view about council tax. They did in a sense when they introduced the poll tax, and they seem to be making the equivalent mistake here with local authority rents. It is an absurd proposition that the same system should apply across all local authorities irrespective, for example, of the value of the housing and average local incomes. Where is the justification for the simple assertion that that must be the basis of the scheme?

Baroness Williams of Trafford: I am sorry, I thought that the noble Lord was going on to make a speech. The fact is that generally social rents are cheaper than market rents, although they have been going up at a higher rate than rents in the private sector. I do not think we can compare this proposal with council tax because different areas have different needs in terms of the services they provide.

Lord Best: My Lords, I am grateful to all noble Lords who have joined in this debate. As has been the pattern in other parts of the Bill, we have started with a lengthy session which has looked at the full policy implications in this area. There are a lot of amendments yet to come on pay to stay, but I think we have already aired some of the broader policy issues.

The noble Lord, Lord Shipley, commented on the administrative costs of handling this scheme, to which many other noble Lords drew attention. We will come to Amendment 75A and have another go at that issue, which is clearly very important if the scheme will cost an awful lot of the money raised just to administer. That is money just going round in circles and achieving nothing at all.

6 pm

The noble Baroness, Lady Hollis, explained to us how the interaction with universal credit is likely to work. The Government would be well advised to take her advice on board. She is a great expert on these matters, and the descriptions of how monthly adjustments would need to be made sound absolutely horrendous. The noble Baroness described it as an administrative nightmare. There is a very high likelihood that the computer would collapse as a result, so some more thinking is clearly needed.

The noble Baroness, Lady Lister, who is a great expert on benefits, talked about the work disincentives of which we have perhaps not spoken enough, and how second earners would be the most adversely affected. She told us—I did not know this—that the same system was tried in Germany and discontinued on the grounds that it was administratively too cumbersome and too expensive to continue, which was very interesting. She also expressed the view on behalf of many tenants that the insecurity that this measure breeds has been very disruptive. The noble Baroness, Lady Bakewell, echoed those thoughts and gave us a real life example.

We now have it on the record that the taper will be there, along with my hope—I am afraid that is all it is—that the Government will go for the lower of the two options, having now put them both on the table. In the case quoted by the noble Baroness, Lady Bakewell, the combined income of the two people living in the home in Camden came to £46,000, so they would be over the threshold by £6,000, leading to a £12 a week rent increase. An increase of £12 a week would be no fun for those two people. However, that is very different from worrying that the rent would be doubled or even trebled, which had been the fear at one time. We must bear that in mind.

The noble Duke, the Duke of Somerset, also drew attention to the administration costs involved and to the IT that would have to be brought in. The noble Lord, Lord Foster, asked what had happened to the 2012 voluntary scheme. Has there been any assessment of whether that has worked? If it has been working well, why are we talking about this whole new scheme? The noble Lord, Lord Campbell-Savours, is extremely worried about the breach of privacy by private companies with all this means testing. An army of snoopers would be required to keep checking on everybody if this goes ahead, as it might.

The noble Lord, Lord Beecham, brought us back to the key point that these amendments are about council autonomy. He talked about naked centralism and the many unspecified requirements, and the noble Lord, Lord Shipley, rightly referred to more Henry VIII powers coming through in regulations. We are still mystified as to how all these things will work through.

The Minister responded with a bit more detail. She told us that local authorities will get their reasonable costs reimbursed for handling all of this. The Bill's impact assessment estimates the kind of cost that local authorities might incur. If I have calculated correctly, it looks like about £15 per case; everybody on housing benefit is taken out of the equation and the remaining one-third of council tenants are kept in. So, the amount that might be regarded as reasonable by the Government looks like about £15 per case. However, it is clear from what we have heard today and from submissions we have received that the administrative costs will be far more than £15 per case. Bristol calculated it at £36, but that was because it still has a team doing housing

benefit and could tack that on. When universal credit comes in, Bristol will be in a different position and will have to have new staff. New computer programs will have to be written to handle all of this, and they are bound to go wrong. An appeals system will probably be needed to follow this through, which costs serious money. The phrase "reasonable costs" will need a little bit more work.

If the Government will not accept that councils should decide their rent policy for themselves and a compulsory increase is to be set for the whole country, to take the point made by the noble Lord, Lord Beecham, consistency in itself does not sound like a great virtue. There are huge differences around the country in the level of rent, and between the market rent and the council rent in particular areas, although in some areas they are very much the same. There are huge differences in local incomes and the incomes of council tenants in different parts of the country, so one would have thought it necessary to tailor such schemes to match local circumstances. A consistent approach across the country will therefore not really work, but if the Government are determined to press ahead, I hope the lower taper will be chosen. On that basis, I beg leave to withdraw the amendment.

Amendment 69C withdrawn.

Amendment 69D not moved.

Amendment 70

Moved by ***Baroness Lister of Burtersett***

70: Clause 78, page 34, line 10, at end insert—

"(1A) Any regulations made by the Secretary of State shall not apply—

(a) to people aged over 65;

(b) to people who have a registered disability;

(c) to people on zero hours contracts;

(d) to people with seasonal contracts of employment;

(e) to households where one or more members is in receipt of employment and support allowance (ESA);

(f) where a household member is in receipt of care;

(g) where a member of the household is a carer for another household member;

(h) to those living in supported housing; and

(i) to households in receipt of housing benefit."

Baroness Lister of Burtersett: My Lords, I rise to move Amendment 70, in my name and that of my noble friend Lord Kennedy of Southwark, to give my noble friend a bit of a rest. The amendment would exempt a number of particularly at-risk groups from pay to stay, but I will speak solely in relation to disabled people and carers for whom there is a particularly strong case for exemption. My noble friend will address the other groups included in the amendment later.

In the Public Bill Committee, the Minister, Marcus Jones, assured MPs that,

"exemptions can be made and we will consider carers carefully. We recognise that, in certain circumstances, exemptions may well be needed, and we are thinking through that process carefully".—[*Official Report,* Commons, Housing and Planning Bill Committee, 3/12/15; col. 482.]

That is welcome. I particularly welcome the fact that the Government are considering exempting carers, not least because the means test, as I said earlier, will take no account of the cost of caring or disability. Carers UK has summarised what these costs are, based on the findings of its *Caring & Family Finances Inquiry*. They include higher utility bills, not just in winter when there is more prolonged and intensive use of energy, but when the weather is warmer. Many disabled and older people are unable to regulate their body temperature. The use of specialist equipment, such as electric wheelchairs and hoists, as well as greater use of appliances, such as washing machines, takes its toll in energy bills. Other costs include higher transport costs and higher than average expenditure on food and cleaning products, with some having to pay for incontinence pads. Carers UK points out that because such costs can take up a high proportion of income, even if the household's taxable income is above the threshold, their disposable income could be well below it. Increased housing costs could well push them into debt. In such a situation, even a few additional pounds under a taper could prove the straw that breaks the proverbial carer's back.

A related issue is that of disabled people themselves—notably disabled people in adapted homes. In its response to the consultation, Habinteg, a housing association with long-standing experience of providing homes for both disabled and non-disabled tenants, echoed the point about additional costs associated with disability, and pointed out that these are not necessarily covered by disability benefits. They are even less likely to be covered by disability benefits, given what we have heard in the media over the last day or so about further savage cuts to personal independence payments. Habinteg suggests that the result could be discriminatory, and I here note my thanks to Jenny Morris for drawing my attention to Habinteg's response. Once again, an equalities impact assessment would have been helpful. I appreciate that it is going on the website as we speak and that I will receive a personal copy, but it suggests that the likely impact on disabled people, carers and other protected groups has not been taken into account in the drawing up of the policy.

Aspire, an organisation supporting people with spinal cord injuries, sent me recently published research undertaken by researchers at Loughborough University—I declare an interest as an emeritus professor there—that studied people with spinal cord injuries living in adapted and non-adapted accommodation. The report cites the UN convention on the rights of disabled people, which emphasises the vital role that suitable housing plays for disabled people, as does the Government's Office for Disability Issues. To summarise the findings:

"Living in an adapted house had a positive impact on the health and wellbeing",

of people with spinal cord injuries and the family. The report continues:

"It created the conditions and an environment for people to have a good quality life, to manage their physical health well, to be happy, and to sustain meaningful relationships. In contrast, for those who lived in an unadapted house, health and wellbeing was negatively impacted on and, over time, deteriorated substantially".

It damaged physical and psychological health, with potentially very damaging consequences.

[Baroness Lister of Burtersett]

Last November, Stacie Lewis, a mother of a severely disabled daughter who has cancer herself, wrote a piece for the *Guardian* website. After years of struggle the family had recently moved into an accessible, new-build house, which will, nevertheless, require extensive adaptations. Her husband's income is above the threshold and she is now understandably worried about what this might mean for them. She pointed out how little suitable housing there is available for disabled people and that they therefore rely heavily on social housing. Her family waited three years for that home. She asked,

"what kind of economic sense does it make for the government to spend thousands to adapt our home and then throw that investment away by forcing us out?".

Let us hope that it does not come to that, but it is a highly pertinent question.

I cannot believe that the Government would want this policy to lead to some disabled people having to give up their adapted home because they can no longer afford to live there. A similar point on high-value sales was raised by my noble friend Lord Beecham on Thursday. I suspect we are talking about a relatively small group, but the impact on the well-being of disabled people and their families could be huge. It would make no sense, from the point of view of housing stock, not to exempt those in adapted accommodation.

Following a similar logic, will the Government undertake to consider exempting victims of domestic violence whose homes have been adapted under the sanctuary scheme? Although they are not covered by the amendment, I am sure that my noble friend would be happy to include this group. Again, probably very few of them would be affected, but if that is the case, what is to be lost by exempting them?

Given that Mr Jones's statement about considering exemptions was made on 3 December, is the Minister in the position, three months on, to tell us what the outcome of that "careful thinking" has been? If she is not minded to accept these exemptions, will she undertake to consult disability and carers' organisations, such as Carers UK, as requested by, for example, Habinteg in its response to the consultation, preferably before Report? I beg to move.

Lord Kerslake (CB): My Lords, I shall speak on Amendments 70B and 75B, and in support of the other amendments in the group. I apologise for not being able to be here for the debate on the first group, due to other long-standing personal commitments. I also declare my interest as chair of Peabody and president of the Local Government Association.

The amendments before us seek to address the issues of feasibility and deliverability, and propose phasing in the changes over time, starting from April 2017. They also suggest that we have a pilot scheme before we move to full operation of the policy. Of all the parts of the Bill—there are some very contested parts of it—this is without doubt the part on which I have had most correspondence. It comes not just from organisations, but from a greater number of individual tenants. These tenants are people who have typically worked hard and got on in their life, and now are genuinely worried about their future security. This part of the Bill introduces in the name of fairness a proposition that is, in many ways, deeply unfair, bureaucratic and centralist in its nature. It departs very substantially from the original intent of the policy, developed during the coalition, which was to tackle those on very high incomes of more than £60,000, developed in response to one person: the trade union leader Bob Crow. The proposition that went in then was flexible and voluntary, and local authorities got to keep the proceeds.

6.15 pm

We are now talking about people who earn half the amount that was part of the previous debate. Inevitably, this draws in much wider ranges of tenants and of complexity. This is what we are now grappling with. It is also mandatory, so the ability to adjust at local level does not apply. I am struck by the contrast between the debate we had on right to buy and this debate. Indeed, I feel that the two are in complete contradiction. In that part of the debate unfairness abounds, but it is justified in the name of opportunity, so existing tenants in a housing association will receive a very substantial cash bonus—a subsidy, if you like—to enable them to purchase a property. But they can take advantage of that subsidy only if they are in a position to and have the means to proceed with a mortgage and the deposit. The cost of that subsidy will, effectively, be funded by those who need new accommodation and those opportunities will no longer be there because the bigger properties will be sold. They, effectively, are paying for the subsidy by the denied opportunity.

When I raised the one-for-one policy in the right-to-buy debate, the Minister argued for flexibility to allow for different circumstances and suggested that a one-for-one policy in the Bill would be inflexible. However, in this part of the Bill we move in an entirely opposite direction and suggest that a central, top-down approach is needed regardless of local circumstances. One or other approach must be right.

Many tenants have said to me—I believe correctly—that there is now no revenue subsidy for social housing. In fact, we moved away from a revenue-subsidised model a number of years ago, so it is misleading to suggest that the taxpayer is subsidising these tenants. What we have is a cross-subsidy model for the provision of new properties—that is to say, housing associations build and sell market properties and use the profits to cross-subsidise social rented properties. They achieve that with very low or, often, no government grants at all. This is the right way to think about subsidy because it works through individual choice rather than coercion.

In this policy, tenants who have taken up their property in good faith, with a level of rent and an expectation that that rent would rise in line with inflation, will now face a significant increase in their rents, notwithstanding the taper, which I welcome. Of course, they have already paid higher income tax, so this is in effect on top of their additional income tax. It seems to me that, even with the taper, this can and is likely to be quite significant. Therefore, the choices for them will either be to pay the higher rent, to move into market-rented properties, again at an even higher rent,

or to think about buying at a point when they are not ready to purchase the property, all of which seem poor outcomes from a policy.

I now move on to the implementation issues, which are the substance of the amendments. There are significant implementation issues here, and it is for the simple reason that neither the housing associations nor the local authorities are tax collectors: they have none of the capacity needed to get this policy right. I include housing associations here because, although this will be a voluntary policy, the Government have—as the Minister just said—made it clear that they are expected to implement this policy over time. To make this work in a way that is in any sense fair or reasonable, they will need to be in an equal position to HMRC as regards information. It seems patently unlikely that they will be in that situation.

The complexities and sums of money involved make it essential that we have an effective operating system. The consequences for individual tenants if this is not right will be severe indeed. I will give four examples of the practical implementation issues that really concern me. First is one that has already been raised in this debate: household incomes fluctuate very significantly over time, sometimes from week to week and certainly from month to month. If the policy is based on the income of a tenant the year before, it will lead to grotesque unfairnesses as their income position changes. Secondly, if the household has a young person in it who is also working, will their income add to the total assessment of income? We know that lots of young people are living at home now for the simple reason that they cannot afford the soaring rents, so what choice will we be giving that young person? There is every prospect that they will choose to stop working to remove the penalty on their family. That would be a very poor situation indeed.

Let me give two further examples, which are real-life examples drawn from the Family Resources Survey. The first is a London household of council tenants made up of four adults, at least one of whom is a pensioner and at least one of whom has a disability. The current household taxable income is £58,000, so if the taper was 10%, then their extra monthly rental charge would be £150; if it was 20%, it would be £290. These are very big sums for some very stretched people. If this feels like an outlier case, it is not. Out of the households likely to be affected that are council tenants and not currently claiming housing benefit, 37% include at least one disabled adult. We are talking about significant numbers of people here.

My final example is of a family outside London: a young couple in their 30s who live in the south-east with a current household taxable income of £40,000. A 10% taper would add £83 per month; a 20% taper would add £186 a month. It is not just a London problem: it is a problem in places that have high rental income, full stop.

Given these issues, we need to think very carefully about how this policy will be implemented and how it will take effect. To go ahead with this in a situation where we truly do not understand the full impact—where there has been no pilot, no feasibility study and no proper impact assessment—seems unwise, to put it at its most mild. I understand and am totally sympathetic to the Minister's predicament here, but in truth we should not proceed in the absence of clear information about the impact of this policy—vital information that would make a difference to people's lives. Even with more detail, there are basic problems with the model, and they come from the table starting at too low an income level. That is the basic problem, and it will be bureaucratic and fraught with unintended consequences. There is a risk that, in the end, it raises so little income that it proves a worthless process in the first place. It is imperative that we do not take a leap into the dark here: we should pilot this scheme, take account of new tenants coming into it and see how it goes. My preference, quite clearly, would be to remain with the voluntary scheme that has not really had time to be tried and tested. If the Government insist on pressing ahead, however, I beg them—and I will go that far, given the impact it will have on people—to properly pilot it and to phase it in before we implement it at large. We could be heading into a terrible mistake.

Baroness Pitkeathley (Lab): My Lords, I have not been participating in this Bill, but I have presided a few times in my role as Deputy Chairman. I know that the very last thing that your Lordships need is new people coming in and making speeches on it, so I will be very brief in supporting my noble friend Lady Lister's proposals concerning carers and people with disabilities. I declare my interest as vice-president of Carers UK.

Your Lordships will have heard from my noble friend about the associated costs of caring and disability. There are costs associated with higher utility bills, higher transport bills, buying products providing personal care and so on, but I also want to mention the question of savings. That these households sometimes look as though they have reasonably high incomes does not take any account not only of the extra purchases that they have to make and the extra bills that they have to pay, but of their efforts to save for a time when their caring needs and responsibilities will become more acute. With 55% of carers in the Carers UK family and finances inquiry stating that they used their savings to meet everyday living costs, the ability to save is very important for them. Carers do try to plan in this very responsible way for how they will meet those needs as the caring needs become greater. Four in 10 carers end up in debt as a result of caring, but this rises to 69% if they have used up their savings or had no savings to begin with. While the Bill allows these new regulations to specify things that are or are not to be treated as income, it would be highly impractical to include all the expenditure on the extra-cost items associated with caring and disability. A much clearer definition is needed to ensure that carers, and those households with a disabled member, are not unfairly affected. I hope that the Minister can tell the House what plans are being developed to ensure that carers and households with a disabled member are not perversely affected by the new regulations.

Lord Best: My Lords, I will be brief. There are a couple of amendments in this group in my name and in those of my noble friends Lord Kerslake and Lord

[LORD BEST]
Low of Dalston, and the noble Lords, Lord Kennedy and Lord Beecham. I also entirely support the amendment on rent to buy in the names of the noble Lords, Lord Lansley and Lord Young of Cookham. The amendments in my name go together: the first would mean that only new tenancies after April 2017 would attract higher rents for higher-earning tenants, and the second would mean that any existing tenant—unaffected, therefore, by the new measure— would not face the higher rents if they transferred for downsizing or overcrowding reasons. The deterrent effect on people moving to make better use of social housing would be avoided.

Clearly, for the 350,000 tenants facing an uplift in their rents, this would bring a sigh of relief if government applied the new regime only to those who could make a decision about accepting a tenancy on the basis of knowledge of what their rent was going to be. However, I fear that this amendment—however fair and reasonable—may not get much traction with government, at least until we come to that later group of amendments and consider the administrative costs of pay to stay if applied to all existing tenants, with all the hassle involved, as opposed to their being relatively straightforward if applied when councils are considering allocating a new tenancy.

I also support my noble friend Lord Kerslake with Amendment 75B, which proposes the piloting of the pay-to-stay arrangements in a number of areas before the scheme is rolled out to the whole country. The Government are piloting the voluntary right to buy for housing association tenants in five areas. I know that all parties are gaining invaluable insights from that exercise, which has already started. Pay to stay is at least as complex and has at least as many imponderables. What works in Maidstone may not work in Middlesbrough; what works in Brighton may not work in Burnley. A pilot in several places would shed light on the kinds of variations most appropriate in different circumstances. I would obviously prefer local authorities to make their own decisions locally.

6.30 pm

Lord Lansley: My Lords, very briefly I will speak to Amendment 82A, in my name and that of my noble friend Lord Young of Cookham. I was encouraged by what my noble friend the Minister said in her statement on the previous group to believe that it is the Government's understanding that those in rent-to-buy agreements would not be considered as high-income social tenants to whom a higher rent would apply. The purpose of our amendment was to ensure that that is the case in relation to housing associations that publish a policy. Clearly, the amendment would not be needed if the Government could put on record that housing associations with such a policy would not be able to include rent-to-buy agreements in the scope of such a policy as intermediate rents are excluded.

Lord Kennedy of Southwark: My Lords, this group of amendments largely looks at conditions of exemption to the pay-to-stay provisions proposed by the Government. All the amendments in the group bear the names of either myself or my noble friend Lord Beecham, with the exception of Amendment 82A put down by the noble Lords, Lord Lansley and Lord Young of Cookham. Their amendment identifies an omission and seeks to correct it. It is welcome but, as the noble Lord, Lord Lansley, said, the Government seemed to confirm that it is not necessary.

Amendment 70 is in my name and that of my noble friend Lady Lister. It seeks to put in the Bill a number of exemptions to which any regulation made by the Secretary of State under Clause 78 would not apply. My noble friend Lady Lister moved the amendment, which is at this stage only a probing one that seeks to highlight a number of problems with the across-the-board application of these regulations, making people pay to stay in their council property.

The noble Baroness, Lady Williams, may shortly tell your Lordships' House that none of these exemptions are necessary. Maybe when we hear the Government's response, we on these Benches will come to the conclusion that some of them are not. However, senior citizens who have worked all their lives, people with registered disabilities, or households with people in receipt of care or where a member of the household is a carer for another person living there are such exemptions: the Government should seek to protect such people from this unfair policy that will make life difficult for people on quite modest incomes.

Could the noble Baroness respond to the comments made by my noble friend, apparently attributed to Marcus Jones MP in the Bill Committee in the other place? That would be very helpful. If not, could she write to us about that? It would also be helpful if she provided more information about the work the department is doing in this respect.

I recently saw a job advertisement, I think in the *Evening Standard*, from a London borough recruiting parking enforcement officers. The pay was about £21,000 or £22,000 a year. I thought, "Two parking enforcement officers living in the same property in London would be deemed high-income social tenants". That is ridiculous. I agree with the noble Lord, Lord Kerslake, who said that this policy evolved under the coalition and today, under the Conservative Government, has been pitched at a much lower level to catch a lot more people, many of whom can in no way be regarded as high-income earners. Couples earning more than £30,000 outside London are not high-income earners in any respect. If would be helpful if the noble Baroness explained how this policy has evolved since last year's election.

Amendment 70B in the names of the noble Lords, Lord Best, Lord Kerslake and Lord Low of Dalston, and my noble friend Lord Beecham, seeks to make these regulations effective only for new tenancies granted after April next year, again as a mechanism not to penalise those presently holding a tenancy.

Amendment 70C seeks to afford some protection for a tenant following a mutual exchange or transfer. I signed up to it, along with the noble Lords, Lord Best and Lord Low of Dalston. It raises a particular issue regarding mutual transfers and could even encourage people to undertake such a transfer, perhaps releasing a larger property to a family. It may not be quite right but I hope the noble Baroness can see the problems

that will be created and the issues that regulations will have to tackle to avoid some real injustices coming out of this ill-thought-out policy.

Amendment 74, in my name and that of my noble friend Lord Beecham, seeks to provide some protection for affected tenants by building in a process of external valuation of high-income rents. Even with the much talked about taper the Government have said they will introduce, some external valuation of the rent must be of benefit to tenants and would help to bring some element of fairness to this most unpopular policy.

Amendment 75, in my name and that of my noble friend Lord Beecham, seeks to bring in the higher rents over a period of time: first, a notice period of one year before the new rents become payable; then some transitional protection as the tenant moves to the higher rent. This, in effect, is the taper the Government talked about and on which we will need to see much more information.

Amendment 75B seeks to pilot these proposals, as the noble Lord, Lord Kerslake, referred to them, in a number of areas before rolling them out across all local authorities. Of course, this was used in respect of the new requirements in the Immigration Bill for landlords to check tenants' documents to satisfy them that they are able lawfully to rent a property. I know the noble Lord, Lord Best, was involved in the evaluation process in that respect. He spoke about how well the pilots had gone. It would be beneficial for the Government to adopt a similar pilot approach here.

Amendment 76 is similar in its intention to Amendment 70B. This is an interesting group of amendments, raising real, practical difficulties. As with previous groups, I may have some further questions for the noble Baroness as she responds to the debate.

Baroness Williams of Trafford: My Lords, this second group of amendments is concerned mainly with exemptions from the policy and seeks to put a substantial amount of detail into the Bill about who the policy should apply to. Of course, it is important that where there is a strong justification for an exemption, we consider it carefully. We are doing just that, and putting the detail in the Bill would prevent us thinking through the pros and cons of potential exemptions carefully. We need some flexibility to conclude our work and put detail in regulations.

I will start with Amendment 70, tabled by the noble Lord, Lord Kennedy, and the noble Baroness, Lady Lister. It specifies a wide range of groups that the policy should not apply to. As I have explained, we do not want to put this detail in the Bill but I will outline my position on each of these groups. First, while I do not immediately see why someone on a zero-hour or seasonal contract whose household income is above £30,000 should be exempted, I recognise entirely that it will be important to build in some flexibility for households where income fluctuates, as I mentioned earlier. I will return to that issue later.

I am also not attracted to an exemption for people over 65. Income from pensions can be considerable and it would not be right to exempt a group of people who are mainly retired but where the annual income is greater than that of people in work. That strikes me as quite unfair. Having said that, we are of course giving careful thought to the issues of different pension incomes, including the treatment of Armed Forces pensions.

I am very sympathetic to the suggestion that we should consider how to protect those with a registered disability or who have significant caring responsibilities. However, we must recognise that even in these scenarios the household income may, in certain circumstances, be high. It would not be right on that basis simply to provide an exemption for whole groups. A better approach may be to design the policy to ensure that income from certain state benefits is not included in the eventual definition of income.

I will turn to the definition of income more generally in a later grouping but it is worth highlighting now that the disability living allowance is not a taxable benefit. It is unlikely that we would include income from this in the final definition of income. Carer's allowance is a taxable benefit but this does not automatically mean we must include such income in our eventual definition. We will give this careful thought, and I welcome the views of noble Lords on it. The noble Baroness also mentioned the impact on certain protected groups. The data from the Family Resources Survey have been analysed to consider the impact on different household types. This is set out in the—now infamous—impact assessment.

I hope this section of the debate has persuaded the Committee that we are giving the issue of exemptions careful thought. I am happy to meet noble Lords privately on this issue, as I recognise how important it is.

Amendments 70B and 76, tabled by the noble Lords, Lord Kerslake, Lord Best, Lord Kennedy, Lord Stoneham, and Lord Beecham, seek to restrict the policy to new tenants only. In most circumstances, new tenancies of social properties should be given to those in most housing need, where they are below the income thresholds that we have set. Those in the greatest need of social housing are therefore more likely to be new tenants with an income under the proposed thresholds. It is existing tenants who are more likely to be on higher incomes, and the policy should apply to those currently living in social housing.

I have already outlined the Government's significant home ownership offer to existing tenants, particularly those on higher incomes, and I would encourage all tenants to look at the opportunities that are available, but it would not be right to exclude existing tenants from the policy.

Lord Beecham: Would the effect of encouraging people on higher incomes to buy their houses not be, ultimately, to diminish the number of houses for those who cannot afford it and who, apparently, the Government want to help?

Baroness Williams of Trafford: Would the noble Lord please repeat what he has just said?

Lord Beecham: The Minister has just said that the object of the scheme is to get people with higher incomes to pay the full rent, move out of the property

[LORD BEECHAM]
or perhaps buy it—she was talking about Help to Buy. The effect of that, ultimately, is to diminish the pool of houses available for rent by the people whom she thinks need support.

Baroness Williams of Trafford: My Lords, that is why we have right to buy and why we have a programme in place to build so many houses, of different tenures, in the course of this Parliament. It is not undermining it; it is making sure that there is a more level playing field for both tenants on higher incomes and the new tenants, whom I referred to as being in genuine housing need. That is not to say that the other tenants are not also in genuine need.

Amendment 70C seeks to exempt households which exchange their property for another social home. I thank the noble Lords, Lord Best, Lord Kerslake, Lord Kennedy, and Lord Low, for this amendment, but I do not see the rationale for it. If a household is on a higher income, then the rules should apply equally, regardless of whether they exchanged their property voluntarily or not. Those households would be subject to the taper arrangements that I have set out at length. I am also reluctant to provide an exemption for homes that have transferred as part of a large scale voluntary transfer. For example, for homes that have transferred to a housing association, the policy should apply if the housing association has a voluntary policy in place. We want housing associations to adopt voluntary policies, and so my instinct is that there should not be an exception for properties transferred.

Amendment 74, brought forward by the noble Lords, Lord Kennedy and Lord Beecham, seeks external valuation of high-income rents. I do not believe this is necessary. An external valuation is not only unnecessary but would add bureaucracy, cost and delay. I have confirmed that we will be introducing a taper, which will be the basis of rent setting. It will also be important for the Government to articulate how the process of establishing a market rent value for properties should work. The powers in the Bill can also provide tenants with an appeal mechanism if they feel that their rent levels are wrong. This is an important protection and we intend to use regulations to give tenants this right of appeal.

Amendment 75, also tabled by the noble Lords opposite, would provide for a notice period of one year before the rent becomes payable and transitional protection as the tenant moves to the higher rent. I am not sure how this would work, because rent setting is usually done around three months before a new rent year. Providing for a notice period of a year before the new rent comes in would mean that the rental amount would not be consistent with changes in household income over the notice period. As I have already said, we are giving careful thought to how income and implementation would work.

6.45 pm

Baroness Hollis of Heigham: Would the Minister please repeat her statement about the difficulties caused by rents changing as a result of this policy, particularly in the period between notification and payment? The whole push of our previous two hours' discussion has been that she is producing a system in which every tenant will pay a different rent—probably month by month—according to what is happening to their earnings.

Baroness Williams of Trafford: I will repeat my statement. Rent setting is usually done around three months before a new rent year. Providing for a notice period of a year before the new rent comes in would mean that the rental amount would not be consistent with changes in household income over the notice period. However, I will return to rent reviews shortly.

Amendment 75B, tabled by the noble Lords, Lords Kerslake, Lord Beecham and Lord Stoneham, seeks to pilot the policy before full implementation. I recognise that pilots have some benefits in certain circumstances, but it would not be workable here as it would be unfair on tenants in those areas. The policy must apply nationally from April 2017. Although we will not be piloting the policy, I recognise that we need a strong approach to implementation. Local authorities have told us that they need time to put in place the arrangements for implementing the policy. That is a fair request. My department is pushing forward with engagement, and the next few months will be critical. We intend to issue guidance to ensure that authorities are ready to operate the policy, engage with tenants, and set correct rents from April 2017.

I will also take this opportunity to update the Committee on engagement with tenants. We need to make sure that they have the best source of information and advice. Our engagement strategy includes a plan to talk to tenant representative groups and Citizens Advice. For example, it will be important for them fully to understand the commitment I have given to bring forward a taper to ensure that rent rises are affordable.

Finally, Amendment 82A seeks an exemption for rent-to-buy schemes. I can confirm to the noble Lords, Lord Lansley and Lord Young, who tabled the amendment, as well as to the rest of the Committee, that the policy will not apply to tenants in a rent-to-buy or shared ownership property. I have already reinforced the point that the home ownership offer to tenants, particularly those on higher incomes, is very important. I would rather see those households taking up the offer of home ownership than facing higher rents under the policy for high income social tenants. I hope noble Lords will feel able to withdraw their amendments.

Lord Kennedy of Southwark: Many of the amendments in this group are probing ones and these matters would be better left to regulations. However, we come back to the problem: we have not got any regulations so scrutiny is extremely difficult. That leaves us having to put down amendments on these issues to try to drag out the Government's thinking. At the end of the day, the amendments are on the Order Paper today only because the Government have sought to push the Bill through at such a pace and not wait for the regulations to be made.

Baroness Hollis of Heigham: My Lords, the Minister has now said twice that, under her proposals, any household paying a higher rent under pay to stay

should, instead, be thinking about right to buy, and that she would prefer them to do that. If they are local authority tenants, can afford to do so, and wish to, they will already have taken this up. Why does she think they have not? One reason is that, with renting, changes in housing benefit and UC can be made in the course of the year if income fluctuates and circumstances change—the very situation which tax credits were devised to adjust. If you commit yourself to buying a property, no such consideration takes place of whether you can, or cannot, afford your mortgage repayments. If you are struggling with your income, your zero-hour contract has collapsed, or your partner has gone somewhere else, you are still stuck with it. Tenants may, therefore, have very good reasons—this obsession with pushing those who have chosen not to buy into right to buy, and whipping them there by virtue of the pay-to-stay rent policy, is disgraceful.

Lord Kerslake: Perhaps I could add one further point. It is perfectly possible to pilot this in a way that would not be inequitable to tenants. What you would be piloting is the information-gathering on income and how the different exemptions and changes might work on the ground. You do not need to change the rental position. What we really need to know is: does the system work in a way that is effective and fair? It would be perfectly possible to do that, modelling the system at local level without disadvantaging those tenants who were part of the pilot.

Lord Beecham: I have a final final question for the Minister. She said that the Government are going to discuss matters with Citizens Advice and tenants groups. I very much welcome that. But are we to infer from that that until now they have not discussed the scheme and how it might work—that they will be discussing the final scheme, as it were, and how both groups might advise residents, as opposed to involving them in the first place in designing this scheme?

Lord Kennedy of Southwark: Perhaps I might make one final comment—it will be my last on this group. Will the Minister agree to reflect on some of the comments made in this debate and the previous debate, particularly the comments of my noble friend Lady Hollis? In the previous debate we were talking about income levels and rent levels changing almost weekly or monthly, but here the Government want a consistent level. For me, the two debates highlight some inconsistency and we need to look at that. Again, we do not want to get ourselves into difficulties in the future.

Baroness Williams of Trafford: My Lords, the noble Baroness, Lady Hollis, said that I said that higher-income tenants should think about buying. It was not a direction for higher-income tenants to think about buying but, going forward, they may well think about buying—86% of people aspire to own their own home. This may be the opportunity for them.

The noble Lord, Lord Kerslake, said that the pilots need not be inequitable because they do not need to introduce the new rents. I would have thought that the reason for the pilots would be to see how the new rents actually work.

The noble Lord, Lord Beecham, asked about the CAB and whether conversations were going on. We are in continued engagement with the CAB and other—

Lord Beecham: With respect, I welcome the fact that discussions are going on. My question was: were there discussions with those organisations about the whole policy before the Government settled it?

Baroness Williams of Trafford: I will have to get back to the noble Lord on that precise detail. Somebody asked me a fourth question—I think it might have been the noble Baroness, Lady Hollis—but I did not write it down fully.

Baroness Lister of Burtersett: My Lords, a number of different points have been raised in what we call a wide-ranging debate, albeit a relatively short one. I was particularly struck by what the noble Lord, Lord Kerslake, said—it was echoed by the noble Lord, Lord Best—about the need for a pilot; otherwise, it is a leap in the dark. It is disappointing that there is resistance to the idea of a pilot—although I have to say, after the pilot we had under the Immigration Bill on the right to rent, my enthusiasm for pilots has rather waned given how that one has panned out.

I am grateful for what the Minister said in response to Amendment 70 in so far as she said that the Government are sympathetic to the position of severely disabled people and people with caring responsibilities. But then she pointed out that household income may be high. As in our previous debate, she did not really address the point about how you cannot look just at income, you have to look at needs—what is being met by income. Yes, needs would be partly met by exempting certain benefits: but, as Habinteg points out, even if people are receiving those benefits, they go only part of the way towards meeting the needs associated with disability and caring.

I am not asking her to come back now but I would be grateful if she could address in any subsequent letter the specific point about people in adapted accommodation. It is a really important point and, as I said, a similar point applies to victims of domestic violence under the sanctuary scheme. For the record, the Minister appears to be nodding—I think in acceptance that this is an issue.

I thank the Minister for what she said about the possibility of a meeting. But it would be important to bring in those who work directly with carers and disabled people because they can bring an expertise to that meeting that I cannot, and I would want to know what they felt about different approaches to exemptions that would best meet the needs of carers and disabled people, in the spirit of the kind of engagement that she was talking about. Again, I detect a slight nod, so I hope that might be possible.

Going back to some of the issues that have just been raised about the right to buy, I was very struck by some of the people who wrote to me and came to see me, who either said that they had deliberately, as an act of principle, not bought their home or said that there was no way they could even countenance buying their home on their income—so it really is not any kind of answer.

[Baroness Lister of Burtersett]

Can the Minister say when we will have the information about what the regulations will say with regard to exemptions? Will it be before Report? If it is not before Report, we will just be working in the dark again on Report.

Baroness Williams of Trafford: My Lords, as I said earlier, I will get information about regulations in so far as I can by the end of the week. I cannot undertake to get information on exemptions by Report, but by the end of the week I will have as much detail as possible on some of the regulations that are coming forward and, most importantly, the timeline for them as well.

Baroness Hollis of Heigham: My Lords, I think we recognise that the Minister is doing her best to be helpful but does she not think that this is a little odd? She had a firm view about pensioners—that they should not be exempt from pay to stay—but she did not really have a clear view on whether any of the other groups mentioned in the amendment would be entitled to some consideration or exemption from pay to stay. We are in Committee, the Bill having gone through the other House, and the Minister still cannot help us—I am sure she would like to—as to who will be caught by this policy.

Baroness Lister of Burtersett: I am grateful to the Minister. She is clearly trying to be as helpful as she can be, but if we really are not going to have this information by Report, we will just go through all this again, which is in nobody's interest. We are not asking for the actual draft regulations but the information about which groups will and will not be exempt. That is the least we can expect by Report. But on the basis that we are not going to get anything more now, I beg leave to withdraw the amendment.

Amendment 70 withdrawn.

Amendment 70A

Moved by ***Lord Best***

70A: Clause 78, page 34, line 10, at end insert—

"( ) These regulations shall not provide for an increase in rent chargeable to a tenant by a local authority greater than 5% per annum or the Consumer Price Index plus 2%, whichever is the lesser."

Lord Best: My Lords, Amendment 70A is in my name and those of my noble friends Lord Cameron of Dillington and Lord Kerslake, and the noble Lord, Lord Kennedy of Southwark.

The amendment would limit annual rent increases to a maximum of 5% or to inflation measured by the consumer prices index plus 2%, whichever is the lesser. Obviously, this would moderate rent increases in any one year for higher earners. If the weekly rent is currently £100, the increase would be no more than £5. A household with earnings of £5,000 over the threshold seems likely to face an increase in rent of £500 per annum, or £1,000 if the Government, very unkindly, choose the higher rate set out in the Minister's letter to us.

This amendment would stage the £10 a week increase over two years or over four years for the higher taper rate. The Government still get their extra income but the increases are phased. Those who are on still relatively low incomes—just £5,000 per annum above the somewhat arbitrary limits of £30,000 outside and £40,000 inside London—will certainly feel the pinch from a significant hike in their rent. Giving people time to readjust their household budgets by phasing the increase seems the right thing to do. Set alongside the 1% rent reduction for four consecutive years, this measure would certainly ease the transition. I beg to move.

7 pm

Lord Cameron of Dillington: My Lords, I support my noble friend in his Amendment 70A and I echo his words about easing the transition, but I speak mostly to my Amendment 77A in the group. It concerns income variability in the context of pay to stay, which is something I raised at Second Reading. I realise that it has already been mentioned in both the previous groups by the noble Baroness, Lady Hollis, the noble Lord, Lord Kerslake, and others, and also that the Minister indicated when she replied to the first group that the Government are looking at "an equitable conclusion" to the issue. Nevertheless, I would, as usual, like to put a rural slant to add to and help the much-needed thinking on this issue, and perhaps put some rural flesh on the bones of the problem.

It is very much a feature of rural life that many, both young and old, are self-employed. Indeed, I have always been proud of the fact that of those who are below the poverty line in rural areas, statistics show that 22% are self-employed, while of those below the poverty line in urban areas only 8% are self-employed. In other words—and this is what makes me proud—we in rural England, when in economic difficulties, have a greater tendency to get off our backsides and turn our hand to whatever comes along in order to resolve our problems. In Cornwall I believe the self-employed figure is as high as 28%, but that probably just exemplifies the nature of the local economy there—a high summer tourist trade and only odd jobs available during the winter months.

The point I am making is that these sorts of people can, in some years, be very successful. The whole family can all find themselves with work. Although there is probably only one member of the household with a regular job on a living wage, the others could all get lucky and push the total household income up well over the £30,000 figure stipulated in this section of the Bill, for a brief period of time. Therefore, it is really important that the Government are aware of these quirks of fortune in rural families and, for that matter, in many urban families too, especially those on zero-hour contracts, as the noble Baroness, Lady Hollis, pointed out. The point being that after a good year of combined family incomes of sometimes well over £30,000, the same family might find themselves back down to £20,000 or less the following year.

Therefore, my amendment is designed to encourage the Government to think very hard about that sort of variability and put in place some sort of long-term averaging system—I stress long-term—to iron out the

highs and lows of rural and urban life. This whole scheme makes some limited sense in principle: those in assisted rental accommodation who greatly increase their income should perhaps move to pay a market rent. However, the scheme itself is so full of pitfalls, and what my children call heffalump traps, that it needs either withdrawing or serious wholesale amendment, perhaps after some of the preliminary pilots mentioned by the noble Lord, Lord Kerslake, and particularly across a whole range of areas, which should include a rural area.

Lord Kerslake: My Lords, I shall speak briefly to the amendment as the arguments have been well made by the noble Lords, Lord Best and Lord Cameron of Dillington. The key issue is the difficulty of implementation and potential sources of injustice to individuals who face sharp rent increases. To the extent that it is possible to phase in those rent increases, the impact on individuals is likely to be less. This is, indeed, consistent with the approach taken in the past when there have been movements of rent towards more comparable rents—the so-called convergence policy that worked across individual organisations. Therefore, it is applying the same principles to individuals in relation to their rent movements as are applied to organisations which have moved towards rent convergence. This is more consistent with the implied contract to the tenant, who took on the property at a given rent and had a reasonable expectation that their rent would not be subject to sharp movements as a consequence of government policy. That is why this is an amendment worthy of the Minister's consideration.

Lord Deben: My Lords, I support the comments of the noble Lord, Lord Cameron of Dillington. The rural situation is different from the urban situation and it demands a degree of care to put this proposal into operation. I am not sure the noble Lord's proposal is the right answer but the question is one that has properly to be asked. Again, it emphasises the problem we have when we do not know the regulations or the details, because the Government may well have thought about all these things and we are going to have regulations and details that will cover it. However, until we have those it is very difficult not to talk about all the possible computations that may arise. There is no other way we can do it.

One of the difficulties of employment in rural areas is simply that it is extremely volatile and families can have very different incomes at different times. It is difficult for families to think other than that. Of course, the reason they are living together in one of these houses is that there is no alternative. In rural areas the moment that a house becomes available, it is sold at a price that cannot be reached by these people. I make the point to my noble friend that the number of second homes in the village of Walberswick in my former constituency has now risen to four in ten. Any house for sale is sold to somebody from outside. That is why homes provided by the local authority or others are so important in the rural economy. That is why so many families have a number of wage earners within the family living in the same house. However, their wages are not easily computed one year to another. If we have a system that does not take that into account, then it will bear more unfairly on rural areas than elsewhere.

Any of us who have represented or live in rural areas recognise it is very often true that as a nation we do not take rural areas as seriously as we ought because they do not have the megaphone of the city, or the metropolitan voice—most journalists come from towns. I beg again that the Government take this situation seriously and arrange for an answer—it may not be this one—that recognises the volatility in rural wages.

Lord Berkeley of Knighton (CB): My Lords, I agree with everything that has just been said. One other point might complicate matters. Should we leave the EEC, the effect on subsidies to farming would make this whole area even more volatile.

Lord Shipley: My Lords, my name is attached to Amendment 79A in this group, along with that of my noble friend Lady Bakewell of Hardington Mandeville. However, I also support Amendment 70A and other probing amendments.

Amendment 79A is our attempt to consider the threshold, which the Government had defined as £30,000 outside London and £40,000 inside London, and which the amendment increases to £40,000 outside London and £60,000 in London. It is a probing amendment. However, our view is that the taper starts too low at the figures that the Government originally decided on. Therefore, I hope there is an opportunity for them to look carefully at whether there is a good case, as we think there is, for the minimum threshold to be much higher. That would save a great deal of administration and associated costs. Be that as it may, I hope the Minister will explain why those figures are deemed too high, because I suspect they are more reasonable than the ones on which the Government have decided.

Baroness Lister of Burtersett: My Lords, I raised a number of questions at Second Reading which never got a reply and, as they are relevant to this group of amendments, I thought I would have another go.

The first follows directly from what the noble Lord, Lord Shipley, just said: why was it decided to reduce the earnings threshold from that in the existing voluntary scheme? Am I correct in thinking that there is no intention to increase the threshold in line with average earnings, thereby pulling more and more tenants into the net of pay to stay? If so, why? What protection might there be for vulnerable tenants unable to provide the necessary documentation? Crisis has raised concerns that they could be liable for the full market rent, regardless of their actual income. We can think of a lot of situations where there may be good reason why someone has not provided that information, but it would be totally unfair for them to have to pay the full market rent.

Finally—I did not raise this at Second Reading, but I raised it two groups of amendments ago and the Minister did not come back to me—there is the whole question of the lack of equivalisation. There will be such a crude means test that takes no account

[Baroness Lister of Burtersett]
whatever of family needs. We are not treating like with like; we are treating the same income to meet rent, regardless of how many mouths have to be fed from that income.

Lord McKenzie of Luton (Lab): My Lords, I start by apologising for not having participated in debate earlier, but I was on duty in the Moses Room. I support Amendment 77A. I may have missed some of the issues raised in previous debate, but there is variability not only because someone's income may be derived from self-employment. It could be because they are employed but subject to a zero-hours contract. It could also be because the household changes.

I do not know whether we yet have a clear definition from the Minister of what will constitute the household for this purpose. Under the voluntary scheme, it was the tenant and the spouse, although there is also reference to the two highest earners. It would be helpful to have the intent clarified. Clearly, if it is the whole household, or all of the adults in the household, that can change. In many ways, that is more likely to change in an urban than a rural area. However, that is a key issue, as is the basis of the income. Will the Government try to use real-time information, which is fraught with challenges, or work on a preceding-year basis, around which the voluntary scheme was structured? If the latter, there are more likely to be variations between the base year and the year to which the rent levels are to be applied.

This whole approach is fraught with difficulties, but until we have clear definitions of household income and the basis of that income, we will struggle with the outcome.

7.15 pm

Lord Campbell-Savours: My Lords, Amendment 79, which was tabled by my noble friend on the Front Bench, took my eye. It provides that the definition of,

"high income cannot be set at a level lower than median incomes".

As I understand it, the effect of that would be to raise the threshold by from about £30,000 to £40,000 on properties outside London and from £40,000 to more than £50,000 in London.

Baroness Williams of Trafford: My Lords, could the noble Lord repeat that? I could not quite hear the beginning of what he said.

Lord Campbell-Savours: Amendment 79 states that the definition of high income cannot be set at a level lower than median incomes. That would raise the thresholds, would it not? I do not like the system at all, but that at least raises the level at which people would start to pay a higher rent. Will Ministers seriously consider that amendment?

I really want to talk about Amendment 72, which provides that the amount of rent to be charged to high-income tenants is,

"to take into account the need to promote socially cohesive and mixed communities".

That is a very important issue. The other night, I was talking about what happened in west Cumberland, when I was minded to support right to buy early in the 1980s. Some of the estates in my area had a high density of renting populations, and I did not believe that was particularly good for social cohesion. I believed at the time that the introduction of the right to buy in areas such as mine in the north of England would help social cohesion by widening aspiration within communities.

The provisions of the Bill make me worry that as property is subsequently sold, which is what will happen, there will be pressure due to higher rents being demanded. In employment law, I think it is called constructive dismissal; in this field, I would call it constructive eviction. That is what people will feel: they will be all but evicted by the requirement to pay higher rents.

I am losing my train of thought. Perhaps I should give in at this stage. I will retake my seat and gather my thoughts. I am very sorry.

Lord Beecham: My noble friend is not the only one in danger of losing his train of thought as the Bill goes on and on and on.

Last Monday, I asked the Minister a question about affordability. I cited the case of the son of a friend living in Hackney on a modest income. He has since been in touch with me again and emailed the Minister—I do not know whether she has received that or whether it is lost in the deluge of emails that may be descending on her as the Bill goes forward. His case exemplified the problems occasioned by the proposed pay-to-stay provisions. He and his partner live in a three-bed council house in London Fields in Hackney. They have a nine year-old child. He also has two children by a previous marriage—I was in error in saying that there was only one; actually there are two—who are in the house from time to time. He is financially supporting them. The current rent is £720 a month, whereas the cheapest equivalent private rented property would cost about £2,300 a month, with the average costing about £2,500. He earns roughly £21,500 per year before tax and his partner earns £19,000, so they would be just over the limit. Clearly, they could not afford the private sector accommodation. He says,

"the thought of renting in the private sector in and around London with a family and being on a fairly low income is scary. The current housing situation … is scary. The fact that we are lucky enough to have a council house and pay a truly affordable rent is the reason we can survive".

He points out that because of the pay-to-stay dynamics he would be in a position of not wanting a pay rise, and perhaps even asking for a reduction of hours.

In fairness, that was before what we are beginning to hear about the taper had come to light. The noble Lord, Lord Best, earlier referred to a letter, which he implied had information about the level of taper and how it might apply. Neither my noble friend nor I—nor, as far as I am aware, my colleagues on these Benches—have yet received that letter. Maybe it was just directed to the noble Lord, or maybe the letter is in the post—it would be helpful to see something in writing—but when the Minister replies it would be helpful if she could explain how she envisages the scheme working on the basis that there would be a taper.

Originally, London Councils estimated that 28,000 households would be affected, with rents rising more than threefold. That now seems to be unlikely in terms of the level of increase given that there is to be a taper, but perhaps the Minister could give an indication—again, it may not be immediately available—as to how many households would be affected in London, where I guess the pressure is likely to be most acute, on the basis of the new taper.

Interestingly, reference has already been made by, I believe, the noble Lord, Lord Foster, to the DCLG's consultation in 2012 on a pay-to-stay proposal. Then the threshold was going to be £60,000—actually, they started off looking at £100,000 a year income triggering this. So I ask the Minister, on what basis was the revised figure of £60,000 reduced to the proposed £40,000 in London and £30,000 elsewhere, assuming that in the letter that we have not yet seen, those basic figures remain the same? I take it that it is the taper that is the subject of clarification, rather than the starting point.

The Chartered Institute of Housing in its response to that consultation warned of the risk of perverse outcomes of the policy, including tipping households on the margins into housing benefit, discouraging tenants from working or increasing their earnings, making communities less balanced—the point made repeatedly by Members and recently by my noble friend Lord Campbell-Savours—as low to middle-income families move out, and causing major problems in costs to councils and housing association in administering the scheme. The institute asserted that it thought that the income levels were too low—they may have been raised but the implication at the moment is that they have not. It points to the different treatment of local councils and housing associations, which has been mentioned—the former will have to pay income recovered to the Treasury, while housing associations will be allowed to keep the increased rents to invest in new homes. That anomaly needs some explanation.

The institute suggested a household earning threshold of £50,000 per year, annually uprated. It pointed out that with the £30,000 threshold outside London, two adults with two children in a three-bed house in the more expensive parts of the country would be eligible for housing benefit, as matters stand, in 53% of council areas, rising to 96% for those paying an affordable rent, and 100% paying the market rent. So there is a distinct impact even on that lower threshold of families still in receipt of benefit. As for the definition of household income which does not require HMRC to disclose information for non-dependent adults—we will be looking at the HMRC role in a subsequent group—if the HMRC is not enabled to make that information available, there is a question about how robust the information will be in assessing the household income where there are such non-dependent adults.

Overall, the institute predicted that the poverty trap would widen and a couple with two children paying £75 in rent per week would effectively face a marginal rate of tax of 90%. Presumably that would vary now because of the taper, so the effect would not perhaps be as drastic as it suggested, but it is still likely to be significant. The LGA research showed that on the initial basis 214,000 households would be affected and it thought—but again this is probably overtaken by the taper—that 60,000 families would probably have to leave their homes. It would be interesting to see whether the Government have made any estimate of the situation, as it now appears to be shaping up, compared to what the LGA had thought would be the case, both in terms of the total number of households and those who might have to leave their homes. I assume that some work has been done on that. Of course, nothing of this kind is shown in the impact assessment.

In my own authority of Newcastle, a small sample indicated—again, this may be lessened by the introduction of the taper—rent rises of between £45 and £69 per week for as many as 1,500 houses. I am not clear about how the taper will operate over the period of time. If it is to be a flat 10% increase, that is one thing, but if it is to go up by 10% per year cumulatively over time there will still potentially be a significant number. Again, it may not be possible for the Minister to clarify that tonight, but that would be helpful.

Amendment 71, which is in my name and that of my noble friend, would insert a requirement for regulations to take into account affordability. Amendment 72 adds the need to promote socially cohesive and mixed communities—the very matter referred to by my noble friend Lord Campbell-Savours. Crucially, at the time, Amendment 73 would introduce a taper relating to income and rent charged. Now we know that the taper will come in, and so to that extent Amendment 73 becomes redundant—or, to put it another way, the Government are accepting that and we await the detail.

There has been much speculation about this taper and until last Wednesday it was all rumour—it had been in the previous weekend's press. Last Wednesday night, in the hours before Thursday's sitting, the noble Baroness wrote to Members indicating that the taper would be introduced and she enclosed a consultation document, which comprised all of five pages of text and the Government's response of equal length. However, the effect of the latter was merely to report that a taper would be applied; no details of the scheme were available at all. Perhaps there has now been a subsequent letter, which we now await with interest. This comes five months after the consultation closed; it could hardly have been a very elaborate consultation on the basis of the five pages that were sent to interested parties. One has to ask what on earth took so long to produce a response that is so empty of content. This looks to me rather like legislation on instalment plan. It has certainly taken a very long time. Even now, most of us are not aware of what is pending.

Moreover—I need to refer to this matter because it is constantly being iterated in the media—the Minister's letter repeats the entirely incorrect claim that there are 40,000 households of incomes of more than £50,000 a year receiving a taxpayer subsidy to remain. There is no taxpayer subsidy. On the other hand, the taxpayer is subsidising private landlords charging ever-higher rents through the ever-higher rise in housing benefit. Nothing at all is being done about rents in the private sector—as opposed to what is happening in the public sector, where they are going to be pushed up. It seems to me a remarkably strange position for the Government to get into, even on purely financial grounds.

[LORD BEECHAM]

Amendments 78 and 79 flesh out the proposals for a taper and require high income to be set by reference to incomes in the area as opposed to a national figure and defined as income in the top quartile of that area rather than some one-size-fits-all formula applied to severally to London and the rest of England. Amendment 79 prevents high income being set at a level lower than median incomes, as my noble friend said.

These and other amendments seek to provide flexibility and a realistic scheme under which people on what can be described only as modest incomes are not hit by unreasonably large increases, especially when it suits the Government to cut rents for all council and housing association tenants with adverse consequences in both sectors for investment in their stock. That is incompatible with everything that has been said about improving the stock and the need for new and better housing.

7.30 pm

Baroness Williams of Trafford: My Lords, I thank all noble Lords who have debated these amendments. I should say to the noble Lord, Lord Beecham, first, that I think that his letter may be in the post, just as the noble Lord, Lord Campbell-Savours, may have two letters in the post—this one and the one to which I referred earlier. I turn to the noble Lord's various questions. He asked how many people in London were affected; there are around 46,000 social tenant households with incomes of over £40,000 who could be affected in London. That includes both local authority and housing association tenants, should the housing association wish to implement this.

I turn to the large group of amendments on income and rent setting. I start by reiterating the commitment I have given to introduce a taper, which will see rents rise gradually as income rises. I give advance warning that this commitment will be the basis of my response to most of these amendments.

I remind noble Lords of the purpose of the clauses to which the amendments relate. Clause 79 will set out a definition of high income and say how this will be calculated. It should be made clear that, in the context of the policy, the income threshold will apply only to the tenants or joint tenants and their spouses or partners. Clause 79 also allows that regulations can specify certain important aspects of that calculation, including the definition of high income for different areas, such as is the case with London; the clause also allows Government to specify what should, or should not, be treated as income for the purposes of the policy. As I mentioned earlier, when we are looking at possible exceptions of groups from the policy, Clause 79 would allow us to make sure they are not adversely impacted.

Clause 80 will make sure that landlords have the power to require the necessary information of households and that reasonable timeframes are provided for the submission of this information to the landlord. In the event that households fail to provide this information, Clause 80 would sanction that rents would automatically rise to a higher level than they may normally pay. This increase in rent should encourage prompt declarations, in a proportionate way. Protections under Clause 82 will ensure that rents will return to their normal levels once the necessary information is declared. This also applies to those tenants whose income falls below the high income threshold following a change of circumstances.

The noble Baroness, Lady Lister, asked me—I think in this group, although time blurs the groups into each other—about particularly vulnerable people who have had a crisis and are not able to provide information. As we work through this aspect of things, that will become clearer, but I am mindful of when that might provide a real problem, particularly for people in crisis.

Clause 83 will give local authorities the power to change tenancy agreements to apply the policy. This clause, most importantly, would give tenants the right to appeal the calculation of their income should they believe that they are incorrect. Clause 83 is fundamental in ensuring that tenants have the opportunity to challenge a calculation, and that a proper process is in place should they wish to do so.

Baroness Hollis of Heigham: I thank the Minister for giving way. We know that appeals procedures usually take several months; we also know from experience that people's income fluctuates very widely. How would the Minister protect local authorities from having to recalibrate the rents to be charged each and every month to their tenants? How will the local authority ever stay on top of that information when the tenant is going to appeal continually and reiteratively, I suspect, on the basis of the misinformation of the local authority in imposing the last rent increase, which was based on information sent into them four, five or six months before? Surely, this is the point made by the noble Lord, Lord Kerslake—that the administration of this should have been piloted; then there would be a learning loop as to the problems. I would hate to have to do this, if I were in charge of housing in a local authority. The Minister is passing a nightmare over to local government with monthly, individually tailored rents as income monthly fluctuates.

Baroness Williams of Trafford: The intention is certainly not that tenants would pay different levels of rent every month. That is precisely what we want to get right—to reduce the administrative burden and reduce the anxiety for tenants, particularly those with varying incomes, either month to month or week to week. That is the type of thing that we will work through with this.

Baroness Hollis of Heigham: My Lords—

Baroness Williams of Trafford: My Lords, I am not going to give way.

Most importantly, Clause 83 will give tenants the right to appeal the calculation of their income, should they believe that they are incorrect. Clause 83 is fundamental in ensuring that tenants have the opportunity to challenge a calculation.

I will start with Amendment 70A, tabled by the noble Lords, Lord Best, Lord Cameron, Lord Kerslake, and Lord Kennedy. This amendment seeks to restrict the amount by which rent is increased within this

policy. I have already outlined in some detail our commitment to introduce a taper to ensure that increases in rent are more closely linked to increases in income. This will ensure that rent rises are affordable and protect the incentive to find and keep work.

Amendment 71 seeks to establish a test of local affordability in rent setting. I thank the noble Lords, Lord Kennedy and Lord Beecham, for this amendment. The Government believe that this is best achieved through a correct setting of market rents within areas, and I have confirmed already that we are considering how this will work. We need to find an approach that can be easily implemented by local authorities but that is a fair representation of the market rental rate. This issue forms a key part of our engagement work with local authorities.

Noble Lords opposite have also tabled Amendments 72 and 77. Amendment 72 asks us to take into account the need to promote socially cohesive and mixed communities. I find this a slightly odd amendment, as I would have thought that the issue of low rents for households on high incomes is actually a divisive issue for communities. Social housing should be aimed squarely at those in real housing need, and it is absolutely right that when families need support they benefit from being in a mixed community. This is our policy.

However, there are more than 40,000 households with incomes of £50,000 or more who are benefiting from lower rents than their neighbours in the private rented sector. Far from being an issue, our policy aims to establish a level playing field across communities. It is worth pausing again here to consider the home ownership offer that the Government have for tenants of social housing, which they may wish to take up—but I am certainly not directing them to take it up.

Amendment 77 seeks to define high income in relation to average incomes in an area. Currently, the median household income figure is £26,000, which I should point out includes both working and non-working households. It is important to recognise that there are working households in the private sector on or below this median amount who are expected to find rents higher than that enjoyed by social tenants on similar incomes. On that basis, our starting threshold of £30,000 nationally is a fair point at which higher rents should become payable. I have already outlined our commitment to a taper to ensure that rent rises are gradual beyond this income threshold.

The noble Lord, Lord McKenzie, who is not in his seat, asked what constituted a household. There is a definition in the voluntary scheme; it includes tenants, joint tenants, spouses, partners and civil partners. That is the kind of thing that we are looking at.

The noble Lord, Lord Cameron, tabled Amendment 77A, which seeks to include a provision to take into account the variability of household income within the definition of high income. The amendment is unnecessary as we already have the power set out in regulations to treat variations in income within a year. That goes back to the point made by the noble Baroness, Lady Hollis. We certainly intend to cover this in regulations. There will be circumstances that are obvious candidates for inclusion, such as the death of a household member or a sudden and significant drop in income, but beyond that we must strike a balance between allowing a review of rent and minimising the burdens on landlords. We cannot have landlords constantly reviewing rents, for example, as the noble Baroness, Lady Hollis, suggested. There must be a sensible approach.

Amendment 79A, tabled by the noble Lord, Lord Shipley, and the noble Baroness, Lady Bakewell, seeks to put higher income thresholds in the Bill. We are not doing this as it would prevent us from bringing forward changes to the thresholds if the evidence supported a change. Our intention is to keep the policy under review and I am sure that that will be supported. I am sure—the noble Lord, Lord Shipley, confirmed this—that the purpose behind the amendment is to question the starting thresholds that were set at the Budget. We have said that rents should rise where household income is more than £30,000—£40,000 in London—but I once again draw attention to my commitment to put in place a taper. It will ensure that for those households on £30,000 the rental increase will be limited to a few pounds each week. While the starting incomes for thresholds are right, we have accepted that there is a need to protect work incentives and this is the purpose of the taper.

Amendments 79B and 79D concern the ability to raise rents where income information has not been provided by tenants. I thank the noble Lords, Lord Kerslake, Lord Beecham, Lord Kennedy, and Lord Low, for tabling these amendments as this is an important part of the Bill. I recognise why there are concerns about the power to raise rents for non-declaration. I will spend some time outlining how we see this power working. Tenants may be required to declare their household income and I have already outlined that we are thinking through the options for defining "income". We are also considering what evidence is needed to support a declaration. It will be important for tenants to have plenty of time to gather this evidence and I have set out our intention to communicate this policy effectively to landlords and tenants groups.

It is, however, inevitable that there will be some households who, for whatever reason, do not declare details of their income. In these circumstances the Government face a choice. Do we make it a criminal offence or do we take a different approach? My preference is for the latter as a criminal offence seems entirely disproportionate. The power that we have taken therefore would give landlords the ability to set rents at the highest available in that area if there is a consistent failure to declare details of income. When I say "consistent", I mean that there will be clear guidance for landlords on the amount of effort that they should put in to trying to contact tenants, and only when all of these approaches have failed should rents be raised.

I also make it clear that we do not see higher rental rates applying for the whole of the rental year. If raising rents for non-declaration spurs a household to take action to declare details of income at a later point in the year, the Bill allows for the rent to be set back to the correct level and regulations will set out this approach. I also give a firm commitment that we will clearly communicate this area of policy to landlords. Guidance will require them to set out the impact right from the start in all communications to tenants.

[Baroness Williams of Trafford]

On Amendments 80B and 80C, tabled by the noble Viscount, Lord Hanworth, I refer back to some of the discussion on how reviews of rent could be treated. There will be certain circumstances in which a review of rent would be appropriate: for example, the death of a household member or a sudden loss of income. The power in question, however, deals primarily with circumstances when the income level of the household drops below the threshold for a high-income rent. In those circumstances we intend to use regulations to state that the rent levels should revert to the original level. This will include circumstances where rent has been raised as a result of non-declaration and it is subsequently determined that the rent level should remain as it is currently.

Finally, Amendment 82AA, tabled by the noble Lord, Lord Bassam, seeks a published review into the effect that the policy would have on community cohesion within all local authority areas. I have already expressed our intention to keep the policy under review and also explained my views regarding the detrimental effect that low rents for households on high incomes can have on communities.

7.45 pm

Lord Campbell-Savours: What is the latest estimate of the number of households above the £30,000 and £40,000 thresholds? There must be a government estimate. If there is an estimate, does that not suggest that the work has already been done on the exemptions; otherwise, they would not have been able to produce an estimate?

Baroness Williams of Trafford: My Lords, I have the figure for London, as the noble Lord, Lord Beecham, asked for it. There are around 46,000 social tenant households with incomes of over £40,000 in London, but that does not presume exemptions.

Lord Campbell-Savours: And outside London?

Baroness Williams of Trafford: I do not know. I will get that figure to the noble Lord.

Lord Kennedy of Southwark: The Minister just referred to the amendment from the noble Lord, Lord Bassam; does that not come in a much later group?

Baroness Williams of Trafford: I did wonder, given that the noble Lord, Lord Bassam, was not in his place. I will just refer to the Marshalled List. The noble Lord is absolutely right, so if noble Lords could just ignore what I have said on Amendment 82AA.

I ask the noble Lord to withdraw the amendment.

Baroness Hollis of Heigham: I still have not got the faintest understanding of how pay-to-stay rents will connect with people's incomes and UC. Clearly, universal credit is established on a monthly basis on real-time information and in due course will include housing benefit, if that is a flow of income. How often does the Minister expect pay-to-stay rents to be adjusted by the local authority over the course of the year in the light of changing incomes as reflected in UC—monthly, quarterly, yearly? Every answer has a distinct downside.

Baroness Williams of Trafford: As I think I have said to noble Lords on several occasions, this will be laid out in due course. Clearly, we would not want to be adjusting rents month in, month out for people. That is the sort of detail we will be working through, and it brings my thoughts back to a different policy brought in under the Labour Government—tax credits. You had to let the authorities know if your pay changed. The detail will be laid out in due course, as I think I have explained several times.

Baroness Hollis of Heigham: It is not a detail—it is at the core of local authorities' ability to handle this scheme.

Baroness Williams of Trafford: As I said, details on regulations and timelines will be with noble Lords before the end of the week.

Lord Campbell-Savours: Does it not mean that in effect, there will be year-end rent bills for tenants?

Baroness Williams of Trafford: My Lords, that is in the detail.

Lord Kennedy of Southwark: I am sure the Minister has picked up from the debates on this group and the previous couple of groups that, the more we drill into this, the more and more complicated it is getting. She and her ministerial colleagues have some job to get this right. I am sure it will get worse. It is very difficult to get this right and, in some ways, I wish her all the best.

On another point, I think I heard the Minister give the number of people on incomes of more than £50,000. If she is using that figure in her arguments, why are we setting the rates for higher rents to start at £30,000 and £40,000?

Baroness Williams of Trafford: My Lords, I was simply making the point that there are a high number of households with incomes of more than £50,000.

Lord Kennedy of Southwark: I get that point, but it is a bit odd that the Bill before us refers to incomes of £30,000 and £40,000, but in her argument the Minister uses an income of £50,000.

Baroness Lister of Burtersett: The Minister may be coming to this but I asked—as I did at Second Reading and am still waiting for the answer—why the threshold has been reduced from that used in the voluntary scheme.

Baroness Williams of Trafford: My Lords, I cannot speak for the Government back in 2012 and say how they arrived at their figures, as I simply was not here to be part of those discussions. However, I will try to provide some background for the noble Baroness.

Baroness Lister of Burtersett: Can the Minister also let us know what will happen to the threshold in the future? I know that average wages are not going up by very much at present but they will gradually go up and surely the threshold should reflect that.

Baroness Williams of Trafford: I answered that in responding to a question from the noble Lord, Lord Shipley, about not putting the thresholds in the Bill because they might change.

Lord Best: My Lords, I apologise for my delay in rising to speak. I did indeed lead on this amendment, although I spoke to it very briefly compared with the debate that has followed. The rather modest recommendation in my amendment that these rent increases should be limited on the basis of 5% or inflation plus 2% is one of very many ways in which one could make a significant difference to people's lives with the disruption that is still coming down the road, even with the tapers that we have heard about.

It may be that others have not read into the mysterious letter, which has gone to a number of noble Lords, what I have: that we have a choice of two levels of taper—10p in the pound or 20p in the pound. I hope very much that the Government will go for the 10p. Those are the options the Government are now seriously considering, and we have to accept that. It is a very much better deal than people had feared. Now, you would have to have an income approaching £100,000 in order to pay the market rent in Camden for some of the highest-value properties. The gap is so wide that at 10p in the pound or 20p in the pound, it will take a long time to fill it.

I shall not detain the Committee any longer. I apologise for being slow to get to my feet, and I beg leave to withdraw the amendment.

Amendment 70A withdrawn.

Amendments 70B to 75 not moved.

House resumed. Committee to begin again not before 8.53 pm.

Battle of the Somme: Centenary

Question for Short Debate

7.53 pm

Asked by ***Lord Lexden***

To ask Her Majesty's Government whether they have plans to mark the centenary of the Battle of the Somme in 2016.

Lord Lexden (Con): My Lords, I should like to draw the attention of the House to the centenary of the Battle of the Somme, which falls in a few months' time. The battle took place at almost exactly the halfway point of the First World War. More lives were lost on the Western Front in 1916 than in any other year of that terrible conflict. The allies in 1916 sought victory in all theatres of war. Intense fighting also took place in eastern Europe, where the Russians launched massive attacks against the forces of Austro-Hungary and its allies. Strategy in the West was devised in the hope of assisting progress in the East.

There is certain to be widespread public interest in the official programme of commemorative events to mark the centenary of the Somme. That programme needs to be substantial and impressive, for it has to give heartfelt expression to the deep feeling that this bloodiest of battles never ceases to evoke.

A hundred years on, the Somme continues to haunt the collective memory of our nation. It is unforgotten in the Republic of Ireland and in the countries of our former empire, which sent gallant troops to fight and die alongside ours. It is unforgotten too in Germany, whose soldiers, like ours, displayed great courage. They also showed immense skill in the construction of defensive positions, many of which proved impregnable during the four and a half months of fighting. It all began on 1 July—that terrible, vividly remembered day of bloodshed—and finally ended on 18 November, when the two sides at last withdrew from their sea of mud, filth and gore.

The Somme brought together the largest armies that western Europe had ever seen for the longest and costliest battle ever fought there, apart from Verdun, which was fought alongside it, beginning in February 1916 and continuing until December. The total death toll at the Somme was over 300,000, and twice that number were wounded. On the British side, 51 VCs were awarded.

The Somme is synonymous with suffering and grief, just as Waterloo, fought a little over a century earlier, is synonymous with glory and hope. So many died at the Somme, their bodies torn, broken and often defiled. So many limped home, their bodies permanently maimed, without adequate welfare services to help sustain them during the remainder of their lives.

Whole communities were deeply scarred because Kitchener's New Army of over 1 million volunteers amassed since 1914 contained many regiments composed of friends, relatives, neighbours and workmates, beginning with the Grimsby Chums, who were followed by the Hull Pals, the first of over 50 pals battalions to be raised and invested with intense local pride. The whole of Wales followed the fortunes of the Swansea Pals intently. In Scotland, the sportmen's or football battalion, composed of players and fans, became the focus of great enthusiasm.

There were other elements of the Army which represented close-knit communities. The 36th (Ulster) Division was conspicuous among them. Five thousand five hundred Ulstermen died on the ferocious first day—more than a quarter of total British deaths. Sir Frank Fox, who had been a staff officer at allied headquarters, wrote:

> "The losses of that day made mourning in many Ulster homes, but with the mourning there was pride that the Province had once again proved the steadfastness of its loyal courage".

A service will be held in St Anne's Cathedral, Belfast, on 1 July, attended by the Lord Lieutenant, to remember Ulster's sacrifice. There and in many other places church services will remind us of the fine young musicians and composers who died.

A century later, the search for answers still goes on. Were the allies' strategy and tactics misconceived? Were the allied commanders incompetent? Was Sir Douglas Haig a callous butcher of men? Many fine works of scholarship have been written—and more will follow—discussing and analysing the great, recurrent issues of the Somme. Unlike the meretricious Alan

[Lord Lexden]
Clark, serious historians today do not deride Haig and his senior officers as donkeys, although it is clear that they had their limitations. The Somme lacked what it needed most: a man of the stature and genius of Wellington.

At the Somme, Haig sought a decisive victory by breaking through the formidable German trenches. Under his carefully laid plans, the greatest artillery bombardment ever seen would be followed by massive infantry attacks, clearing a route for the cavalry regiments, which would sweep the Germans from the villages and towns of northern France. Historians debate the extent to which grave tactical errors on the British side on the one hand, and the sheer strength of the German defences on the other, thwarted Haig's ambitions.

Historians are united in recognising the importance of the Somme in enabling the French to survive an even greater struggle at Verdun by diverting German troops from it. Defeat there would have spelled disaster for the allies by opening the road to Paris to the forces of the Kaiser.

Above all, detailed scholarly studies of the Somme today tend to be sympathetic to the strategy on which both it and ultimate victory in 1918 were based. As Andrew Roberts puts it in his recent book *Elegy: The First Day on the Somme*:

"If there was a way of fighting the First World War that did not involve trying to smash frontally through formidable enemy defences, neither side discovered one".

The words of historians, however eloquent, reach comparatively few people. The Somme lives on in the hearts of our nation mainly through the words left to us by those who took part in it—men of all ranks whose letters, diaries and poetry speak to us across the century so movingly. Some tell us of the strengthening of their belief in God and the hope of salvation; others of the collapse of faith amid the horrors of the battle. Many were sustained by high ideals. Tom Kettle, an Irish Nationalist MP, wrote a few weeks before he was killed on 5 September:

"I want to live to use all my powers of thinking and working, to drive out this foul thing called war and to put in its place understanding and comradeship".

Others looked confidently to a better future for mankind. At the end of a poem entitled "Optimism", the 29 year-old Lieutenant Alfred Ratcliffe wrote:

"Fell year unpitiful, slow days of scorn
Your kind shall die, and sweeter days be born".

He was killed on the first day of the battle. What, I wonder, would he and his gallant comrades have thought of our conduct in the "sweeter days" that we are so fortunate to enjoy?

When the war was over, there were many more words. They were inscribed on the tombstones visible today from every road and every vista on the approaches to the Somme. The Commonwealth War Graves Commission maintains more than 60 cemeteries of haunting beauty on the Somme battlefield. Above them tower the great memorials dominated by the Thiepval Memorial to the Missing, the largest war memorial ever built, recording the names of 73,335 soldiers who have no known grave.

Those who have planned the forthcoming Somme centenary commemoration will have been conscious of how much was expected of them. I look forward to hearing from the Minister how they have fulfilled their task. I look forward, too, to listening to the speeches of noble Lords on all sides of the House who are joining me this evening in recalling this never to be forgotten battle a hundred years ago.

8.03 pm

Lord Watson of Invergowrie (Lab): My Lords, I pay tribute to the noble Lord, Lord Lexden, for introducing this debate and for his knowledgeable introduction of it. It is no more than we would have expected from such an eminent historian. I do not intend to follow him in that sense but I would like to invoke some of the events of that dreadful battle and how they have affected me two generations later.

I do not wish to steal the Minister's thunder either and so I will congratulate the Government now on marking the battle appropriately. It is also appropriate that organisations such as the Commonwealth War Graves Commission, the Imperial War Museum and the BBC are doing a fine job, with a wide range of events that will mark and commemorate the centenary.

I shall be on the Somme on 1 July this year, as I have been every 10 years since 1976. Initially, I was not sure why I did so. I happened to be studying at school on the 50th anniversary of the battle of the Somme and I had a grandfather who fought in the war with the Argyll and Sutherland Highlanders. He was not on the Somme on that day but he was on the Western Front. He would never say a word about the war—he was too traumatised. That made an impression on me and I decided to go to the commemoration of the first day of the Somme in 1976.

What struck me that day as I stood on the Somme—as I will be this year on the Albert-Bapaume road—was the massive Lochnagar crater which, 100 years later, is still a huge testament to the horror and brutality of the war. It was exploded seconds before 7.30 am on 1 July 1916. It ought to have presaged greater advances on that day than it did. I am not going to enter into the culpability aspect of the battle but it ought to have been foreseen that the German defences were much stronger than the British Army had anticipated. I invite noble Lords to consider what a seven-day barrage, day and night, must be like. It went on 24 hours a day for seven days, so the men who went over from the trenches could not have had any sleep for seven days before they entered into the awful field of machine-gun fire that mowed down so many of them.

It is important, when we pay tribute to the men who gave their lives, to remember that many were Commonwealth soldiers. They were not only from Newfoundland, which was separate from Canada at the time, New Zealand and Australia but there was also the Second Indian Cavalry and the British West Indies Regiment. Sadly, when we studied the subject at school—certainly in my time—they were not mentioned. However, I am glad to see that in the commemoration of the war 100 years on, their sacrifices are being recognised.

There will be many opportunities for us to mark the occasion in a sombre way. We should remember the dead of all sides and all countries—something like 300,000 in that battle. On the first day, 19,240 British soldiers died, the worst date in the history of the British Army. That gives pause for thought. Much more could be said but, as time is limited, I shall leave it there and we will all pay our own respects on 1 July.

8.06 pm

Lord Addington (LD): My Lords, I was drawn to this debate having read much of what has recently been written about the Battle of the Somme and the First World War generally which tends to sit badly with some of the myths with which I was brought up—as the noble Lord, Lord Lexden, suggested, the idea of lions led by donkeys marching forward.

As in all modern wars in Europe and the American Civil War, ranked men marching forward across fields into rifle fire—and particularly fire from a rapid-firing weapon—led to massive casualties. Effectively, given the First World War's structures, hideous casualties were inevitable. It was always going to be that type of war, regardless of what people thought. Indeed, looking at what our rifles and weapons had done to some of our opponents in colonial warfare before might have given us a hint. There was always going to be a dreadful carnage caused by intensive manoeuvres of infantry for an assault on a position which would be met by massive force. The noble Lord is quite right to hit that myth hard. We should remember the way in which the history has evolved.

When the commemorations for World War I were being held, in an attempt to educate my daughter I asked her, "What can we do that tells you about World War I?", and I got a copy of "Oh! What a Lovely War". If ever something looked incredibly dated and like something written by someone who had taken on board the lions and donkeys attitude, it is that document. I will not comment any more about it other than to say that, after an hour, my daughter said, "This is boring. They all seem to be saying the same thing all the time".

I urge the Minister to ensure that everyone continues to study this subject and to look at its history again and again. World War I is different because it is the first war from which we have a good, first-hand record from the people who fought it on the ground in massed ranks. We should largely thank the BBC, for making those recordings a while ago. We should be studying it and reminding ourselves what a pan-European war looks like.

8.09 pm

Lord Rogan (UUP): My Lords, I thank the noble Lord, Lord Lexden, for initiating this debate. In both Northern Ireland and southern Ireland we look back to historic events and historic dates. The year 1916 is especially in our minds. Events in Dublin at Easter of that year and the Somme in July are embedded in our collective memories. These episodes in history helped in many ways to shape the politics and the creation of our two countries.

In Ulster, the Somme is in our DNA. Thousands and thousands from all nine Ulster counties—including Donegal, Cavan and Monaghan—went to war. Sadly, many thousands never returned. Three of my uncles left home to go to the Somme. Only one returned—I am told, a broken man. This was typical of so many Ulster families. It is said that there was not a town, a village or a hamlet that did not suffer with the loss of loved ones.

Let us not forget that men from the rest of Ireland also volunteered: men of the 10th Irish Division, who, with the Australians and New Zealanders, suffered at Suvla Bay; and men of the 16th Irish Division, who fought so gallantly alongside the 36th Ulster Division at the Somme and then at Passchendaele and Ypres. Then there were those men from England who have been mentioned, the pals battalions; men from Wales and Scotland; and the thousands and thousands of Commonwealth soldiers who fought and died for king and country in Flanders and elsewhere.

In southern Ireland, the Government are officially remembering and commemorating the Easter rebellion, with the President, Ministers and military personnel attending the ceremonies. At home in Ulster, as has been mentioned, several events are being orchestrated to remember and commemorate the service and sacrifice of our fellow Ulstermen in the 36th Ulster Division.

It would be entirely appropriate for our Government to organise an official event or events to do likewise for all who fought and died and suffered. It is a long, long way from the drumlins of County Armagh, from where Willie McBride, a young lad of 19, of the Ninth Royal Irish Fusiliers, left home to go to the green fields of France.

"For the sorrow, the suffering,
The glory and pain
The killing and dying were all done in vain.
Did they beat the drum slowly?
Did they play the fife lowly?
Did they sound the death march as they lowered you down?
Did the band play 'The Last Post' and chorus?
Did the pipes play 'The Flowers of the Forest'?"

8.12 pm

Lord True (Con): My Lords, I, too, thank my noble friend Lord Lexden for initiating this debate so movingly. No one can be immune to the horror and sacrifice of the Somme campaign. Standing on a bleak autumn evening watching the sun go down behind the Thiepval memorial was one of the most moving episodes of my life. Lutyens in stone captured the immensity of the thing but also the dignity and the space for contemplation that should inform remembrance this summer. I must say in passing how different from the shameful display in Whitehall with the Cenotaph enveloped in fumes as a prop for tawdry stunts for BBC's "Top Gear".

As my noble friend said, the Somme offensive followed agreement by the Allied powers to launch co-ordinated offensives in 1916, a need made ever more pressing in French eyes by the German assault on Verdun. As he said, on June 4, just three weeks before the Somme bombardment, our Russian allies, under General Brusilov, made what was to be the most striking breakthrough in the war before 1918—not by a massive, week-long

[LORD TRUE]
artillery barrage followed by a formal human-wave advance on a relatively narrow front at the enemy's strong point but instead by surprise, careful sapping and entrenchment, concealment of reserves, a brief if intense artillery bombardment probing the enemy's weakest points and attacking at 20 points along a very broad front.

More than 400,000 Austrian troops were captured. Austria-Hungary suffered nearly 1 million casualties in that battle, and, arguably, neither the empire nor its army were ever the same again. The failure of other Russian commanders to support the offensive cost Russia dearly, but it is sad that neither those lessons nor ideas being advanced of infiltration came soon enough to be applied on the Somme.

Although the Somme has unique national resonance for us, it is as well to remember sacrifices made in the same cause by hundreds of thousands of young men of other nations that bloody summer. The bugles called from sad shires under the Urals as well as the Chilterns. I was sorry about the boycott of the Russian commemoration last year of the end of World War II. Surely honouring those who died in what was then our common cause should know no boundary of regime or politics.

The Somme was not an Italian or a Russian or a Romanian show. None the less, I hope that this spirit of openness and reconciliation will apply to former allies as well as to former enemies as we recall the cataclysmic events of 1916 in the Great War, which, on the Somme and elsewhere, left Europe bled white and exhausted, opened the way to revolution and changed its future forever.

8.15 pm

Lord Faulkner of Worcester (Lab): My Lords, judging from the large number of speakers in this debate, the noble Lord, Lord Lexden, has certainly caught the interest of the House. I congratulate him on his initiative for the debate and on his very moving and inspirational speech.

I declare three unpaid interests. I am co-chair of the War Heritage All-Party Parliamentary Group, a member of the Government's World War I Centenary Advisory Board and patron of the Guild of Battlefield Guides.

I start with the warmest of compliments to everyone who has so far been involved with the centenary programme. The range of events that since 2014 have already taken place in the United Kingdom and on the battlefields involving the general public, the inclusiveness of groups participating—particularly the large number of schoolchildren, the solemn programme of commemorations in churches and cathedrals, and the depictions of what life was like on the home front during those terrible times—have all been inspirational and demonstrated that the public's imagination has been captured. The mood and tone of those events have been exactly right—something that many of us were worried about at the beginning of the programme but are now completely satisfied by.

As time is so limited in this debate, I shall leave it to the Minister to speak in detail about the programme surrounding the Somme centenary, particularly the events in Manchester on 1 July and the visit to Thiepval, in which I hope to take part.

I want to commend the Commonwealth War Graves Commission's Somme Community Initiative, which we shall be launching here in the House on 11 April. Its aim is to reconnect the British public with the 300,000 war graves in the UK. Over the years, these graves have effectively become invisible to the public. A CWGC pilot study has encouraged community groups, schools, old people's groups, veterans' groups, football clubs and so on to visit their local CWGC site, do some research on the men, have a small event to remember them, and ultimately continue to champion the sites. It complements the programme of visits by MPs and Peers which we in the all-party group helped to get under way in 2014 and which has proved so successful that it is being repeated.

Now the CWGC has funding from DCMS and the Department for Communities and Local Government to undertake a much larger project from July to November this year which involves 141 community events linked to the 141 days of the Somme. In addition, the commission tells me that it would welcome many more visitors at its 230 cemeteries on the Somme, as some are visited only rarely. I hope that we will hear more detail from the Minister when he replies.

8.19 pm

Lord Bew (CB): My Lords, I, too, thank the noble Lord, Lord Lexden, for his role in initiating this debate and for his excellent and striking opening speech. On 1 July 1916, the Ulster Division went over the top at the Somme, with dramatic, painful and horrifying effect. Two days later, Captain Wilfred Spender, an Englishman and Harrovian, wrote in the *Times*:

"I am not an Ulsterman but yesterday … as I followed their amazing attack, I felt that I would rather be an Ulsterman than anything else in the world".

It is true that very few families in Northern Ireland were untouched by the tragedy of the Somme. Harold Cox, a former Liberal MP, spoke in Belfast after the war. His home was in Kent and,

"when the wind was from the south, at night they could hear the noise of guns booming on the Somme. Ulstermen on the Somme were fighting for the defence of Kent".

When I draw attention to these things I do not want us to forget—far from it—the role of the Irish nationalists. The noble Lord, Lord Lexden, has already referred to the death a few weeks later of Tom Kettle, a nationalist MP. If one looks in the Great Hall, it is remarkable to find recorded there the deaths not just of nationalist MPs but of their sons. The losses were proportionate to those of the mainstream English parties. It gives an indication of the scale of the tragedy at that time.

One of the most remarkable things to happen in Ireland in recent years, and one of the signs of a real change of public mood and a move towards greater reconciliation between north and south, is the way in which, 10 years ago, the Irish Republic for the first time held a major commemoration for those who died at the Somme from both main traditions.

It has already been mentioned that the Prime Minister has an advisory committee on the First World War. I was delighted to speak to that committee on the subject of 1916. While the rising of 1916 in Dublin was not a political project I support or particularly admire, none the less I have no difficulty in explaining the proud motivation and bravery that led into it. I was very happy to talk to the committee on that subject. I would be very happy if the Minister was able to say to me that he will refer to the advisory committee chaired by his ministerial colleague in another place the content of the speeches that are made in this House tonight.

8.22 pm

The Earl of Shrewsbury (Con): My Lords, I, too, congratulate my noble friend on securing this timely debate. My points will be very brief. As a small boy living with my father in Switzerland, every year he took me to visit many of the countless war cemeteries from the Great War, and in particular the Somme. These days I return often, and I have taken my children and my friends to experience these special places that are so beautifully tended by the War Graves Commission.

At the memorial to those who fell at the battle of Loos and many others, I find grave after grave and inscription after inscription to those from the North and South Staffords who made the ultimate sacrifice. I would guess that the reason my father was so keen to visit these wonderful graveyards with me was because his head forester, George Greatholder, lost four of his brothers on the first day of the battle of the Somme—and George himself was awarded a military medal and bar.

Staffordshire is my mother county and it is the home of the National Memorial Arboretum at Alrewas. Is my noble friend the Minister able to tell me what plans that excellent establishment has to commemorate this special centenary on behalf of the nation? Bearing in mind the sacrifice made by a great number of animals in the service of man during the Somme—in the main horses and dogs which were used for transport and communications—is any lasting memorial planned to commemorate them?

Finally, Staffordshire is also home to a large German war cemetery on Cannock Chase. We must never forget the sacrifice made by our enemies in that appalling conflict.

8.24 pm

Lord Empey (UUP): My Lords, my noble friend Lord Lexden as usual has done us all a great service by drawing our attention to one of the most significant events of the First World War. Mention has been made of the 36th Ulster Division and the 16th Irish Division. It is true to say that there is virtually not a school, town or village hall that does not have a memorial, some of them very substantial in size.

Let me put the thing into perspective. We have an Army today which I think is planned to reach something like 85,000. In proportionate terms, the losses incurred by the 36th Ulster Division on 1 and 2 July 1916 were equivalent in population terms to the obliteration of the entire British Army in one 24-hour period. That is the scale of the losses; they are almost inconceivable and unimaginable. It is akin to something like Hiroshima taking place in one day. But that did not include those who came back from the conflict as broken men—and, indeed, the brave women who served them in the tents and on the battlefields suffered greatly as well from what they had seen.

To follow what was said by my noble friend Lord Bew, however dreadful the conflict was, many of the soldiers fighting on those battlefields were from Ireland and came from opposing traditions. For a long time afterwards, and indeed until comparatively recently, the sacrifice of the men who came from the Irish Republic was barely recognised. But I am pleased to say that things have changed. Something that was a most horrible and divisive issue has gradually become a source of some form of reconciliation. Irish Ministers now come to Belfast City Hall on 1 July to join the rest of us in the commemoration ceremony there. An Irish Prime Minister now attends the Enniskillen memorial on Remembrance Sunday. Recognition is taking place on both sides of the border, and this is a small crumb of comfort that has come from such a dreadful set of circumstances. I hope and pray that in all our endeavours, in our foreign policy and in other areas as we go forward, never again will we allow the circumstances to arise that demand such a terrible sacrifice.

8.27 pm

Lord Black of Brentwood (Con): My Lords, I join others in congratulating my noble friend on so powerfully introducing this important debate, in which I declare an interest as a trustee of the Imperial War Museum Foundation. Between them, the Imperial War Museum, 14-18 NOW and the wider First World War Centenary Partnership have formidable plans to commemorate the centenary, perhaps most strikingly through the restoration of the UNESCO-listed film, "The Battle of the Somme". And through the ambitious Lives of the First World War project, these organisations will build a permanent digital memorial to those who died at the Somme, bringing new meaning to our exhortation that, "We will remember them".

In his extraordinary account of Europe from 1914 to 1949, Ian Kershaw said of the two great battles that dominated the middle years of the war that while for the French Verdun came to symbolise the saving of their country, for the British the Somme symbolised,

"the pointlessness of such immense loss of life".

Perhaps the most tragic aspect of the Somme, the most pointless of all, was the way in which it robbed us of so much bright young creative talent that was mown down in the flower of youth.

In his director's address shortly after the outbreak of war to students at the Royal College of Music, on whose council I sit, Sir Hubert Parry had this to say:

"One thing which concerns us deeply is that quite a lot of our happy family … have been honourably inspired to go and chance the risks of a military life; and among them are some very distinguished young musicians. We feel a thrill of regard for them ... But then we must also face the facts with open minds. Our pupils ... are gifted and rare in a special way. Some of them are so gifted that their loss could hardly be made good".

[Lord Black of Brentwood]
Among the young musicians who died during the war were Ernest Farrar, Willie Manson, Cecil Coles and, at the Somme itself, perhaps the most talented of them all, George Butterworth, whose early works such as "A Shropshire Lad" and "The Banks of Green Willow" foretold a life of great musical genius that was not to be.

At the outbreak of war, Butterworth joined the British Army and accepted a commission in the 13th battalion Durham Light Infantry. Soon after the start of the Somme, he and his men were sent in to capture a series of trenches near Pozières on 16 July. For his role in doing so, Butterworth was awarded the Military Cross. He did not live to receive it as he was shot through the head by a sniper during the desperate battle to hold Munster Alley on 5 August. Hastily buried that day, his body was one of the hundreds of thousands never recovered. His remains lie there still today, perhaps the most obvious case of "what if?" that is left to us in the earth of the battlefields of northern France. He joins the Frenchman Albéric Magnard, the Spaniard Enrique Granados and the German Rudi Stephan as losses from the First World War to the world of music who, as Parry said, can, "hardly be made good". As we commemorate the battle this year, I hope we will find time to think of the "what if?" generation of composers, poets, authors and artists whose talents would have so enriched our lives had they not had to make the ultimate sacrifice.

8.31 pm

Lord Browne of Belmont (DUP): My Lords, I thank the noble Lord, Lord Lexden, for giving such an excellent account of the historical significance of the Battle of the Somme and for highlighting the importance of commemorating the bravery and sacrifice of 100 years ago.

I shall not attempt to analyse these tragic events in depth in the short time available to me, but it is impossible to overestimate the extent of the suffering and sacrifice of those who took part in the battle and, indeed, of their next of kin. However, I should like to congratulate the Government and all the other organisations involved in drawing up the excellent and extensive programme of commemorative events, which will enable full participation by all sections of the community at the national, regional and local level.

In particular, I should like to outline the outstanding work of the Somme Association of Northern Ireland, a registered charity formed in 1990 to co-ordinate research and educate the community on the role played by Irishmen in the First World War and to commemorate their heroism and sacrifice. Before proceeding further, perhaps I should declare an interest in the association, as I have been a board member for many years. On behalf of the Government, we manage the Ulster Memorial Tower at the site of the Somme battlefield which was the first official memorial to be erected on the Western Front, and was dedicated on 19 November 1921 to the memory of the officers and men of the 36 Ulster Division and all other forces who laid down their lives on the opening day of the offensive.

In 2003, the Secretary of State for Northern Ireland secured a grant which enabled us to purchase the nearby Thiepval Wood, the location from which the attack on the German lines on 1 July 1916 was initiated. In addition, in April 1994, we opened a fully accredited independent museum on the edge of the Clandeboye Estate in County Down, where the 36 Ulster Division trained before departing for war.

The Somme Association will naturally play a leading role in all the commemorative events to be held this year in the British Isles and in France and Belgium. We regard our future mission to improve community relations through the elucidation of the important role played by soldiers from all parts of Ireland in the First World War in defence of freedom as of great significance. The whole community of Northern Ireland will benefit through the development of a common understanding of the commitment and sacrifices of individuals from both unionist and nationalist backgrounds as they stood and fought together on the Western Front. A key aim of the Somme Association is also to work closely with the education sector in developing material to support schools' curriculum requirements and to expand our education and outreach facilities. It is indeed encouraging that last year a record number of school students from both communities in Northern Ireland visited our museum. The Government's initiative to send two student ambassadors and a teacher from every state school in the United Kingdom to visit the First World War battlefields and take part in remembrance ceremonies is very welcome. I hope that these events will provide a lasting legacy and a fitting tribute to the sacrifices of the brave men who gave their lives at the Somme in 1916.

8.34 pm

Lord Lingfield (Con): My Lords, I, too, thank my noble friend Lord Lexden for his sombre but first-class introduction to this debate.

On the 60th anniversary of the Somme, a lady called Rose Coombs wrote a book detailing its memorials and graveyards, which my noble friend mentioned. She called it *Before Endeavours Fade*. Now, on its 100th anniversary, we know that, alas, when this year is over the stories of the endeavours of those thousands of young men and women who served and died in the First World War will indeed inevitably fade, unless we can pass the responsibility of remembering them to the next generation. Therefore, it is extremely important that today's young, this year particularly, can be helped to do so in their schools and colleges, and, indeed, in the cadet units of the three services. Last week, while giving awards to some sea cadets, I was reminded that youngsters of the same age as some of those I met served and died in the Royal Naval Division on the Somme. A 12 year-old from Tooting in south London, Sidney Lewis, fought at Delville Wood before his mother demanded his safe return home.

One school that I know set its students a task of investigating the names on its local war memorials and unlocked the stories of many of those commemorated. Some pupils found that they were related to those who had died, and, with the help of the marvellous Commonwealth War Graves Commission website, located

their gravestones on the Western Front. Diligent research at another school revealed a Somme Victoria Cross winner who had been a pupil there, and a subsequent visit to a military museum enabled the pupils to see the medal and to learn more of his life and the courageous act that ended it. Experiences such as this are useful introductions in the classroom to the concepts of community, patriotism, bravery and duty.

I remember well my grandfather and his brothers, who, to the end of their lives, often told me of ordeals and dangers in the trenches and at sea, of comradeship and of the loss of their four cousins. These were very real to me when I was young. Many of your Lordships will have had the same advantage that I did. My noble friend Lord Shrewsbury mentioned that. Our grandchildren, however, do not have that privilege. I very much hope that our schools and youth organisations will this year ensure that the stories of those who fought at the Somme are passed on to those who come after us, for remembering tomorrow.

8.37 pm

Lord Stevenson of Balmacara (Lab): My Lords, like others, I thank the noble Lord, Lord Lexden, for securing the debate and for his fine, balanced and very moving speech.

We have begun to see the Great War as more than just the industrialisation of death that it brought, and recognise the profound impact it had on the political, social, and cultural aspects of Britain. As we have heard, the Battle of the Somme is, for many people, the symbol of the horrors of warfare, but it is important that the commemorations also extend our understanding of the impact these battles had on our national outlook.

Today is Commonwealth Day, and it is right that we acknowledge that the British and Empire Army that fought the First World War a century ago had more in common demographically with the Britain of 2016 than it did with that of 1916. This does more than just explain the facts of our imperial past; it speaks to a powerful shared history that can help us understand why modern Britain functions as well as it does.

Many noble Lords drew attention to the contribution made by men of Ireland. Of course, the way the two communities can now come together is important, perhaps helped by the events of May 2011, when Her Majesty the Queen honoured the Irish war dead as she laid her wreath in the Garden of Remembrance in Dublin.

At home, the First World War led to changes in the role of the state, with the Government having to take previously unparalleled action on food, rents and wages. It affected the franchise, too: a reform of the electoral system was deemed necessary after the First World War as millions of returning soldiers were not entitled to the vote. The 1918 Act saw the size of the electorate triple from 7.7 million to 21.4 million, with women making up 43% of the electorate.

Indeed, the war brought many changes in the lives of British women. It is often represented as having had a wholly positive impact, opening up new opportunities in the world of work. Indeed, it is true that the number of women in the workforce rose to more than 1 million. But, as a forthcoming exhibition, "From Corsets to Bras", will show, it also presaged changes in other ways, such as clothing, when female workers threw off the confines of their tight Edwardian clothing to adopt shorter skirts, looser shirts and even, in some cases, trousers. As we dig deeper into their lives, we recognise, of course, that the reality was more complex. Women's wages, although routinely portrayed in the wartime press as high, remained significantly lower than those of their male counterparts—a battle that continues to this day. It took until 1928 for women to get an equal electoral franchise.

Such complexity will be found in every component of the First World War, but it is through commemoration that we understand it more completely. I pay tribute to what has been planned for July 2016 by the BBC, 14-18 NOW, and the AHRC, as well as in situ, and look forward to these events throwing new light on these issues.

8.39 pm

The Earl of Courtown (Con): My Lords, I join with other noble Lords in congratulating my noble friend Lord Lexden on his speech and his choice of debate. A hundred years ago, our country was preparing for what was to become our bloodiest battle. For many in Britain, the Battle of the Somme was the most remembered episode of the First World War. As my noble friend said, there are few communities across the country that were not affected by the Somme.

At this point, I think it would be useful to illustrate how those at the front felt by reading an extract from my grandfather's diaries of the day. This is from Friday, 15 September 1916:

> "A day of very great things. A very fine day. Advance has been made satisfactorily in most cases. So far as one can hear the objectives have been reached. The new caterpillar things have done wonders and fairly put the wind up the enemy. Went to Mametz this afternoon and walked towards Montauban. Wonderful night—masses of troops and very large bodies of cavalry".

The Somme centenary comes at the midway point in the Government's First World War commemorative programme, as set out by the Prime Minister in 2012, which has already included marking our entry to war on 4 August 2014 and the start of the Gallipoli campaign in April 2015. On 31 May this year, we will be commemorating the Battle of Jutland, along with our German friends, and the wider war at sea.

There will be a number of events taking place to commemorate this important centenary of the Battle of the Somme. This is our opportunity to commemorate the courage and sacrifice of all those who gave their lives at the Somme and to ensure that their legacy lives on. Plans to commemorate the Somme are our most ambitious yet. Several events are planned. On 30 June, the eve of the battle, there will be a service at Westminster Abbey, attended by Her Majesty the Queen, followed by an all-night vigil around the Grave of the Unknown Warrior. Also on 30 June there will be a military vigil at the Thiepval Memorial to the Missing, in France. The memorial will be fully restored and lit for the first time, thanks to government funding. Vigils will also take place in Scotland, Wales and Northern Ireland. They will be held at the Scottish National War Memorial

[The Earl of Courtown]
in Edinburgh Castle, the National War Memorial in Cardiff and Clandeboye and Helen's Tower, in County Down.

On 1 July, the centenary of the first day of the Battle of the Somme, a national commemorative service will be held at the Thiepval Memorial in France, along with our French comrades. The service will reflect the story of the whole battle, capturing the scale and reach of the conflict, and the impact it had on all the lives of all communities in the United Kingdom and France. This event will be attended by around 10,000 guests, including members of the royal family; heads of state, senior politicians and representatives from all the nations involved, and around 8,000 members of the public.

Here in the United Kingdom, there will be a Somme parade through Manchester, featuring military bands and representatives of the battalions that were present at the Somme; a commemorative service will then take place at Manchester Cathedral. In keeping with Government's key themes for the centenary—remembrance, youth and education— there will also be cultural and educational events at the city's Heaton Park, featuring an experience field, a national children's choir, film, dance, and the Hallé Orchestra performing works of George Butterworth, the young English composer who died at the Somme who was mentioned by my noble friend Lord Black. Manchester is a highly suitable location, northern England having been the heart of the Pals Battalions and the country's huge industrial effort for the Somme. Many of the commemorative events in London, France and Manchester will be televised, which will ensure that the whole nation has a chance to remember. The Government will also encourage communities across the UK to hold acts of remembrance on 1 July in a way that feels appropriate to them. Further details will be published in April.

The battle itself lasted 141 days, up to 18 November. There will be a daily service of remembrance at the Thiepval Memorial hosted by the Royal British Legion and the Commonwealth War Graves Commission throughout the 141-day duration. A range of events will also take place at Commonwealth War Graves Commission cemeteries across the region throughout this period. This will allow regimental associations, communities and descendants to participate on a day of particular significance to them.

The Government are also funding a series of regional debates for schools, a project that will enable pupils to debate the causes, conduct and consequences of the war, including the Battle of the Somme, with a panel of experts. The first of these is due to begin in June. As well as the national commemorative events, government partners will be involved in Somme-related activities. The 14-18 NOW culture programme recently announced its arts events for this year, which focus on the Somme and the home front. Remembrance, youth and education are key government themes. They are at the heart of the culture programme and will engage young people and new diverse audiences.

The Imperial War Museum will open to the public overnight on 30 June and "The Battle of the Somme" film will be made available to centenary partnership members to show in public venues. Around 200 organisations have so far signed up to screen the film. The Heritage Lottery Fund has funding available for local communities to explore their First World War heritage and I encourage them to apply.

My noble friend Lord Shrewsbury drew attention to the Staffordshires and their losses. The noble Lords, Lord Bew, Lord Rogan, Lord Empey and Lord Browne, also mentioned the losses from Northern Ireland. I remember from my youth the losses in the memorials further south, where my family were at the time.

Many noble Lords also mentioned the Commonwealth and the sacrifice of those countries. It is Commonwealth Day today, as the noble Lord, Lord Stevenson, said, so it is only right and proper that we remember that sacrifice and the enormous contribution from what is now the Commonwealth. We could not have prevailed without them. Representatives from all Commonwealth countries are invited to all our commemorative events. My noble friend Lord True drew attention to other countries and their losses.

There have been more announcements in the last week to 10 days. Her Majesty's Government announced further plans to mark the centenary of the Battle of the Somme in Manchester on 1 July. These include the Somme 100 parade throughout the city and the remembrance service in Manchester Cathedral. Nearly 3,000 people have applied for free tickets to attend the concert. There will also be an experience field, as I mentioned before. I am delighted that the Heritage Lottery Fund awarded almost £100,000 to this experience field, which will explore what life was like for people serving at the Somme as well as those left at home.

Of course, we should also not forget the role of women in the First World War, as touched on by the noble Lord, Lord Stevenson. I emphasise that all UK Government commemorative events for the Somme will recognise the important role that women played in the war effort, be it as factory workers, nurses on the western front and at home, or as loved ones sending letters to the battlefield. My noble friend Lord Lingfield referred to the role of young people. As I said earlier, children and young people are at the centre of our First World War centenary programme and will play a key role in all our commemorative events.

It is entirely appropriate that this House should take a moment to honour this centenary. One hundred years on, our thoughts and gratitude are with all those who were affected by this battle.

8.49 pm

Sitting suspended.

Housing and Planning Bill

Committee (6th Day) (Continued)

8.53 pm

Amendment 75A

Moved by ***Lord Best***

75A: Clause 78, page 34, line 17, at end insert—

"( ) The regulations shall not apply if the Secretary of State determines that the cost for a local authority of assessing the incomes of its tenants would be disproportionate to the additional rental income achievable from this provision."

Lord Best (CB): My Lords, Amendment 75A would enable the Secretary of State to exempt a local authority from the requirement to raise rents for those earning over £30,000 outside London, or £40,000 in London, if the administrative costs of collecting the extra money would absorb a disproportionate amount of the extra cash. What would be disproportionate in terms of the cost of assessing incomes and collecting the extra rent? I accept that this is subjective but surely if more than one-third or more than 40% of what is obtained in additional rent goes on securing that additional rent, a line must have been crossed. If charities spend 40% of the donations they raise on raising the money in the first place, they come in for huge criticism. High earners could rightly protest if so much of the extra rent serves no useful purpose at all.

Is it likely that admin costs really could absorb up to 40%—or more—of the extra income raised? We have heard just how much work is likely to be involved in obtaining these higher rents. If the same cost as for housing benefit claims was possible, using the housing benefit team to do the job, it seems from the evidence we have had from a number of local authorities that the cost would be between £30 and £40 for each household investigated. Around one-third of tenants, on average, would have to be assessed as these are the tenants not receiving housing benefit. That is a smaller number than the numbers for housing benefit, so there would be fewer economies of scale and higher costs than for administering HB. With universal credit comes the change to the councils' role, with councils having a smaller role in its administration, and piggybacking on the housing benefit process will no longer be possible, quite apart from the complications of the interaction between universal credit and housing benefit, as set out by the noble Baroness, Lady Hollis. So the admin costs for the higher rent regime will rise.

Let us take the figure as being somewhere between £30 and £40 a throw, not forgetting that there are set-up costs, such as the new computer program, and the costs of the appeals system, as well as the costs of returning overpayments of rent and compensation when mistakes have been made. The £30 to £40 per tenant not on housing benefit looks tight. Now let us consider the circumstances of an individual local authority. In an area of relatively high incomes for council tenants and a big gap between council rents and market rents—that sounds like central London—there may be some serious money to be raised. Conversely, in an area of low incomes for almost all council tenants and only a narrow gap between council rents and market—private rented sector—rents, there will be very little extra money to collect from higher earners.

I will try an example. In an unnamed local authority in the northern half of England, market rents are only £20 per week above council rents, and never more. The most that could be gained here from a higher earner is £1,000 per annum, which would be payable by any tenant earning more than £40,000, on the basis of the 10p in the pound taper. No tenant would be paying more than this, however high their income goes. We know that an average one-third of tenants will need to be assessed because they are not claiming housing benefit but we also know that nationally only 7% will actually be earning above the £30,000 threshold—£40,000 in London.

In my example, a smaller proportion than nationally will be in the higher earners category, perhaps 3% instead of the national figure of 7%. So for every 100 tenants, assessments will be necessary for 33—one-third—and extra rent will be collectable from seven, perhaps in this case only three because the area has fewer high earners. The 33 being assessed will cost, say, £1,200 per annum. The three will contribute, not the maximum of £1,000 per annum—£20 per week—but, perhaps, £300 per annum, yielding £900 per annum for the three of them, which is less a return in extra rent than the administration costs in my—possibly fairly extreme—northern local authority example.

9 pm

The point is that there will be cases, even if they are not as extreme as that, in which even if there is not an actual loss from the system, there will be very slim pickings from this new arrangement. If the local authority, as in this amendment, was able to make the case to the Secretary of State that it is simply not worth collecting the money on this basis—costs are going to be higher than the revenue or at least 40%—then it seems entirely sensible that the Secretary of State would be in a position to say, in that case we will not proceed on this basis, it is not worth the candle. I beg to move.

Lord Kerslake: My Lords, I support the amendment of the noble Lord, Lord Best. I will also speak to Amendment 81A, which I supported, and 81B, which I put forward and lead on. These amendments go to the fundamental question for local authorities of whether the costs they will incur will be properly recognised within the arrangements. As has been well put by the noble Lord, Lord Best, in some instances the costs may make the whole policy not worth putting in. In fact, we may find—depending on the outcome of all this—that the costs will raise a question about the whole policy. However, at the very least, in different housing markets it most certainly will raise questions. Therefore, it is absolutely right to say that in circumstances where it clearly does not make sense to implement the policy in terms of costs and benefits, there is provision to not proceed with it.

The other two amendments seek to be very clear that administrative costs will be covered. I speak specifically to Amendment 81B. Within the draft Bill, it says the Minister "may provide for deductions" to cover costs. In other words, it is a permissive choice for Ministers whether or not they make these deductions. It seems inconsistent with the intent of Government and therefore the amendment does something very simple, which is to change the "may" to a "must", to put it beyond doubt that, as this is a government policy which local authorities are being asked to implement, they must properly provide for the costs of implementing that policy.

This is the key. First, in order to access the information about incomes, the net has to be cast wide—effectively ask all tenants to secure information about less than 10% of the tenants. That is the first point. Secondly, if

[LORD KERSLAKE]
this is operated in a fair way there will be complexity. There is no doubt about that. The noble Baroness, Lady Hollis, very precisely pointed to one of the issues of fairness: if people's income changes, in the interest of administrative simplicity you might say, "We won't change the rent", but that would be extraordinarily unfair if people have lost jobs or changed roles and their income has changed significantly.

As we know, in the labour market that we work in, people can see their incomes as householders change very rapidly indeed—from one week to the next, as I said earlier. Therefore, you have complexity. You have complexity about the different benefits within the system, about the makeup of families, and about how you assess who the higher earners are within those families. With that complexity comes cost. It is an absolutely logical consequence of seeking to introduce a fair system.

Lord Stunell (LD): Does the noble Lord agree that with complexity also comes error? Some of us who, when at the other end of the building, spent a lot of time helping constituents deal with housing benefit queries and difficulties are well aware of the delays and problems in that system and foresee something at least comparable when this system is brought into play.

Lord Kerslake: The noble Lord makes a very powerful point. With any new system—or indeed with very mature systems, such as housing benefit—there are huge risks of error and cost in correcting it. I have run a housing benefit system and know just how easy it is to run into difficulties with it. I also know how costly it is to run because of the complexity of individual circumstances. We are here creating a whole new parallel system of assessment that sits alongside those for universal credit, housing benefit and so on. It will be new, and we will not establish a lot of the detail until we have run it. That, by the way, is why I still feel strongly that a pilot to test the operation of the system would be very valuable, not least because it would tell us how much cost is involved and what are the potential error rates.

It is essential, first, that we recognise that this may not be worth doing nationally, and certainly not locally. Secondly, we must give comfort in the Bill to local authorities that their costs will be covered. Thirdly, we must recognise that if this is to be a genuinely fair system, it will come with complexity and significant cost.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I support Amendment 75A, to which my noble friend Lord Stoneham has added his name, and Amendment 81A, to which I have added my name. Earlier, we debated at great length the cost to local authorities of administering pay to stay. The system appears disproportionately bureaucratic and, as we are uncertain how implementation will work, it will be extremely costly to sort out.

Housing, revenue and benefits officers are already working to full capacity. I have yet to ask the officers on my council just how many more of them they think they will need to administer this system. As we have heard, the absence of any detail means that no one can be sure that the additional rental income will cover the cost of administration. Local authorities should not be out of pocket. There is very little detail on the scheme and no transparency, and it seems that the Government are just transferring costs to local authorities.

On market rents, we have heard that there will be a flat rate of income. When tenants reach that rate, they will be assessed to pay market rents on a sliding scale. However, we have not heard anything about whether the taper will stop at a lower or higher level of rent. Will the market rent be assessed local authority by local authority, or will it be a flat rate? The Secretary of State has yet to tell us. Will tenants paying additional rent on the taper in the north stop paying at a lower level than those in the south-east, where the taper may carry on for some time, because market rents are much higher?

It is not surprising that local authorities are gaining the impression that the Government do not value them or the contribution that they make to their areas. I am very disappointed that we have so little detail at this stage on this very important clause, and I support the amendments.

Lord Stunell: My noble friend has raised an extremely important point relating to market value assessment. I wonder whether the Minister would like to comment on the fact that the DWP has market rents determined for housing benefit purposes, which is a hotly contested topic in many areas. Perhaps she would let us know whether that is indeed the benchmark that is intended to be used.

Lord Campbell-Savours: My Lords, the noble Lord, Lord Best, referred to an authority—I did not know whether it was a mythical authority or a real one that he was not prepared to identify. I can tell him that in the county of Cumbria, there are a number of authorities that would fall within the basic case that he was making: certainly Carlisle District Council; Barrow-in-Furness; probably Copeland, which is in Whitehaven; and, apart from the lakeland part of the districts concerned, certainly Allerdale.

When I asked councillors in Cumbria the other day what the level of rent was in the private sector of houses that had been sold off, I was told that there was very little difference—a marginal difference—maybe a fiver or a tenner on a property. So what are the costs to be incurred? The Bristol brief, which I assume everyone has received, goes into a little more detail. It says that even though very little detail is given in the Housing and Planning Bill, as a minimum the scheme would have to include income verification, data matching, measures to discourage and combat fraud, dealing with inquiries, market rent setting, rent accounting, audit processes for the additional rent raised and processes for internal and external review. That does not include appeals and overpayment recovery. There is an additional factor: investigation. We know that the departments concerned with the benefits system have investigators, which cost money. I am presuming that local authorities, particularly where they have substantial housing stock, if they are to meet the Government's targets on these matters, will have to

employ people to carry out this work. These all add to the administrative costs of implementing the scheme in areas where the differences between the private sector rent of a former local authority property and the local authority rent are only marginal.

That leads me to the view that the Minister should very seriously consider Amendment 75A, because it at least allows local authorities to have in mind what those costs would be and whether they should not proceed to pursue people in the circumstances that will arise.

Lord Kennedy of Southwark: My Lords, this group of amendments, as we have heard, concerns the payment of rental income to the Secretary of State and seeks to deal with issues for both tenants and local authorities that the blanket application of the policy may create. Amendment 75A, which was moved by the noble Lord, Lord Best, and supported by me and the noble Lords, Lord Kerslake and Lord Stoneham of Droxford, seeks to give the Secretary of State the power to disapply the policy if it becomes clear that the costs of assessing the incomes of local authority tenants would be disproportionate to the additional rental income achievable from this provision. From what we have heard already, in many low-wage areas this assessment would be a complete waste of time and money, and achieve next to nothing. This would give the Secretary of State an easy and convenient way out of the mess that has been created.

Amendment 81A in the name of the noble Lord, Lord Kerslake, the noble Baroness, Lady Bakewell of Hardington Mandeville, and my noble friend Lord Beecham, seeks to ensure that the full administrative cost of undertaking this exercise for the Government will be taken into account and deducted from any payment made to the Government. Again, I cannot see how the Government can really resist this; otherwise they are expecting local authorities to do all the work for them, pay them the money and bear all the costs. That does not strike me as very fair at all.

In Clause 84(3), the Government have given themselves in effect a get-out-of-jail-free card by saying that the regulations may provide for deductions to be made to reflect the administrative costs of local authorities. That is just not fair. Amendment 81B proposed by the noble Lord, Lord Kerslake, and myself, would change "may" to "must". This is an important change which needs to be made.

When I was looking at the Bill, I spotted Clause 84(5), and we tabled Amendment 82. Clause 84(5) says:

> "The regulations may provide for assumptions to be made in making a calculation, whether or not those assumptions are, or are likely to be, borne out by events".

That is utterly ridiculous—a kind of "think of a number and double it" clause. It is absolutely ridiculous that that is in a Bill before your Lordships' House. If it was not so serious, it would make you laugh. When you think back to Clause 73, no wonder the Government are seeking to keep the money collected, even though they may have taken too much, because they may have made totally ridiculous assumptions in arriving at the figure in the first place and may have collected too little. They are seeking protection through this clause, and it has to go.

I shall draw my remarks to a close but, as this is Committee, I may intervene further during the response from the noble Baroness, Lady Evans of Bowes Park.

9.15 pm

Baroness Evans of Bowes Park (Con): My Lords, this group of amendments primarily concerns the treatment of administrative costs for local authorities. We have already given a firm commitment to allowing local authorities to recover a reasonable amount of the costs of operating the policy, and hope that commitment is welcome.

I begin with Amendment 75A, on the assessment of household income and the costs involved, which seeks an exemption for local authorities when the cost of doing the assessment is more than the rental income likely to be received. Under the policy, tenants are likely to be asked to declare their household incomes. We do not want this to be a time-consuming process. The department is working with local authorities on the options for how income is defined, building on the experience of other departments in bringing forward income-based assessments, such as tax credits, universal credit and housing benefit. Our consultation response confirms that tenants on housing benefit would be excluded from the policy, which will significantly reduce the caseload of local authorities. We are working through the options in relation to universal credit, and engagement with local authorities is important here. We will think through carefully the issues that noble Lords raised about areas in which the additional income would be less than operating the cost of the policy, because we agree that that is an important consideration, although details could be set out in regulations if necessary.

Amendment 81A asks for administrative costs to be met. We have given a reassurance on this, subject to an assessment of the actual costs of operating the policy, and will provide an update following the conclusion of engagement work with local authorities. Officials have a regular working group with local authority offices to test the implementation plans and costings; as noble Lords have said, there will be different issues in different parts of the country. That will directly inform the secondary legislation. We are absolutely committed to having front-line experience inform policy, for the very reasons that noble Lords have raised.

To conclude this group, Amendment 82 deals with the approach to returning money to government. The options, as we have outlined, are to do so based either on actuals or on a formula. We need the flexibility to put in place the most appropriate approach, and are dealing with local authorities in this matter; that will be part of the discussions with the implementation group. I hope that the commitment to provide local authorities with a reasonable amount of admin costs and the engagement that we are having with local authorities to make sure that they are involved in forming policy will encourage the noble Lord to withdraw his amendment. But of course we welcome further discussion on any of these points and are happy to meet noble Lords who would like further information or discussion on these matters.

Baroness Hollis of Heigham (Lab): Why on earth should we be pleased that the Government will allow local authorities a reasonable proportion of their costs to be reimbursed? The whole of any profit will go to central government. Yet apparently the costs of raising that money may be divvied up in whatever proportion the Secretary of State judges reasonable. That is unacceptable. If we are supposed to be raising money for the Chancellor of the Exchequer, he should pay the full costs of so doing.

Lord Kerslake: I am grateful for the Minister's assurance on covering the costs. I would have thought, therefore, that putting "must" in rather than "may" would not of itself cause any particular issues, given that that is the Government's intent here. What would be helpful is if we could, when the Government firms up the taper, have a clear analysis of the potential income that is likely to be raised and the likely costs of collecting that income.

Lord Kennedy of Southwark: As my noble friend Lady Hollis has said, can the Minister when she responds say why it is reasonable costs and not all the costs that have been incurred? It is totally unfair if local authorities have to bear some of the costs and all the profit—as my noble friend said—goes to the Government.

Can the Minister also comment on Clause 84(5)? It is an absolutely ridiculous clause the way it is written. It needs to be improved, rewritten or taken out.

Baroness Evans of Bowes Park: I thank noble Lords for their questions. As I have said, the Government are committed to helping cover reasonable costs. We will work with local authorities to make sure that their thoughts are fed into this process; that is the position we are taking.

Lord Kennedy of Southwark: Yes, I know that is the position, but can the Minister tell us why it is not full costs? That is the question we are asking.

Baroness Evans of Bowes Park: There are many things to be taken into consideration and, as I have said, we will discuss with local authorities how best to implement this.

Lord Kennedy of Southwark: Okay. We are clearly not going to get an answer from the Government Front Bench on that. I think it is totally unreasonable not to reimburse councils for their costs.

What is the Government's response on Clause 84(5)? It is a ridiculous clause the way it is written. What is going to happen there?

Baroness Evans of Bowes Park: I will have to take that away and write to the noble Lord.

Lord Stunell: I thank the noble Baroness for what she said about taking serious note of the possibility that in some areas there is not a viable level of market rent to support action, and I urge her to take that back to the department and think it through carefully. Clearly quite an important consideration is the calculation of the market rent in a particular area. As I mentioned in my attempted intervention a few minutes ago, at the moment there is a Department for Work and Pensions assessment of market rent for the purposes of the payment of housing benefit, which I believe is something like the lowest quartile of the property available in the local reference area. Certainly, that causes real difficulties in some areas such as my own in Greater Manchester that have higher local market rents. That illustrates a problem I think the department will have in assessing this. If the ceiling were taken at the DWP level it would mean that plenty of areas would not be as viable as they might be if a higher level were taken. Correspondingly, if a higher level is taken you will have the paradox of those on housing benefit being limited to one market value in the area and those who are paying higher rents as a result of this being judged by a different market level in the same area. I just want to alert the Minister to some of the problems that could lie ahead, certainly in my own borough of Stockport and, no doubt, in many other places as well.

Baroness Hollis of Heigham: I want to follow up my noble friend's well-spotted point that I had not picked up on. Clause 84(5) says:

> "The regulations may provide for assumptions to be made in making a calculation, whether or not those assumptions are, or are likely to be, borne out by events".

Likely to be borne out by events? Can I just ask the Minister a very simple question which I think might allay our fears? If the Government have got it wrong, do they reimburse local authorities?

Baroness Evans of Bowes Park: I have already given the answer to the noble Lord. I will write to him.

Baroness Hollis of Heigham: I am sorry but this is a subsection of Clause 84 and we do not know what it means and what the implications are. This Bill has gone through the House of Commons at great length and Ministers cannot tell us what it means?

Baroness Evans of Bowes Park: We fully intend to reimburse local authorities for reasonable costs and need to establish which costs are relevant. We would not expect the Government to write a blank cheque. We expect that some local authorities may be more efficient than others. To reiterate, we will reimburse all reasonable costs.

Lord Best: My Lords, I thank all noble Lords who have joined in the debate. I thank the noble Lord, Lord Kerslake, who reminded us of his earlier amendment asking for a pilot scheme. If ever I saw a case for a pilot, this is it. Surely we need to test this out on the ground in a few places to see what the costs and the realities are.

I am grateful to the noble Baroness, Lady Bakewell, and to the noble Lord, Lord Campbell-Savours, who listed all the things that have to go into the administration of the scheme—processes for verification, data matching, combating fraud, market-rent setting and the rest.

I am grateful for the support of the noble Lord, Lord Kennedy of Southwark, and I am also grateful to the noble Lord, Lord Stunell, who made the point that an artist rather than a scientist may be behind the definition of "market" in the context of market rent. However, the Minister has given us some reassurances and I want to pin a good deal of hope on them.

The recovery of reasonable costs leaves the matter open. I was a bit alarmed by the impact statement coming up with a figure which I calculated to be about £15 per case, which is about half what is currently spent on housing benefit cases. I think that we will see a higher figure for these cases than for housing benefit cases. The figure of £15 given in the impact statement looked rather low, but no doubt that is all to play for and it is the Government's intention that costs will be fully reimbursed. Possibly more important is the recognition by government that there will probably be some cases where it is not worth going out and collecting the money because the administration costs will exceed, match or be very close to the amount that will be raised. I am sure that the Local Government Association will have a good deal to say about this and that there will be some tough negotiations there, but I think that we are left with some hope that, where the administration costs are disproportionately high, the Government will not proceed with the scheme. I beg leave to withdraw the amendment.

Amendment 75A withdrawn.

Amendments 75B to 76A not moved.

Clause 78 agreed.

Clause 79: Meaning of "high income" etc

Amendments 77 to 79A not moved.

Clause 79 agreed.

Clause 80: Information about income

Amendments 79B to 79D not moved.

Clause 80 agreed.

Clause 81: HMRC information

Amendment 80

Moved by ***Lord Beecham***

80: Clause 81, page 35, line 27, leave out paragraph (c)

Lord Beecham (Lab): My Lords, this group deals with the supply of information by HMRC in respect of the income of tenant households, as enshrined in Clause 81. The clause states that HMRC may disclose such information for the purpose of enabling a housing authority to determine whether it is obliged to charge a tenant a specific rent level and for determining what that level should be.

Subsection (2) provides, reasonably enough, that the information may be disclosed only to a local housing authority, the Secretary of State or a body with which the Secretary of State makes arrangements for the information to be passed between HMRC and local housing authorities, but it also, somewhat mysteriously, provides that it may be disclosed to,

"a public body that has been given the function of passing information between HMRC and local housing authorities".

It is one thing for HMRC to supply details to a local housing authority but quite another for it to do so to some as yet undefined organisation—in the words of the Explanatory Notes,

"a single body nominated by the Secretary of State to act as the 'gatekeeper' for this purpose",

albeit that HMRC has agreed to this procedure. Perhaps the Minister will indicate whether there was a proper consultation with HMRC or whether it was simply asked to frank the proposal.

9.30 pm

What exactly do the Government have in mind? Why is an intermediate body required? What form is it likely to take? What will it cost? Who will foot the bill? What costs are likely to fall anyway on HMRC in supplying information and on councils dealing with it? Should personal information of this kind be made available to anyone other than the housing authority?

Moreover, is there not a major problem with this concept in that many people's income varies widely during the year? Can HMRC keep up with the fluctuating incomes of zero-hour contract workers, the self-employed, the part-time employed and people working variable hours, some weeks with overtime, some not? How easy would it be to take into account unearned income? Will non-taxable income—for example, from ISAs—be taken into account? What happens during periods of illness or unemployment?

At the other end of the scale, what if the tenant has substantial capital yielding, at present interest rates, only modest income? What happens when all these questions arise not just with tenants but when other members of the household have earnings?

The organisation Social Housing Under Threat points out that the Commissioners for Revenue and Customs Act 2005 contains a presumption against disclosure of information which is, by that statute, limited to organisations which are public bodies. In this case, it points out that bodies which are not public and the Secretary of State will have the power to permit disclosure to a private company to handle the transfer of this sensitive information. It assumes—perhaps the Minister will comment—that disclosure would involve a much larger subset of tenants than will actually be liable for higher rents to ensure that no one is failing to disclose their higher income. After all, it is not obvious that without a provision to test more widely everybody who might be eligible to pay more would be detected. The organisation finally observes that disclosure to housing associations will flow from decisions as to whether or not they will charge higher rents for their tenants—going well beyond, therefore, any concept of public interest and accountability.

[LORD BEECHAM]

Why was this matter included in the consultation of October last year? What discussions have taken place with the Information Commissioner about the proposals? Will HMRC, with all its present problems and evident failings, be up to the job of providing timely and accurate information—and, again, at what cost? These questions all need answering.

Amendment 80 simply removes the ability for HMRC information to be channelled through some government-appointed gatekeeper, no doubt selected from the usual suspects of Capita, G4S, Serco and the like. We need more information before we can safely approve the proposals as they stand. I beg to move.

Lord Campbell-Savours: My Lords, I am very worried about this amendment and wish to speak briefly to it. I foresee some junior employee in one of these private companies sitting there with, on his or her desk, the most personal information about individual council tenants and their incomes. I find that utterly deplorable. I am astonished that Conservative Members of this House and the other place did not object to this. Historically, certainly when I was in the Commons, whenever there was an argument about the revealing by the Inland Revenue, as it was at the time, of information outside the government department, there was always a storm of protest. But people seem to presume that this is acceptable on this occasion. I wait to hear the Conservative Members of this House and government supporters challenge all the implications that lie behind this clause.

This is wrong. I would also like to know the detail. Will there be a regulation—I am sorry to have to ask for a regulation now—which defines precisely the nature of the details to be provided by HMRC? Where subsection (2)(d) refers to,

"a body with which the Secretary of State has made arrangements for the passing of information between HMRC and local housing authorities",

are those bodies to be defined somewhere? We presume that they will be private companies, but are there other organisations which have not been mentioned which we might wish to consider when we come to Report?

Lord Shipley (LD): My Lords, my name is attached to Amendment 80A, but I fully subscribe to the points that have been made so far about Amendment 80. A range of issues is involved and the Government would do well to think very carefully about that. I will come back to that in a moment.

On the assumption that HMRC has a role, Amendment 80A simply says that,

"an arms-length management organisation, tenant management organisation or local housing company wholly owned by its local authority which is managing social housing"

should also be counted in terms of being bodies which can receive information from HMRC. It is not clear in the Bill so far that that is the case. I suspect that is an oversight, but I look forward to the Minister's confirmation that that indeed is the case.

There is, however, a broader issue about the role of HMRC. There is the role of third parties getting access to private information and the control of that. That has been very well put by noble Lords in this grouping so far. However, there is another one which I think has to be looked at very carefully. That is how the information flows from HMRC in the first place, the reason being that with tax returns, for example, it may be straightforward for many individuals but for some, perhaps self-employed people, it may not be, and people have to file tax returns months after the tax year, so there could be significant levels of fluctuation in people's income.

We have heard all the arguments around this, of peaks and troughs during the year and so on. A lot of thought needs to be given to this issue about the security of data and the bureaucracy that is being created. We heard in the last group about reimbursement of costs to local authorities for the work they have to undertake. Of course, there are ways of getting round this—a number have been suggested. I hope the Minister will take very seriously the fact that we do not want to create an enormous bureaucratic structure to deal with this when there are simpler methods to achieve the objective.

Baroness Williams of Trafford (Con): My Lords, I am sure that all noble Lords will be pleased that this is a smaller group than those we debated earlier. It concerns the role of HMRC in relation to data sharing on income.

The noble Lord, Lord Beecham, asked if we had consulted with HMRC and the Information Commission. I can confirm that we have.

I will start by outlining the purpose of Clause 81. The power has been taken to enable data sharing between Her Majesty's Revenue and Customs and local authorities if it is necessary to verify the income details provided by tenants. This could be achieved directly between HMRC and local authorities, or the Government could choose to set up a body to make the transfer of data simpler. Noble Lords have raised concerns about private companies using income from tenants for purposes other than verification. I can reassure noble Lords that there is no intention to share the details of tenants directly between Government and private companies.

Lord Campbell-Savours: Directly.

Baroness Williams of Trafford: I hope I will give further comfort to the noble Lord.

The HMRC data-sharing powers allow a sharing of income information for the landlord's purposes under this policy only. If the landlord shares the information with anyone else, powers in the Bill could see criminal proceedings brought against them.

It may be that noble Lords have in mind that local authorities already contract their services out to private companies to collect personal information on income, and that they may do the same for the operation of this policy. Those authorities which contracted out services would have very clear rules in place about that function. The powers in the Bill do not cover that function. I therefore assure noble Lords that we take data security very seriously.

Amendment 80 would remove the subsection which allows HMRC to disclose information to a public body which has been given an intermediary function between HMRC and local housing authorities. I thank the noble Lords, Lord Kennedy and Lord Beecham, for this amendment, as it gives me an opportunity to provide greater clarity over the subsection's purpose. The intention is to enable data sharing by HMRC and local authorities for the purpose of income verification in the most appropriate way. The clause enables the function to be passed to a public body to act as a gatekeeper of information.

We are developing our thinking around how this function would operate in practice if it is needed. We want to retain flexibility in the Bill so that we can put processes in place to help local housing authorities implement the policy in a streamlined and efficient way. This may involve the creation of a public body to carry out that function on behalf of others.

The aim of this provision is to make the process as simple as possible to implement if HMRC needs to share information. I hope that noble Lords will understand that, should it be necessary to do it via a public body, that option should be available.

Lord Beecham: How does the possibility of a private organisation being involved fit with the requirements of the 2005 Act? Is a private organisation somehow to be made into a public body to carry out the function? I do not see how that works.

Baroness Williams of Trafford: My understanding, my Lords, is that it will be private data to a public body.

Lord Campbell-Savours: If Capita were appointed by the local authority, could it in any circumstances learn of the income of a council tenant?

Baroness Williams of Trafford: It could, but it could not share it. Anyone who holds data on another person is obviously restricted by certain rules. In this case, I have made it very clear that it is a criminal offence for that body to share data about the tenant to anyone other than, let us say, HMRC.

Lord Campbell-Savours: Just to clarify this a step further: would a young lad or young lass in the office have access to documents on the income of a council tenant if they worked for Capita?

Baroness Williams of Trafford: My Lords, I do not know whether the name would be available. I can certainly provide—

Lord Campbell-Savours: They would know the property.

Baroness Williams of Trafford: They might know the address of the property. I do not know whether data protection rules would allow all the detail on that person to be shared or only the relevant detail relating to their income.

Baroness Hollis of Heigham: My Lords, Serco, Capita or Liberata, the companies that I was citing earlier, are currently administering housing benefit. That is because, to some extent, the tenants seek housing benefit. But the Minister seems to be saying that, when it comes to pay to stay, they cannot have that information and that only local authorities can. Yet, as we know, particularly where household income is dependent on the second earner, tenants will move from a position of claiming HB, which protects them from pay to stay, to not needing HB, whereupon they may be exposed to it.

Secondly, it will produce huge problems in the role of universal credit. Some people on UC will be claiming HB, and that information from the local authority side may be run by Serco. Other people will be claiming UC but not claiming HB, but that information will have to come presumably only from the local authority back to DWP. I really cannot see how that can work.

9.45 pm

Baroness Williams of Trafford: The noble Baroness will accept that if someone is in receipt of housing benefit, this will not apply to them anyway, so I am not quite sure what she is driving at.

Baroness Hollis of Heigham: My Lords, tenants on housing benefit may have that benefit administered by Capita, Serco or Liberata. When those tenants seek housing benefit, they know that their finances will be scrutinised. I have never known it to happen that HMRC information is needed to do that. But when instead you are dealing with pay to stay, you have got to go to HMRC to get reliable information. What that means is that people who move between HB and pay to stay or those who are claiming UC with HB at some points and at other points not will be moving between both the private companies collecting information and local authorities which, as the Minister has said, will exclusively hold HMRC data. It cannot work.

Lord Campbell-Savours: As well as those not in the benefits system anyway.

Baroness Hollis of Heigham: Yes, it cannot work.

Baroness Williams of Trafford: My Lords, I am not sure that I entirely follow the noble Baroness, but that may be my deficiency rather than hers. Local authorities hold vast swathes of data about various things. I know also that the holding of data is tightly controlled, particularly in terms of sharing. I would say therefore to noble Lords that to share data more broadly than is allowed is already a criminal offence.

Lord Campbell-Savours: My noble friend is talking about people who are not in the benefits system at all, and yet their salaries or earnings can be scrutinised by a private employer.

Baroness Williams of Trafford: My Lords, I do not know how their information could possibly be scrutinised by a private employer because it is shared between HMRC and the public body.

Lord Beecham: Perhaps I may interrupt the Minister in order to ask the Bill team or someone to check on the applicability or otherwise of the Commissioners for Revenue and Customs Act 2005 in relation to this matter because I do not think that any of us are really in a position to confirm what the position is. I think that this needs proper legal advice.

Baroness Williams of Trafford: I most certainly will do that, and I now know what the 2005 Act is; I defer to the noble Lord's knowledge in that.

Amendment 80A seeks to put into the Bill a reference to arm's-length management organisations; that is, tenant management organisations and local housing companies, in relation to the bodies that HMRC information can be passed to. I understand the intention behind the amendment, but I believe it to be unnecessary. Local housing authorities which have outsourced part or all of their housing management functions to another body such as an ALMO will have done so under powers in the Housing Act 1985. The Act provides that any function performed under such an agreement shall be treated as if it were done by the local housing authority. Therefore, when that housing management function includes functions related to implementing the policy for high-income social tenants, such as determining and setting rents, an ALMO or other body would be treated as if it were the local housing authority. In short, the reference to "a local housing authority" in Clause 81 already includes a body carrying out that housing management function on behalf of the council.

Once again, I hope that my reassurances—although I am not sure they have—have been enough to persuade the noble Lord to withdraw his amendment.

Lord Beecham: My Lords, I beg leave to withdraw the amendment.

Amendment 80 withdrawn.

Amendment 80A not moved.

Clause 81 agreed.

Clause 82: Reverting to original rent levels

Amendments 80B and 80C not moved.

Clause 82 agreed.

Clause 83: Power to change rents and procedure for changing rents

Amendment 80D not moved.

Clause 83 agreed.

Clause 84: Payment by local authority of increased income to Secretary of State

Amendments 81 to 82 not moved.

Clause 84 agreed.

Clauses 85 and 86 agreed.

Clause 87: Private providers: policies for high income social tenants

Amendment 82A not moved.

Clause 87 agreed.

Clauses 88 and 89 agreed.

Amendment 82AA

Moved by ***Lord Bassam of Brighton***

82AA: After Clause 89, insert the following new Clause—

"Community cohesion

(1) Upon the coming into force of this Act, the Secretary of State must undertake a review into the effect that Chapters 3 and 6 of Part 4 will have on community cohesion within all local authority areas.

(2) A report on the review must be published, and laid before each House of Parliament, no later than six months after the coming into force of this Act."

Lord Bassam of Brighton (Lab): My Lords, these amendments would require the Secretary of State to give consideration to the issue of community cohesion—something that has come up several times in the debate on pay to stay this evening—and to consider family life when considering the measures in this Bill on rents for so-called high-income tenants and the ending of secure tenancies. They would require consideration to be given at the end of a fixed-term secure tenancy to the effect of not granting another tenancy, and the effect that that would have on family life—for example, whether a child is forced to move school and whether the family has to move away from local amenities they rely on or a family support network. They also require the Government to undertake a review into the effect that the pay to stay and ending of secure tenancies provisions in the Bill will have on community cohesion.

A council home does not simply provide a roof over one's head. It enables a sense of belonging to a community, particularly a community that is inclusive of people from different and diverse backgrounds. My argument is that the measures in this Bill put this severely at risk. There is a risk of bringing this cohesion to an end. Shelter estimates that 113,000 affordable council homes will be lost as a result of this Bill. The Local Government Association analysis suggests that some 80,000 council homes will be lost by 2020. That in itself could drastically change the make-up of many of our communities. Add to that the number of people who will have to leave their homes as a result of the pay to stay provisions, and we are looking at the serious dismantling of communities across our country.

I think it was the Minister who said earlier that some 46,000 households in London would be affected by pay to stay. My guess is that we need to double that to get an estimate of the impact across the country. Put these figures together and the multiple impact of pay to stay and the ending of secure tenancies, and we will see big changes to the make-up of many of the communities that currently benefit from social housing. It will be particularly apparent in areas—many in London—that have extremely high market rents. In these areas council housing is even more vital to maintaining a mixed and cohesive community, providing housing in the area for people who would otherwise be forced out.

I argue that a community can thrive only if there is housing in the area for those who need to work there—the people who work in local shops, post offices and schools. If people have to live miles away to commute in to provide services for those who can afford to live in the area, we lose all sense of balance in the community and it is hollowed out. It is unsustainable. We can see it happening now in many London boroughs as private rents soar and people cannot afford to stay and live there. Council housing is supposed to even out this imbalance and to help those who cannot afford market rent, but also to allow people to live in mixed communities.

Under the Bill, households that reach the Government's threshold of just £40,000 in London and £30,000 outside London will be forced to pay market rents or to leave. Market rents in boroughs such as Camden are completely out of reach for most working households, so what will happen to those now classed as "high income"? We will see people having to leave the areas that they have lived in for years and places in which they have built their lives and their children's lives. The cost will be not just social break-up of communities, but a financial cost to the state, because when people are forced to move away from the social support networks that they have built up—away from families and friends, those who look after children or share caring—it becomes a cost. They will have to rely more heavily on local authority services.

To bring it down to individual households, just think of the potential damage that these provisions can do: parents unable to plan for their children's schooling; friendships broken off every few years; few friendship groups and poorer community support networks, which currently thrive. I wonder whether the Government have given any thought at all to the impact on schools. What if a council decides on setting secure tenancies at three years at a time? Parents with children face the prospect of moving three, perhaps four times during the schooling of a child. It does not take much imagination to see how disruptive that can be for a family. Think, too, how disruptive it will be for the school, with a constantly revolving door of pupils and families, never knowing who or how many will be on the school roll from one year to the next. I ask this simple question: has the DCLG thought to talk to the Department for Education? If it has, what has the department said in response? Was this consideration ever factored into an impact assessment?

The Bill is a series of unintended consequences piled up as a cover for action designed to solve problems caused simply by lack of low-cost housing. The very least we can do is invite the Secretary of State to think about this measure and its impact on community cohesion, in particular on schools and families. The Bill, with its emphasis on reinforcing social housing as a tenure of last resort, runs the risk of taking us back to a world of rigid divisions in society. Worse than that, it would entrench them. Surely we should be encouraging mixed communities, full of people with different talents. Pay to stay, mixed in with short-term tenancies, will lead to social housing for just the very poorest. It will further stigmatise a form of tenure and, combined with short-term tenancies, create perpetually insecure families facing a series of costly moves.

I do not think the Government have thought through the long-term impact of the legislation, nor the multiple impacts of different changes that the Bill will bring in. If we are serious about community cohesion—something that the Prime Minister in particular has laid great store by in the past, with his plans for the big society—the very least we can do is begin to understand the long-term impact and the consequences of divisive and socially damaging legislation of this sort. I beg to move.

Lord Kennedy of Southwark: My Lords, two amendments in the group are proposed by my noble friend Lord Bassam of Brighton. As we heard in his contribution, they concern community cohesion and the effects of the pay-to-stay policies on it. Amendment 82AA would require the Secretary of State to undertake a review into the effect that the ending of secure tenancies and the pay-to-stay policies will have on community cohesion. Amendment 82GAB would require the landlord, at the end of the fixed-term tenancy, to consider the effect that a decision not to grant another tenancy would have on family life and community cohesion.

These seem very sensible amendments and should be of no concern to the Government. In fact, they should be fully in tune with the Government's thinking. We might all have our own definitions of community cohesion; for me, it is as set out by my noble friend Lord Bassam of Brighton. It is where there is a common vision and a sense of belonging—family life and a role for everybody in the local community. It is where we have rights and responsibilities, a breaking down of barriers, a building of trust and the creation of a community.

10 pm

If a consequence of the Government's policies is a breakdown of that cohesion, then the result would be something that nobody in this House would want. All that these amendments ask for is, first, a review by the Secretary of State that will help to develop policy and provide valuable information on the effect of what they are doing, and, secondly, a duty on the landlord. My noble friend Lord Bassam of Brighton is right when he says that mixed communities are best, with people doing a variety of jobs in their locality. It makes the place work better if they live locally, rather

[LORD KENNEDY OF SOUTHWARK]
than being forced to move away, with the impact that that has on families and their development. I hope that, even at this late hour, we will get a positive response from the Minister. As it is Committee, of course, I might intervene further in the noble Baroness's response.

Baroness Hollis of Heigham: My Lords, I also support my noble friend's amendments. Like him and many others in this House, I have been a local authority leader. Many of us have been housing chairs, possibly on the way to becoming local authority leaders. Whenever we went round on what we used to call site visits, we could tell the stable community estates. They were the ones with no graffiti and no litter; in which people had carved out gardens around the base of flats or had put carpeting down on the public stairways. In those flats, there was no petty level of criminality; there were no rent arrears and no yobbing youths setting fire to mattresses in the garages. The community policed itself, and that was because there were people of a wide age range, a wide income span and a wide set of occupations and retirement. Those estates worked, and were the core—the heartbeat—of my city. As Nye Bevan said, they were part of the,
"living tapestry of a mixed community".
That is what we all want.

I, and perhaps the Minister and other people in this House, have been around the inner-city estates in Detroit, the outskirts of Washington and so on. I saw areas there where, if you get a job, you leave your home; so nobody gets a job except recycling the drugs economy or working on the streets. In these estates, children are in families that are broken and damaged in all sorts of ways; young men go around in groups and gangs, intimidating those who wish to stay. There is a permanent, transient population of the down-and-out, the derelict, the destitute and those with mental health problems. I have been there and seen it: I did not work in it like Obama, but I have spent time there.

If first you have a bedroom tax that forces tenants with larger homes to move because they cannot pay the rent and have to downsize, and disabled people lose their community networks of support; and if secondly you have pay to stay, so that those who could be an aspiration and an inspiration for the young people in the community, who have the knowledge of where jobs may be, and who could help those young people into the labour market, will have moved on; and, if thirdly, on top of that, we are going to have five-year tenancies—and, as my noble friend said, parents who worry would start planning their move with their children in advance, to ensure that their child goes to school—in the process we will strip out the support networks for disabled, older and frail people, and the support networks where people understand the problems that a family with an autistic teenage daughter or son would have. Either they will be sent on their way or they will voluntarily have to move.

Is this what we want? Behind it, as far as I can tell, the thing that is motivating the Government seems to be that council housing is a scarce resource; it is heavily subsidised by the taxpayer and therefore, if at all possible, we should move people on and out, irrespective of the damage to the communities, to make way for those on the waiting list who might be in even greater need because we are not building enough social housing for those other people to enjoy.

This is the wrong solution to a description of the wrong problem. We need social housing and stable communities. When it suits the Prime Minister he talks about the value of civic society—I congratulate him when he does so—and of communities on our estates. He talks about the value of the knowledge economy of those in work helping people to come into the labour market. As we know, most jobs do not go through the jobcentre at all but through networks of local knowledge. Strip that out and I promise that you will send those estates spiralling down until in a decade or 20 years you will look at our equivalent of Detroit's inner city. You will wonder how this happened and what we now do about it.

Lord Kennedy of Southwark: My noble friend in the first part of her contribution reminded me of the work done by Lewisham Council. In Crofton Park we have the Ewart Road Housing Co-op. That is just the sort of estate that my noble friend talked about at the start. It is a wonderful place that is well run by the tenants. There are people of different ages living there. People have lived there since they were first moved on, there are new people and there is a long waiting list. It is clean, well run and an absolute pleasure to walk round. It is wonderful—and just the sort of place put at risk by the policy we are debating today.

Lord Campbell-Savours: My Lords, unlike my noble friends Lady Hollis of Heigham and Lord Bassam of Brighton I have not been a housing chairman. The last time I was on a local authority was 40 years ago when I was a mere member of the housing committee. My experience of these matters is more limited than theirs but I want to fix on one word in all this: "review". What does "review" actually mean here? What will be taken into account by these local authorities? Will they take into account the ability of a tenant to maintain a clean home, their ability to be a good neighbour, ethnic diversity, whether the property is overcrowded, whether there have been complaints by neighbours, or whether they are happy with the employment arrangements for the family involved?

We have some form in this matter. I remember when Lady Porter ran Westminster. She cleared people out of local authority property so that she could sell it off. If I remember rightly, I was one of those who went to the district auditor at the time. The reality is that, exactly as my noble friends said, this will lead to a transient population moving into inner city areas—I have no doubt that in the end they will be crisis areas. At the moment, these areas succeed only because they have a wide social mix. The Government are destroying the social mix that makes these areas work. No doubt the Government will be blamed for that at some stage in the future.

Lord Kennedy of Southwark: My noble friend reminds me of Lady Porter and her activities in Westminster some years ago. Am I correct that her policy was called Building Stable Communities?

Baroness Williams of Trafford: My Lords, Lady Porter—sorry, Dame Shirley Porter—was a bit before my time but I certainly do not think that any of us would want to emulate some of the practices that went on then. No one could want cohesive communities more than I do. It is part of my government brief and the sort of thing I promote every single day, so I certainly agree with the sentiments behind the amendments of the noble Lord, Lord Bassam. I also apologise to him because I started speaking to his amendment in a previous group when he was out of the Chamber and had not even spoken to it.

The noble Lord seeks a published review into the effect that the policies on income and rent setting and restricting lifetime tenancies will have on community cohesion in local authority areas. In the case of income and rent setting, I have already expressed our intention to keep the policy under review and I have also explained my views regarding the detrimental effect that low rents for households on high incomes can have on a community.

The provisions that will restrict lifetime tenancies—to which we will turn in more detail soon—will restore a sense of fairness to social housing, ensuring that it is properly focused on those who really need it for as long as they need it and that those who need long-term support are provided with more appropriate tenancies as their needs change over time. I am convinced that this is a better way to create strong and cohesive communities than continuing to grant tenancies with lifetime security to households which may only have a short-term need. Without these changes, families would continue to be trapped in overcrowded council homes, and older tenants whose children have left home would continue to occupy homes which may no longer be appropriate for their needs, while hundreds of thousands more remain on waiting lists without any hope of ever getting a council house.

The noble Lord has also tabled Amendment 82GAB, which would require local authorities, when they carry out the end-of-tenancy review, to consider the effects that not granting a further social tenancy would have on family life and community cohesion, and whether it would result in a child having to change school. I will say more about the end-of-tenancy review when we discuss the provisions on secure tenancies, but we would definitely expect social landlords to provide longer tenancies to families with children of school age and we will provide guidance to make this absolutely clear.

Lord Bassam of Brighton: Is it the Government's intention that these blocks of five-year secure tenancies can just carry on being renewed?

Baroness Williams of Trafford: My Lords, that is absolutely correct. If a child was at school, clearly the situation would not have changed.

Lord Bassam of Brighton: What is the purpose of these five-year tenancies if it is the Government's intention that local authorities continue to allow five-year blocks of tenancy to persist? What does it actually achieve? It is not getting to grips with the problem—which the Minister seems to think is there—of spreading this scarce resource. Rather than having these false dates when tenancies just get renewed, the real answer is surely to build more housing so that the people whom the Minister is concerned about can come off the waiting list into social housing.

Baroness Williams of Trafford: The noble Lord is right: the answer is both to build more housing and to check, at review intervals, whether the housing that is being provided for a family continues to meet their need or whether they need something else. That is the purpose of the review.

Lord Bassam of Brighton: Will the Minister assure me, and the Committee, that no family with children at local schools will ever be asked to leave a council home under one of these secure tenancies?

Baroness Williams of Trafford: The guidance will be absolutely clear on children of school age. We can think of every permutation and combination of family circumstances, but if there were six children, five of them had left and only one was still at home, there might be a conversation about the family downsizing within the local area—but the continuation of the child's education would be paramount.

Lord Bassam of Brighton: When will this guidance be produced?

Baroness Williams of Trafford: My Lords, that is a very good question. The timeline of the guidance will all be before us by the end of this week.

Lord Bassam of Brighton: I am reassured by some of what the Minister has said, but to be able to test the Government on this, we need to see the guidance. This is a deeply worrying set of provisions for many tenants. The interaction between family life, secure tenancies and people's aspirations when they live in a local community is very intense. This is creating a sense of insecurity on many of our council estates.

Lord Beecham: It is also a disincentive for people to invest in their homes, which they do now. They not only look after their homes but improve them. If you are not sure of being able to stay on as your child gets to the point of leaving school, or if you are a couple living in a house and your five years is coming up, is that not likely to result in a decline in the investments that people make in their homes which do huge credit to many tenants now?

Baroness Williams of Trafford: My Lords, I have seen many different types of social housing, some of which is incredibly well looked after and some of which is not well looked after at all. Living somewhere for a long time does provide incentives but one of the biggest incentives—I know I will hear a "Boo!" go round the Committee—is when someone buys their home. I can tell when someone has bought their home because those houses are immaculate.

10.15 pm

Baroness Hollis of Heigham: They may be immaculate for five years or seven years and then when you go round the estates you can see the houses that were bought by council tenants, which were then sold on into buy to let. So there are two stages, and I can assure the Minister that in many estates the buy-to-let running down of property infuriates not only council tenants who did not buy but council tenants who did and stayed.

Baroness Williams of Trafford: My Lords, I just cannot agree with that point. I believe that people who have bought their own homes take great pride in them. But on that we shall agree to differ because it is 10.15 pm.

Baroness Hollis of Heigham: But the stats are available to the Minister. This is not the progression of a personal view. We know that over 40% of council housing that was sold under right to buy has been cycled into buy to let. We know that, and in some places—

Baroness Williams of Trafford: The point I was making is that I can tell a house that has been bought because generally these are in very good condition. I am not starting to make the argument about houses that are then sold on through subsequent sales, I was just making a comment to the noble Lord, Lord Bassam, about people taking pride in their homes. I am sorry to restrict the noble Baroness but I do not want to be diverted on to that point.

Lord Campbell-Savours: The Minister said before, in reply to an intervention, that the reduced usage of rooms would be a consideration on review if someone left. What other considerations would the local authority have in mind in that review? Is it just reduced usage of rooms?

Baroness Williams of Trafford: My Lords, we will be coming to that, if the noble Lord will bear with me. I have some news for the noble Lord, Lord Bassam: the guidance will be published in time for the commencement of the provisions.

Lord Bassam of Brighton: I am sorry, my Lords, that is absolutely idiotic. The guidance will be published at the time at which the legislation is implemented—does the Minister really mean that? Surely we have to see that guidance before it is implemented.

Baroness Williams of Trafford: My Lords, we will see the guidance before it is implemented but I am just saying that it will be published in time.

Lord Bassam of Brighton: My Lords, I am grateful that it is going to be published.

Baroness Williams of Trafford: I am grateful that the noble Lord is grateful. I do not believe that providing social housing on a long-term basis to households that may experience only temporary need is a good use of scarce social housing, and I do not think it is likely to lead to strong and cohesive communities.

Baroness Hollis of Heigham: My Lords—

Baroness Williams of Trafford: I am not going to give way. If the noble Baroness wants to come back later, she can, after I have finished.

The noble Baroness, Lady Hollis, talked about protecting the rights of those in most need. Local authorities will be able to provide an appropriate level of stability to those with longer-term needs, such as the disabled and older people, through the granting of further social tenancies, whether in the same or a different, more suitable, social home. I have outlined how the provisions in the Bill will restore a sense of fairness to social housing, ensuring that it is properly focused on those who really need it.

Amendment 82GAE, tabled by the noble Lords, Lord Kennedy and Lord Beecham, seeks a published review of the effect of the policies on income and rent-setting and restricting lifetime tenancies,

"on levels of homelessness and rough sleeping in each local authority area".

I thank the noble Lords for their amendment and for raising the issue of homelessness. I agree it is important that the Government do all they can to reduce the number of homeless households. The Government have always been clear that we are committed to supporting the most vulnerable people in our society and one person without a home is one too many. That is why we have maintained and increased both central and local government funding over the next four years. However, while I sympathise with the intention behind the amendment, I believe it may be unnecessary because local housing authorities already record and review the incidences of and prevention of homelessness and rough sleeping, and must produce a homelessness strategy.

Baroness Lister of Burtersett: What amendment is the Minister speaking to? I do not think we have got to these amendments yet. The noble Lord, Lord Bassam, has only had his own amendments.

Lord Kennedy of Southwark: I think there is a typo. We are on the wrong clause.

Baroness Williams of Trafford: Can I check if I am yet again speaking to amendments that we have not got to? Amendment 82GAE is in this group. Would noble Lords like to discuss it or withdraw it?

Lord Shipley: Will the Minister be really clear about guidelines? This is about regulations and guidelines. I am now looking at the policy fact sheet, which the department published. It makes it clear that there is going to be a single set of regulations for these measures, that is, the phasing out of lifetime tenancies. However, the regulations will be subject to the affirmative not the negative procedure. Could the Minister confirm that fact? It then says that the regulations will be developed in discussion with local authorities and the regulations and provisions in the Bill will come into

force early next year. That, therefore, is early 2017. It is therefore easy to share the guidelines that will be written because there is from now approximately 10 months for those guidelines to be shared.

Lord Kennedy of Southwark: My Lords, to help noble Lords with this Amendment 82GAE, we are going to speak to it in its place, which obviously will not be tonight.

Lord True: My Lords, it was grouped with Amendment 82AA. It would be helpful if the House were advised earlier than at this stage of the evening because the noble Lord must have had a chance to de group it.

Lord Kennedy of Southwark: This has never been in previous lists. We just noticed it now. When the Minister stared speaking we thought, "What's this?", because we had two amendments by the noble Lord, Lord Bassam, which clearly go together, but I now see from the amendment sheet that it has been put in the list.

Baroness Williams of Trafford: It clearly is a mistake and I really apologise if my noble friend has waited all this time.

Lord True: I was trying to say to my noble friend that I had come into the Chamber. I do not particularly wish to intervene, but we have patiently gone through six days in Committee and we have had many opportunities to look at groupings. I think it is a courtesy to the House if noble Lords who have a problem with the groupings—which are published, they are out there, and we pick them all up—make it clear before that they are not happy with the groupings. Otherwise, I think the House is entitled to expect things that are grouped together will be discussed together.

Lord Kennedy of Southwark: If it helps the Minister, I have a Whips sheet from Thursday and the grouping of that amendment is not on there. It is a typo. Thursday's sheet has the two amendments down in the name of my noble friend Lord Bassam but this paper has been worked on and has appeared today. I do not produce the Government's Whips sheet for debates but Thursday's sheet, which we signed up to, has my noble friend's two amendments and nothing else.

Baroness Williams of Trafford: Would noble Lords like to hear it tonight or on Thursday? I am not going to waste any more time on this; I will finish my comments where I should have finished them and say to the noble Lord, Lord Shipley, that when I have guidance, I will be happy to share it with him.

Lord Shipley: What I am trying to get at is that if the regulations have to come to your Lordships' House under the affirmative procedure, will she explain the guidelines at that point rather than keeping them separate from the regulations?

Baroness Williams of Trafford: I will endeavour to do just that.

Lord Bassam of Brighton: I think that I should probably be withdrawing my amendment. I can see that the noble Baroness is troubled and waiting for something to happen.

I have been very intrigued and quite interested by what the noble Baroness has had to say. I was a little bit reassured, but I sat there thinking about it a bit and I am not as reassured as I was. When I left home to go to university in 1972, I left my poor mother in her council home on her own with a spare bedroom. Had this ridiculous piece of legislation been in place at the time, no doubt she would have had a visit from her local council inviting her to move to yet smaller accommodation. That is not a particularly constructive way to approach things. Nor do I think that it would have been in her interest or that of the local community, because she was a bit of a terrier in her place.

This is a seriously deficient piece of legislation that does not achieve what we really need to do here, which is to create more social housing for people to access, rather than spreading what we have ever more thinly on a recycling basis, forcing people out of their homes and communities. That was really the point behind my amendment. I shall give it further thought before we get to Report, but the Secretary of State ought to think long and hard about the whole issue of community cohesion. It is good that the noble Baroness is the policyholder for that, because I can see that it is something that she cares passionately about. Perhaps she, too, along with the Secretary of State needs to reflect on the issue.

Lord Campbell-Savours: Before my noble friend withdraws his amendment, the Minister has not replied to my question about review, which I have now asked twice. I asked what "review" meant and what considerations would be in the mind of the local authority.

Lord Bassam of Brighton: I should like to help my noble friend here, because I think he has misread my amendment. The review is one that the amendment calls for—from and by the Secretary of State, not the local authority. I beg leave to withdraw the amendment.

Amendment 82AA withdrawn.

Clause 90 agreed.

Amendment 82B not moved.

Schedule 4: Reducing social housing regulation

Amendment 82BZA

Moved by ***Viscount Younger of Leckie***

82BZA: Schedule 4, page 115, leave out line 3 and insert—

"31A_ The Housing and Regeneration Act 2008 is amended as follows.

32_ Omit—"

Viscount Younger of Leckie (Con): My Lords, at this somewhat late hour and after another long day in Committee, I am pleased that I can provide a further break for the Minister, although this is a technical amendment and somewhat brief, so there may not necessarily be time for ice-creams.

This is a consequential amendment relating to the abolition of the disposal proceeds fund, which is one of the deregulatory measures in the Bill. Certain properties developed with public funding are subject to the statutory right to acquire. This consequential amendment maintains that position by defining public funds without referencing the disposal proceeds fund. These amendments to Schedule 4 will ensure that that is the case. As I said, this is a technical amendment resulting from the concerns of the Office for National Statistics about public sector control over housing associations and the deregulatory measures being introduced to address those concerns. I beg to move.

Amendment 82BZA agreed.

Amendment 82BZB

Moved by ***Viscount Younger of Leckie***

82BZB: Schedule 4, page 115, line 5, at end insert—

"32A(1) Section 181 (meaning of "publicly funded" for purposes of provisions about right to acquire) is amended as follows.

(2) After subsection (2) insert—

"(2A) Condition 2 is that—

(a) the dwelling was provided wholly or partly by a person using an amount for purposes for which the amount was required to be used by an HCA direction under section 32(4), and

(b) before giving the direction the HCA notified the person that any dwelling so provided would be regarded as publicly funded."

(3) In subsection (3), for "2" substitute "3".

(4) After subsection (3) insert—

"(3A) In relation to a private registered provider, the reference in subsection (3) to its disposal proceeds fund is to its disposal proceeds fund before the abolition of that fund by Part 3 of Schedule 4 to the Housing and Planning Act 2016."

(5) In subsections (4) and (5), for "3" substitute "4".

(6) In subsection (6), for "4" substitute "5"."

Amendment 82BZB agreed.

Schedule 4, as amended, agreed.

Clauses 91 to 97 agreed.

Schedule 5 agreed.

Clauses 98 to 110 agreed.

Schedule 6 agreed.

Clauses 111 and 112 agreed.

Clause 113: Secure tenancies etc: phasing out of tenancies for life

Debate on whether Clause 113 should stand part of the Bill.

10.30 pm

Lord Kennedy of Southwark: My Lords, I am opposing the proposition that Clause 113 should stand part of the Bill. Clause 113 introduces Schedule 7 and concerns the phasing out of secure tenancies. The effect of the clause and schedule would be to permit councils to grant tenancies only for a fixed term of between two and five years. Local authorities, of course, have the option to issue fixed-term tenancies already, but for some reason the Government are seeking to go further and want to prevent councils from issuing what they call tenancies for life. I just see them as secure tenancies, where, in order to remain in the property, the tenant has to comply with the requirements in the agreement: pay the rent, keep the property in good order, not be a nuisance neighbour, et cetera.

Why do the Government want to dictate to local authorities what sort of tenancies they can issue? As has been said many times before, it does not seem to apply along with the policy of the big trumpeting of localism only a very short time ago in your Lordships' House. Of course, that is a whole area of policy that the Government seem to have gone very quiet on in this Parliament.

When the noble Baroness, Lady Evans, responds to the debate, it would be helpful if she could outline how the proposals in this section of the Bill would help people on low or modest incomes—the sort of people who are likely not to be able to afford to buy their own home, not to be a beneficiary of the starter-homes plans, and not even to be able to take up the right to buy. All this does is provide greater insecurity for tenants in these circumstances. How does it help tenants, help their children, or enable people to prosper? How is it in any way beneficial to them? I am struggling to think of one reason. I will be grateful if the noble Baroness could help me out in that respect when she responds.

I have told your Lordships' House many times before that when I was about eight years old we moved into a council property. I am the oldest of four children. I was lucky enough to get my own bedroom. Both my parents worked. My mum was serving school meals and my dad was running a post room. Both my parents worked hard and paid their bills, but we never had the insecurity or worry as a family that our tenancy might expire at some point in the future. How is this policy beneficial for families in social housing on modest incomes today? The amendments in this group seek to improve the proposals from the Government and provide tenants with different possibilities, all of which are better than what is offered by the Government.

Due to the late hour, I will leave it to other noble Lords to speak to their amendments in this group and comment at a later stage when appropriate. As this is Committee, I will of course intervene on the Minister if necessary. I beg to move.

Lord Kerslake: My Lords, I speak in support of this group, and specifically speak to my own amendment 82BA. It is a great shame that we reached this very important issue at this stage of the evening—an issue that will have a profound impact on the future of social rented housing. Why do I say that? At the core of the offer to a new tenant is that this becomes their own home. They do not own the home but it becomes the place they regard as home. The reason they feel that way is that they have a secure tenancy for an indeterminate period. Moving to this model of tenancies will change that experience. It will make it feel not like their own home but—however we wish to dress it up; however much we issue guidance on renewal after two or five years—a temporary home. That is the reality of this. We will overnight have changed the nature of the social contract, if you like, with social tenants.

This is not a small issue. It is a very profound issue, and it has to be seen alongside the other changes that we are making to social rented housing, as I have said in previous debates. Because of the forced sale of high-value assets, the opportunity to move to a bigger home is constrained. Pay to stay will mean, as we have just debated, significantly higher rents for tenants on relatively modest incomes, in reality. We will move to the end of the affordable rented programme by 2018. Then we add this final amendment, which essentially removes mandatorily the right to secure tenancies. How do the Government think that council tenants will see this combination of changes? Will they regard it as a commitment to their future or will they regard it as seeing the end to the form of council tenancy that the noble Lord, Lord Bassam, spoke about earlier? This is a very profound change going on around us.

We have a provision now for the issuing of flexible tenancies. It exists and has existed for a number of years now—three or four years. What is again a dangerous precedent is that, having had a voluntary policy for a relatively short period of time, the Government conclude that the voluntary policy has not been sufficiently actively exercised, so we make it mandatory. Is that now the way we do things? It is voluntary if you do it the way we want you to do it—otherwise we make it mandatory.

Voluntary is the right way to see this issue of tenancy, because I can see that there are circumstances in which individual local authorities will want some flexibility around tenure. There is a perfectly good case for that. I cannot see why we should have a single mandatory policy imposed on every local authority, which then requires a set of regulations and guidance to tell it how to do it. Where in any possible sense does this sit with localism?

Why should there be a variation here? In some low-demand estates, which we have heard about—and there are still some—it makes absolute sense to give people secure tenancies. In other situations there may be a need for choice, because of the nature of the demand and of what is happening. What is absolutely certain is that, whatever guidance and policy the Government produce, it will not be adequate for the different situations up and down the country. We will be creating another layer of bureaucracy and central government control. It is a very retrograde step and something that was not part of the manifesto, to go back to some of our previous debates. Indeed, it came in at a very late stage in the process.

I absolutely get the point about efficient use of stock, but that has to be done in consultation with persuasion of the individual tenants. The Minister spoke about older people, but do we seriously think that an older person who has been in their property on a renewable tenancy for 30 years—that might be the case, in 30 years' time—is then going to be told, "You've finished your five years, off you go"? Do we think that is the position we are going to reach in relation to tenancies? Of course not. It has to be through persuasion and through making an offer to that older person that meets their needs.

The case for removing this provision is strong. As I say, there is already legislation that gives the flexibility to local authorities. But, if the issue is that local authorities are not actively using their potential discretion, I have put an alternative amendment in front of the Committee this evening that would encourage them to do so. It would remain discretionary but they would actively need to exercise that discretion. This should not be needed—I shall be clear about that—but if it is an alternative to a mandatory model, which I think is wrong in how it would operate and completely contrary to the direction of localism, I would hope that the Government would seriously consider it.

Lord Young of Cookham (Con): My Lords, quarter to 11 is not the right time to have this serious debate about the role of social housing. This set of amendments and the previous debate go to the heart of what social housing is for. Is it, as we heard in the previous debate, to provide stable and balanced communities or is it to provide housing for those in greatest need for—to use the words of my noble friend—as long as they need it? Over the last 30 or 40 years the role of social housing in this country has gradually changed from the first towards the second. It is now much more focused on those in greatest need than it was 30 or 40 years ago, when young couples would put their names on the waiting list and gradually get to the top and no one at that point would ever have asked whether it was right to question their entitlement to a lifetime tenancy.

Now, one really has to balance the legitimate expectations of council tenants for a lifetime tenancy with the needs of those on the waiting list—the two are directly related. I think the time has come to question the lifetime entitlement to a secure tenancy because people are in need of social housing. If one takes the view that the role of social housing has changed it makes sense to have fixed tenancies and a conversation when that tenancy comes to an end to see whether there are other options for that tenant. At that point it will be entirely up to the local authority whether it renews the tenancy or has guidance from the Government.

Lord Kerslake: Does the noble Lord not agree that if this is the change that is happening—I say we should be aiming for both secure communities and flexibility—why not leave that to the discretion of the local authority? Why impose it from central government?

Lord Young of Cookham: As we have heard, the local authority can renew the tenancy at the end of five years if it wants but there will be a conversation and options will be explained to the tenant, such as low-cost home ownership opportunities. I do not accept that the modest increase in mobility that may come from these measures will dramatically change the nature of local authority estates, as we heard from the noble Lord, Lord Bassam. A few people may take up the options when their tenancy is reviewed and move on but, as we heard, many of these estates are very popular, with long waiting lists, and the implication that those who move in will dramatically alter the nature of the estate does not bear examination. We are looking for a balance between the legitimate expectations of those with tenancies to have those tenancies for life with the legitimate aspirations of those on the waiting list living in desperate circumstances to have an opportunity to move on. The local authority will have discretion at the end of the fixed-term tenancy to renew if it wants to but there will have been a break point, an opportunity for conversation, and I think this accurately reflects the changing role of social housing today.

Baroness Hollis of Heigham: My Lords, the noble Lord has described very well the competing pressures on social housing and I do not disagree with his analysis, but does he not accept that the reason he and the Minister are so concerned to ensure that social housing is available for the neediest on the waiting list is a function of the shortage that they have constructed? But for that shortage, whether it is council house sales or the proposed sales that will fund our housing association discounts or whatever, the problem will get worse because nearly half the housing that was in the social rented sector has left it. The noble Lord, Lord Young, accurately describes what is happening but, none the less, the problem lies not in tilting the balance from one to the other but in remedying the underlying problem of the shortage of social housing.

Lord Young of Cookham: As we have heard in earlier debates, every house that is being sold by a local housing association is being replaced and every house that is being sold by a local authority is going to be replaced so I simply reject the thesis the noble Baroness has put forward.

Lord Bassam of Brighton: My Lords, I have an amendment in this group. It follows immediately after the amendment from the noble Lord, Lord Kerslake. I am grateful for the intervention from the noble Lord, Lord Young, because it has widened and opened up a fundamental debate. The noble Lord described social housing now as "residualised housing" because that is what it is. We are getting to the last knockings of social housing. I do not think that that is right or appropriate. The problem that we have is spiralling rents in the public sector, spiralling rents in the private sector and a diminution of supply. The noble Lord says that there will be like-for-like replacement. So far during the Conservatives' time in government since 2010, we have not had anywhere near like-for-like replacement. I think that the figure is one in 10. That is a great shame, although the aspiration is absolutely right.

When I chaired a housing committee, with the capital receipts that we accrued we had the opportunity to get some of the way towards like-for-like replacement. Now, we are nowhere near it and that is part of the problem. We need to expand public sector housing provision on a massive scale. That will help to drive down rents in both the public and the private sectors, and we can get back to the point where social housing is no longer viewed as residual housing for the poorest in our communities and for those who are struggling to get on to the housing ladder.

10.45 pm

My amendment goes with the idea of 12-year secure tenancies and the reason for that is simple. In reply to one of my Written Questions earlier in the year, the noble Baroness, Lady Williams, said that that was the average amount of time that you could expect a council tenant to occupy a tenancy. That is the clue here. People still view this housing as long term and secure, and 12 years is a fairly lengthy period. It is a period in which you might begin a family and put down roots in your local community. That is why I pitched it at 12 years, although any other number could be picked.

We have to rethink where we are going with our policy. The noble Lord, Lord Young, accurately described where we are but I think that we are heading in the wrong direction. The answer here is to increase supply and provision and to take a different view of where we are going with our housing policy. That is why I am happy to have tabled my amendment and to see this debate widen.

Lord Stunell: My Lords, I support the amendment tabled by the noble Lord, Lord Kerslake, and the general trend of the other amendments in this group. On this occasion I speak as the Minister who was at the Dispatch Box at the other end of the building when the Localism Bill was going through the House. The flexibility that the noble Lord, Lord Kerslake, has referred to was introduced in that legislation. I was ready to stand at the Dispatch Box and to support the introduction of that flexibility for local authorities, which up until then had not had it.

In the spirit of localism and of taking at the local level decisions that are relevant to local communities, it is quite right that there should be that flexibility for councils. Something approaching 600,000 social homes are "underoccupied" and 400,000 are "overcrowded"—of course, I put both those in inverted commas—and something like 1.2 million families are on the council house waiting lists in this country, so there is clearly not a very good match between the existing housing stock and the needs placed upon it.

I entirely agree with the point that the noble Lord, Lord Bassam, and the noble Baroness, Lady Hollis, have just made about increasing the numbers but I disagree with their critique. I just draw their attention to the fact that up to 1997 1.5 million council houses had been sold off by the Conservative Administration. Between 1997 and 2010 another 421,000 net were sold

off by the Labour Government. During the coalition Government, although I would be the first to agree that not enough new social housing provision was made, the fact is that for the first time in something approaching 25 years the net stock of social housing increased. I agree that it did not increase fast enough but the fact is that it increased.

I am very pleased about at least one provision of the Bill, and that is entrenching more firmly the one-for-one replacement policy, and indeed in London going for two for one. The noble Lord, Lord Kerslake, argued very cogently that the mechanics of delivery are not there but the intention is written in. Let us be clear: the question of supply is fundamental but it is also important to understand that other factors come into this as well.

I want to pick up on the point made by the noble Lord, Lord Young of Cookham, that it is time to rebalance things. That is exactly what the Localism Act did: it gave local housing authorities the opportunity to look at the demands and the needs that they and their communities faced and to decide whether they wanted flexibility in tenancy lengths in order to make its use more efficient and their communities more rounded. I believe that that is right.

It is counterproductive to say that everyone has to have a short tenancy. The noble Lord, Lord Young, is being unrealistic in saying that you can have a conversation with someone. I want to know what kind of conversation you have with a widow of 73 about her tenancy; then you have it when she is 78 and then when she is 83. It is preposterous. Clearly in that situation you make sure that the widow of 73 is in appropriately sized accommodation and not in a four-bedroom house that used to have six children in it, and then you say that it is a lifetime tenancy. This does not allow that to happen. It is a serious mistake which does not take account of the demographics.

The amendment of the noble Lord, Lord Bassam, is better than nothing but, again, it does not take account of the different choices which face people at different points in their life. If you are a young mother with two small children, which is quite a common circumstance in which to be allocated a tenancy at the moment, you will not necessarily need an 11-year tenancy and a short tenancy and a review may well be appropriate. However, as I say, if you are a widow of 73 you want a lifetime tenancy.

Yes, we need to increase supply, and the Bill is positive in stating what should happen. Yes, we need a balance, but we have already struck it. Whatever balance or policy we have has to take account of the demographic make-up of the people going into social housing because the length of tenancy that makes any sense will be different for people at different stages in their life experience and cycle.

Lord Campbell-Savours: My Lords, the noble Lord, Lord Young of Cookham, referred to a conversation. The conversation means the review. I go back to what I have said before. My noble friend intervened on me to say that the review to which he was referring was a review carried out by the Government. The Bill is quite clear that the landlord under a fixed-term secure tenancy of a dwelling house must carry out a review to decide what to do at the end of the term. Again I ask: what is in the review? What matters will the local authority have in mind when it is reviewing the tenancy at the end of five years? If Ministers cannot answer me now they can write to us and let us know precisely what they are. The local authorities will be interested.

On the question of increased supply, I go back to the comments of the noble Lord, Lord Young of Cookham. When we talk about supply we do not have to talk exclusively about social tenancies. We can talk about houses that are purchased on the open market. In the town where he lives, Cookham, and in Maidenhead, where I live, builders tell me that you can build in this country a three-bedroom house for £80,000 to £85,000. That same house in Maidenhead or Cookham would be on the market now probably for £350,000 to £400,000. What is the difference? The difference is in the land value. If we were to address the issue of land values within the United Kingdom and bring them down to what they should be we would not have this problem of having to make increased provision of social housing. We would be able to sell people brand new two or three-bedroom houses at sensible and reasonable prices and this Bill, as I have said before, would be unnecessary. The problem is in land values. So when we deal with supply let us look not only at social housing; let us look at the cost of land.

Lord Best (CB): Noble Lords will be glad to hear that I am not going to enter a debate on land value taxation. I speak to Amendments 82C and 82D. I am also going to say something about Amendment 82F in my name and in the names of the noble Lords, Lord Beecham and Lord Stoneham.

It is important to note that this provision relates only to future tenancies. That makes it so much better than the pay-to-stay arrangements which cover everybody who is already a tenant and may feel a sense of insecurity as a result. Existing tenants are not affected by this. That means the 4.4 million tenants in social housing should not worry so much about it. The amendment seeks to extend the minimum period of a tenancy from two years to five years and the maximum period from five years to ten years under these arrangements.

My amendment is not a very good one, I have to confess. I do not think it is terribly helpful. It would be better to stay with the Localism Act 2011 which the noble Lord, Lord Stunell, has explained to us. This gave local authorities the power to have short-term tenancies, but most local authorities of all political persuasions have decided that they do not want to go along with this. It is not very helpful. That is fine. They have that power available to them. I think we should probably leave things as they are.

It does not seem helpful, certainly, to the people who live there to be told that there is a mandatory limit on the time that they can stay before a rather nebulous review takes place. The housing associations have the opportunity to have shorter-term lettings of this kind. They also do not make much use of this. I have been chief executive of a housing association. I do not think we ever bothered with fixed terms of this kind. We wanted people to have a home to move in, settle down and stay. That was a service in its own

[LORD BEST]
right, getting people who had often had rather insecure lives the security to put down roots, send the kids to school and all the rest of it.

It is also, perhaps slightly surprisingly, the case that the new-look private landlords are the build-to-rent developers who are now building blocks of flats using insurance-company money, pension-fund money, who are coming into this business. They are interested in longer leases than the traditional six-month or 12-month shorthold tenancies. They see the sense of people staying.

Some noble Lords may have visited the build-to-let properties being built at Olympic Village. There are four-year leases, and people are talking about seven-year leases. It is a marketing ploy for them. It distinguishes them from the old-look private landlords. I think, therefore, that the tendency is to try to give people greater security of tenure, time to settle into places.

Amendment 82F is a little more specialist, but it seems important. As I read the schedule to the Bill, this part of the schedule says that the old-style secure tenancies will continue. If somebody moves because the council has required them to move—fair enough, the estate is being demolished or the tenant is being decanted temporarily. They move out but they do not lose their security of tenure. That is fine, but what the schedule says at the moment is that, if you apply to move, if it is your choice to move—perhaps it is an exchange with another tenant or a transfer to a new home—then you would lose your long-term security. This means that you would be ill advised to do so. If I was advising that tenant, I would say, "That is probably not a good idea, to lose your security of tenure". This goes against the idea that we are extremely interested in stopping under-occupancy in this country. People will be moving very often to downsize, making way for other people who can move in, who may be overcrowded elsewhere. We want people to move and make best use of social housing. We do not want them to be frightened of doing that. It might be the mother fleeing violence—it is her decision; she wants to move elsewhere. It might be the overcrowded family getting the chance to move to somewhere bigger—they do not want to lose the security that they have at the moment. The amendment would delete that requirement. The Minister might explain to me that I am interpreting the provision inaccurately and that we have nothing to fear, but it looks as if the schedule, by removing security of tenure for people who transfer of their own volition, would be a bad move.

There does not seem to be any need for this, other than a kind of inbuilt feeling that people should feel a little bit insecure about their lives, which I do not feel is what those in the world of providing social housing want to happen. I would leave the Localism Act as it stands.

11 pm

Baroness Lister of Burtersett (Lab): My Lords, I shall speak in support of Amendments 82G and 82GA in my name, as well as Amendment 82E to which I have added my name. First, I want to explain briefly why Clause 113 and Schedule 7 should not stand part of the Bill. This follows on quite well from what the noble Lord, Lord Best, was saying, because, as I said at Second Reading, the Prime Minister declared in his recent life chances speech:

> "This Government is all about security"—

not insecurity. He continued:

> "Individuals and families who are in poverty crave security—for them, it's the most important value of all".

This is particularly true when it comes to housing, yet these provisions will destroy security for many in poverty or on modest incomes.

Shelter has observed that research shows that security of tenure goes to the heart of people believing they have a real, stable home—again picking up on the Minister's call for us to keep coming back to that word "home". More recent research just published by Heriot-Watt University, which interviewed tenants in current fixed-term tenancies, found considerable associated anxiety, especially among older people, people with health or disability issues and parents. As a lone parent with three children said:

> "You can't really sit back and enjoy the place like—because you always feel like you're on borrowed time, so you're always on edge".

I believe that this measure undermines the Prime Minister's own commitment to promoting security, but, if it goes ahead, it is essential that certain groups at particular risk are exempted and that those exemptions are enshrined in law rather than being left to the discretion of housing providers.

Amendment 82G would exempt those who would give up an old-style secure tenancy because they were fleeing domestic violence, the great majority of whom will be women. Shelter has argued that because social housing is generally allocated on the basis of need, there is a strong possibility that fixed-term tenancies will disproportionately affect people who fall into the equalities categories. I look forward finally to receiving the equality impact assessment on this measure, which I hope is a little more illuminating than the one that I have just received on pay to stay.

The Government have often repeated their welcome commitment to tackling violence against women and girls. The refreshed strategy, published last week, states that it will,

> "provide victims and their families with support before a crisis point is reached and their only option is to flee their own homes—frequently with their children".

That is very welcome, but Women's Aid and other organisations working in this area fear that loss of genuine security of tenure will trap some victims in an abusive relationship for fear of losing their right to secure housing, not just if they move out but where domestic violence leads to the ending of a joint tenancy and the granting of a new sole tenancy in the name of the victim. As the chair of the Housing Law Practitioners Association comments, for such new tenancies to be fixed tenancies would be to penalise the victim for being a victim. I cannot believe that that is what the Government want.

A three-year longitudinal study carried out by the Child and Woman Abuse Studies Unit followed 100 women and their children as they rebuilt their lives after accessing domestic violence services from Solace Women's Aid. Among its key messages was:

"Having a home in which women and children can feel and be safe is vital, removing the fear and insecurity which domestic violence creates".

Housing insecurity interferes with all the processes that enable them to begin undoing the harms of domestic violence.

In a Written Answer on this issue, the Minister, Brandon Lewis MP, stated:

"Where existing lifetime tenants transfer, the provisions in the Bill ensure that local authorities retain a discretion to offer the tenant a further lifetime tenancy in their new home".

I am afraid that is not sufficient. In the study I have just cited, women report that housing officers are frequently unsympathetic or disbelieving, or seem uninterested in their domestic violence histories. The security of victims of domestic violence cannot be left to the discretion of housing officers who might respond in this way. It needs to be enshrined in the Bill itself.

Similarly, with reference to Amendment 82E, the Government have indicated that regulations prescribing the circumstances in which a local authority may offer a further lifetime tenancy to existing tenants who move home will probably include where a tenant downsizes. But surely where they are downsizing because of the underoccupancy charge, this should be a clear legal entitlement and not reliant on local authority discretion. The Heriot-Watt study found that a number of people who have moved from a permanent to fixed-term tenancy because of the bedroom tax are particularly unhappy. One example was that of an older couple with serious health problems who had not wanted to move and now, after 17 years as secure tenants, had a five-year contract. The wife said, "I don't think it's fair at all. My husband is living on his nerves now, thinking about what's going to happen at the end of the five years. He doesn't need the stress or the pressure".

I turn now to disabled people and their carers. Amendment 82GA would ensure that full-time carers and severely disabled people are given a lifetime secure tenancy when granted a social housing tenancy. I am grateful to Carers UK for drawing its concerns about the implications of this clause to my attention. It argues that shorter tenancies could have a very negative impact on carers and those for whom they care, creating additional unnecessary stress and anxiety as they countenance the possibility of having to move, with implications for care packages, availability of informal support networks which we heard about earlier, and suitability of housing, an issue I raised earlier with regard to pay to stay. If they have to move to the private sector, the problems only multiply. In some instances, carers have moved to be nearer a family member or friend for whom they are caring or moved to a suitably adapted property to care for them. If this now means giving up a secure tenancy, it could act as a real disincentive to fulfilling that caring role, at a potential cost to the local authority. Again, I cannot believe that this is what the Government want, so I hope they will consider giving a clear right to a genuine secure tenancy in such circumstances.

Finally, Carers UK has raised a related matter. Current social housing tenants have the right to improve and be compensated for improvements to their property. This can be very important in facilitating care or providing independence for a disabled person. Schedule 7 removes that right for tenants on a new fixed-term secure tenancy. Carers UK is again concerned about the possible impact on disabled people and their carers, making it even more likely than now that carers will suffer injury or ill health as a result of caring. Can the Minister clarify exactly what is intended by paragraphs 12 to 14 of Schedule 7—not necessarily now because I realise that it is late; I would be happy with a letter. Will she consider exempting those with a fixed-term secure tenancy who make improvements to their home to care for or facilitate the independence of a disabled person? Once again, a meeting with some of the organisations representing disabled people and carers could be helpful.

The Duke of Somerset (CB): My Lords, I rise briefly to support the thrust of this group of amendments. The provision to limit tenancies to five years seems an odd idea, implying as it does bad effects on social cohesion and localism. At a stroke it will remove any incentive to care for, improve or decorate a council house, or even to tend the garden. The noble Lord, Lord Best, told us eloquently about where opportunities for short-term tenancies already exist and the fact that they have not been taken up. It will also inhibit the putting down of any roots in the community. People who feel attached to a community are much more willing to invest in social togetherness by contributing to voluntary and social activities.

The Minister, in a previous grouping, described how she recognises an owned property when she visits because it is in such good order. Surely the reverse principle applies here, where the shorter the tenancy the less incentive there is for the tenant to be houseproud. The ending of secure tenancies after five years could recreate in council housing the problems we see nowadays in short-term private renting, where tenants often move on very quickly. This includes the landlord's extra costs of redecorating or possibly refurbishment. Equally, extra administration costs are bound to be involved.

Turning briefly to schools, we know that many schoolchildren are not getting into their parents' first choice of school. The Minister gave reassurance to the noble Lord, Lord Bassam, recently about school-age children and their families not being required to move on at the end of the five-year period. However, what about families whose children have not yet reached school age? Surely this will cause huge difficulties for them in their planning. It will contribute to stress and anxiety in the family. Where indeed would families be expected to go after their five years?

The greatest effect will be on those people on council housing waiting lists, adding enormously to their uncertainty. I support the amendments.

Lord Foster of Bath (LD): My Lords, I rise briefly as the hour is late. Notwithstanding the speeches from other noble Lords, we have heard two particularly powerful speeches—one from my noble friend Lord Stunell who reminded us of the importance of the Localism Act. Certainly, flowing from that Act, we have seen a very large number of quite remarkable things occurring in communities where local people have been given greater ability to take control of activities in their area. It is a powerful case for local determination of these issues. The noble Lord, Lord Kerslake, while also reflecting the same sentiments, touched on the importance of home and the impact of people's feeling of security about home.

I have been pondering why it might be that the Government have brought forward these measures when it is perfectly possible to leave things as they are, with local discretion and determination already available under the Localism Act. The only justification I can see is in the Housing and Planning Bill's impact assessment at paragraph 4.6.19. It is worth the Committee hearing what is said there. This is deeply worrying. It says:

"However, the guarantee of lifetime security may currently act as a perverse incentive preventing tenants from taking advantage of opportunities to improve their circumstances and leading to sub-optimal choices".

If noble Lords wanted to find anything more patronising or paternalistic, they would find it very difficult indeed. If this is the justification for the measures before us, we should not be giving them much truck. I certainly believe that we have, in the Localism Act and measures that already exist, the ability to provide the flexibility that many have talked about, but at the same time to provide those people—often those on the lower incomes in society—with the opportunity to continue to have something that they can feel proud of and call their home.

11.15 pm

Baroness Evans of Bowes Park: I thank all noble Lords for their amendments. Before I turn to them, it may be helpful if I say a few words about the provisions in the Bill.

Clause 113 introduces Schedule 7. Together, these provide that, in future, with limited exceptions, local authorities will be able to grant only tenancies with a fixed term of between two and five years and will be required to use tenancy review points to support tenants' move towards home ownership where this is an appropriate option. This delivers on a commitment in last July's Budget to review lifetime tenancies. We expect that most tenancies will be granted for five years, as now, with two-year tenancies being used in only exceptional circumstances and we intend to provide guidance to this effect.

We are not abolishing lifetime tenancies altogether. We will continue to protect the security of tenure of existing lifetime tenants who remain in their home, as well as that of lifetime tenants who are moved by their landlord—for example, as part of estate regeneration. Where lifetime tenants choose to move to another social home, local authorities will have limited discretion to offer another lifetime tenancy. We will regulate to set out the circumstances in which they may exercise their discretion and we will make sure we work with local authorities in developing these regulations. We expect the circumstances to include where tenants downsize to a smaller property or where they move for work. Outside some limited exceptions, if local authorities try to offer a lifetime tenancy or one that is shorter than two years or longer than five, whether deliberately or by mistake, the tenancy will default to a five-year fixed term.

Local authorities will be required to carry out a review of the tenant's circumstances between six and nine months before the end of the fixed term to decide whether to grant a new tenancy in the same or another more suitable social home, or to recover possession of the property. Where landlords decide to terminate the tenancy, they will have to provide advice on home ownership or other housing options as appropriate. Regular reviews will ensure that tenants with longer-term needs are moved into more appropriate housing as their needs change over time and that those who can move into home ownership are given appropriate advice to help them do so. Moving into home ownership could mean exercising the right to buy so that tenants can stay in their existing home. Where a tenant's circumstances are broadly unchanged, the landlord will be able to grant a further tenancy in the same home. We think this is likely to be the outcome in the majority of cases. Local authorities have strong incentives not to allow the review to create future homelessness acceptances.

There are a number of checks and balances in place to ensure that local authorities use fixed tenancies and reviews appropriately. Tenants will be able to challenge the decision on the length of the tenancy and the outcome of the end-of-term review. Where the landlord is still minded not to grant a further tenancy, they will need to notify the tenant in writing of the outcome, setting out the reasons for the decision.

Lord Campbell-Savours: I am preoccupied by the review; let me explain why. You could have in an authority a councillor who makes representations to the chairman of the housing committee—to the housing manager or whatever—and influences a review. That is what worries me: personal interference in those decisions and reviews. That is why we must have something set down quite clearly in criteria so that local authorities know what they have to take into account to avoid unfair influence in that review decision.

Baroness Evans of Bowes Park: The noble Lord is right, which is why we will be producing detailed guidance. Also, other people will be involved in reviews when a tenant appeals, so the situation that he describes should not happen. The tenant will also have the right to challenge the landlord's right of possession as part of the possession proceedings in the county court. The court will expect the local authority to have behaved reasonably and proportionately.

New fixed-term tenants will have the same rights as most secure and flexible tenants do now. They will usually be able to terminate their tenancy at any stage by giving four weeks' notice, while also enjoying protection from eviction during the fixed period. The local authority

landlord will need to demonstrate to the court that one or more of the grounds for possession are proven and that they are acting reasonably in seeking possession.

Just as now, tenants will be eligible for the right to buy once they have accrued three years as a tenant of public housing, but this does not have to be three years continuously. As with flexible tenants now, they will not have the right to improve or to be compensated for improvements, but landlords will still be able to grant such rights with the tenancy agreement if they choose. The provisions allow for landlords to continue to operate an introductory tenancy regime, to demote fixed-term tenancies, and to provide for fixed-term tenants to be offered a family intervention tenancy.

I now turn to the amendments. The intention of Amendment 82BA is to allow local authorities to continue to grant lifetime tenancies to new, as well as existing, tenants. We are concerned that this would not ensure that we get the best use out of our social housing stock.

Lord Kerslake: I apologise for intervening at this very late hour, but nowhere have we had an explanation of why the Government feel it necessary to move from a discretionary model that has been in place for a very short period of time to a mandatory model on local authorities.

Baroness Evans of Bowes Park: I am just about to come on to some reasons.

Councils are already able to use flexible tenancies, as noble Lords have said, which are tenancies with a fixed term of two years or more. They have been able to do so since April 2012, when the changes introduced by the coalition Government's Localism Act 2011 came into force, but they are not taking advantage of this flexibility. Instead, the vast majority of local authority tenancies—more than 90%—continue to be granted with lifetime security to people who may have only a short-term need. We do not believe that this is a good use of scarce social housing. As my noble friend Lord Young highlighted, there are 247,000 tenants who are forced to live in overcrowded conditions due to the lack of suitably sized properties, while thousands more occupy homes with more bedrooms then they need. Of course, there are also the 1.2 million households on council waiting lists that are waiting for a social home. We believe that the provisions in the Bill will ensure that social housing is properly focused on those who really need it for as long as they need it.

Amendment 82BB would ensure that new fixed-term tenancies have a longer term of 12 years in all cases. While I recognise that this would introduce consistency, I do not believe that this would be appropriate in all cases, as a household's circumstances can change considerably in 12 years. The requirement for review points at two to five years will ensure that social housing is provided to those who need it most for the period of their need; that those with longer-term needs can be moved into more appropriate housing as their needs change over time; and that tenants can be supported into home ownership where this is a viable option for them, or offered support towards that in the longer term.

Amendment 82C would extend the minimum tenancy period from two to five years. In fact, most local authority flexible tenancies are currently granted for a five-year period, and we expect that this will continue to be the case, with two years used only in exceptional circumstances as now, and we propose to provide guidance to this effect. However, we recognise that there may be circumstances where shorter tenancies are more appropriate in order to meet short-term needs. Some councils are already using shorter tenancies to support young adults into employment and they could also be used to provide moves into accommodation for those recovering from drug and alcohol abuse. They may be useful for families who need a larger home for a short period only, or to make the best use of properties that are earmarked for demolition which would otherwise lie empty. We think that local authorities will welcome the continuing flexibility to grant shorter tenancies in these types of circumstances.

Amendment 82D would extend the maximum tenancy period to 10 years. As I have already said in relation to the previous amendment, a household's circumstances can change considerably in five years, whereas the provisions in the Bill that will make five-year tenancies the norm will ensure that local authorities carry out regular reviews of their tenants' circumstances. Of course, where a tenant's circumstances are broadly unchanged, then the landlord will of course be able to grant a further tenancy in the same house.

Amendment 82E would guarantee that lifetime tenants of private registered providers—housing associations—as well as local authorities would have their security of tenure protected if they move to a local authority home. This would be the case whether they are moved by their landlord or apply to transfer. It would specifically protect those who have moved as a result of the removal of the spare room subsidy. As I have said, the Bill already gives local authorities discretion to offer tenants a further lifetime tenancy in limited circumstances and we have made it clear that we expect to regulate to ensure that those circumstances will include where tenants move to a smaller property. This would include where they move as a result of the removal of the spare room subsidy. In developing the regulations we will consider the extent to which they should apply to lifetime tenants who move from properties owned by a private registered provider.

Amendment 82F would guarantee all lifetime tenants a further lifetime tenancy if they move to another council home. We recognise that existing lifetime tenants may want to move home for a variety of reasons, and we do not want to stop them doing so. However, with more than 1.2 million households on council waiting lists, it does not make sense to guarantee that everyone who has a lifetime tenancy will always have their security protected if they choose to move.

Amendment 82FA would ensure that where existing lifetime tenants move and they are above pension age, or they are moving to a home which has been or is designed to be adapted for someone who is disabled, they will always get a further lifetime tenancy. Of course, I agree it is important that suitable accommodation is available for older people and those who need adapted accommodation, and that the system should be flexible

[Baroness Evans of Bowes Park]
enough to allow people to move as their needs change over time. Ensuring that tenancies are reviewed every five years will help make this happen. However, we do not wish to restrict mobility in the social rented sector, which is why, as I said, the Bill includes provisions to ensure that local authorities have the discretion to grant existing lifetime tenants a further lifetime tenancy when they move home. We will work with local authorities in considering the circumstances in which lifetime tenancies should continue to be granted and will certainly give serious consideration to the needs of the elderly and those who require adapted accommodation as part of the process.

Amendment 82G would ensure that where existing lifetime tenants move as a result of domestic violence they will be guaranteed a further lifetime tenancy in their new home. I fully appreciate the intention behind this amendment. In developing the regulations that determine when a local authority may grant existing lifetime tenants a further lifetime tenancy when they move home, we will give very careful consideration to whether this should include those who are moving home to escape violence or intimidation of any kind.

The intention of Amendment 82GA is to guarantee that existing lifetime tenants who are severely disabled or have mobility or care needs—as well as those who are full-time carers—will always get a further lifetime tenancy if they choose to move. Again, I certainly appreciate the motivation behind this amendment. It is clearly important that disabled people and those who have other mobility or care needs can move to more suitable accommodation as their needs change over time. As I said, this is one of the drivers of the tenancies. Once again, I can confirm that in considering the circumstances in which lifetime tenants may retain their security when moving to a new council house, we will give consideration to whether the circumstances should include tenants with severe disabilities, mobility issues or significant care needs, as well as those who need to give or receive care.

The provisions in the Bill will ensure that social housing is focused on those who really need it for as long as they need it. It will ensure that local authorities get the best use out of their homes so that more households are able to access social housing and so that social tenants who aspire to own their own home are supported into home ownership where this is a viable option. I hope my responses provide reassurance that the Government are committed to supporting mobility within the social rented sector and, importantly, to protecting the safety and well-being of citizens. I am very happy to have further discussion on these points and to meet any noble Lords who would like further information on these matters. I hope that, with these assurances, noble Lords will not press their amendments and that Clause 113 stands part of the Bill.

Baroness Lister of Burtersett: Could the Minister write to me on the point about Schedule 7—I know she referred to it—particularly in relation to people who have adapted their homes because of disability?

Baroness Evans of Bowes Park: I am sorry. The noble Baroness asked about the intention behind the provisions that govern a tenant's rights to make improvements. Landlords will be able to grant such rights and officials would be happy to meet with carers' groups to explore this matter, as the noble Baroness suggested.

Lord Kennedy of Southwark: Can the noble Baroness comment further on the points made by the noble Lord, Lord Stunell, when he talked about the Localism Act, which he obviously helped get through the other place in the last Parliament? How would the proposals here regarding secure tenancy square with that?

Baroness Evans of Bowes Park: As I said, our aim is to make sure that people have access to social housing. We do not want to see thousands of tenants forced to live in overcrowded conditions, or occupying homes with more bedrooms than they need, or 1.2 million households on council waiting lists waiting for a social home. As noble Lords have said, local authorities have not used the provisions much and we also need to think about all the people who need access to homes.

Clause 113 agreed.

11.30 pm

Schedule 7: Secure tenancies etc: phasing out of tenancies for life

Amendment 82BA to 82GA not moved.

Amendment 82GAA

Moved by ***Lord Beecham***

82GAA: Schedule 7, page 131, line 24, at end insert—

"(3A) A review under this section must be carried out in accordance with a clear and accessible policy that outlines—

(a) the circumstances in which the landlord may and may not grant another tenancy,

(b) the advice and assistance the landlord will give to the tenant in the event they decide not to grant another tenancy,

(c) the way the landlord will address the needs of households who would be at risk of homelessness in the event they decide not to grant another tenancy, and

(d) the way the landlord will tailor advice and assistance to meet the needs of vulnerable groups.

(3B) The Secretary of State shall be responsible for preparing, publishing and updating as necessary the policy under subsection (3A)."

Lord Beecham: My Lords, this amendment relates to Schedule 7 to the Bill, which refers to what is to happen in respect of a landlord's obligation to deal with the ending of a fixed term of a tenancy. The amendment seeks a review of what will happen in accordance with a "clear and accessible policy" which outlines a series of factors: first, the circumstances in which the landlord may or may not grant another

tenancy; secondly, the advice and assistance that can be given to the tenant in the event that it is decided not to grant another tenancy; thirdly, the way the landlord would address the needs of households that would be at risk of homelessness as a result of the failure to renew the secure tenancy; and, finally, the way advice would be tailored and assistance given to meet the needs of vulnerable groups. To back this up, there is a requirement that the Secretary of State should prepare, publish and update as necessary the policy to enshrine these principles.

The object is to offer at least a measure of comfort to those who find their secure tenancy ending, to assist them in relocating in a suitable way, and to ensure that they receive all necessary support from their landlord. It is a perfectly sensible approach and I hope that the Minister will concur. The amendment is meant to be constructive and helpful to both landlord and tenant. It is important that we allay some of the fears and misgivings which may arise in the minds of tenants if it is decided that their security is to end. One would hope that this would not be a frequent occurrence, but when it does occur there is a clear obligation on the landlord to make the best provision possible for alternative accommodation and to support the tenant through that process. I beg to move.

Baroness Evans of Bowes Park: My Lords, I thank noble Lords for this group of amendments, which deal with the review that local authority landlords will be required to carry out towards the end of the fixed term. It is an important new protection that will ensure that those who need long-term support are provided with more appropriate tenancies as their needs change over time, and that households are supported to make the transition into home ownership where they can.

Amendment 82GAA would require the Government to publish a policy that local authorities would need to follow when carrying out the review, including about the advice and assistance that landlords should offer where tenancies are not renewed, and how landlords should address the needs of those at risk of homelessness. I do not believe that this amendment is necessary, for several reasons. Firstly, it is our intention to provide guidance to local authorities on the sort of factors we expect them to consider when carrying out the review and it is therefore not necessary to provide for this on the face of the Bill.

Secondly, while I agree that landlords should provide advice on housing options if they decide not to renew a tenancy, this is already provided for in the Bill. Thirdly, as I have said, local authorities have strong incentives not to allow the end-of-tenancy review to create future homelessness acceptances.

Amendment 82GAC would require local authorities to consider whether a decision not to grant another tenancy could result in homelessness and, if they think it could, would require them to provide the tenant with advice and assistance on finding another home. Where a landlord decides not to renew a tenancy, the provisions in the Bill already ensure that the tenant has the opportunity to challenge the decision, as I explained previously, as well as sufficient time to find alternative accommodation following advice from their landlord on buying a home or other housing options. There are also existing duties under the homelessness legislation that require local authorities to give advice and assistance to those who are homeless and threatened with homelessness. For these reasons, we do not believe that the amendment is necessary.

Amendment 82GAD would mean that whenever the local authority decided on review that it was unrealistic for the tenant to buy a home, it would have to grant a further social tenancy. We want local authorities to use the tenancy review points to support tenants to move towards home ownership where it is appropriate, but of course we recognise that this will not be a viable option in every case. Where families continue to need social housing, of course the local authority will be able to offer a further tenancy at the end of the fixed period. Where tenants' financial circumstances improve significantly, councils may decide that they are able to move out of the social rented sector into private rented accommodation, or they may decide to offer a further tenancy but on a higher rent.

Lord Campbell-Savours: What is to stop a local authority terminating the tenancy and then moving the tenant—because it has a responsibility, as the Minister has said—on to a sink estate in the same area; in other words, congregating in part of the district problem tenants who have been forced out of their property when their tenancy has been reviewed? These things happen.

Baroness Evans of Bowes Park: It would not say much for the behaviour of the local authority, which has a responsibility. I would hope that that would not happen. Obviously, as I have said, there is an opportunity for the decision to be reviewed and then to go further, to the county court—so there are options available for a prospective tenant.

I hope my responses provide reassurance that within the Bill there are adequate safeguards for tenants. The new review procedure will ensure that landlords make appropriate decisions, based on households' housing needs, and that where they decide to terminate a tenancy, landlords will need to give ample notice and provide advice to support tenants' access to alternative accommodation. These changes are about supporting local authorities to make the best use of their social housing stock and supporting tenants into home ownership, not making the vulnerable homeless. With these assurances, I ask the noble Lord to withdraw his amendment.

Lord Beecham: At this time, I am not disposed to prolong the agony. I beg leave to withdraw the amendment.

Amendment 82GAA withdrawn.

Amendments 82GAB to 82GAD not moved.

Schedule 7 agreed.

Clause 114 agreed.

Amendment 82GAE

Moved by ***Lord Beecham***

82GAE: After Clause 114, insert the following new Clause—

"Incidence and prevention of homelessness

(1) Upon the coming into force of this Act, the Secretary of State must undertake a review of the incidence and prevention of homelessness and rough sleeping.

(2) The review should include consideration of the effect that Chapters 3 and 6 of Part 4 will have on levels of homelessness and rough sleeping in each local authority area.

(3) A report on the review must be published, and laid before each House of Parliament, no later than six months after the coming into force of this Act."

Lord Beecham: Perhaps I should just say something. I am not going to make a long speech on this, your Lordships will be pleased to know.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): The noble Lord needs to move it.

Lord Beecham: I will formally move it. I just think we need a proper debate, not at 11.30 pm, on the growing problem of homelessness and rough sleeping. We will deal with that on Report if the Government are not able to come forward with some assurances in the mean time. But it is too late to get into such an important issue, so I shall move the amendment formally.

Baroness Lister of Burtersett: I will speak to Amendments 82GB and 82GC. They would provide a right to succession and secure tenancy for a carer where there is no spouse or common-law partner. Without this, carers who have given up so much to care for a parent or sibling could be rendered homeless when the person they have cared for dies or moves into residential care, even if they have lived in the property for many years. This is because, as it stands, Schedule 8 to the Bill will standardise all secure council tenancies by removing the automatic right to succession for anyone but a spouse or common-law partner, as with all secure tenancies granted after 2012.

Carers UK demonstrates the potential impact of such a measure through the story of John, who gave up his music career to care for his father who had Alzheimer's disease and his mother who had severe psychiatric problems, moving back into his parents' council property to become a full-time carer in 2010. Last year, John's father had a severe fall and was hospitalised, and later moved permanently to a nursing home due to his care needs. John's mother has now become impossible to care for and the family are exploring the option of residential care due to her increasing needs. Under the Bill, if John's mother moves into care, he will have no right to succeed to the tenancy and will be evicted from the family home by the council.

The least we can do for carers such as John, who gave up his career to care for his parents and depleted his savings in doing so, is ensure that they have the ability to stay in their home once their caring role ends. While local authorities will continue to have discretion to grant succession rights in certain cases, the guidance on this is very poor and must be updated to include carers—something I hope the Minister will look at. Better still, their right to succession where there is no spouse or common-law partner, should be enshrined in legislation.

Lastly, it is important to note that these amendments are in line with recommendations put forward by the Law Commission's review of housing. The Law Commission recommended that in the absence of a spouse or partner a "reserve successor", such as a carer, should be able to inherit the home if it is their only or principal residence. In fact, until 2012 the government guidance also recognised that those providing care should have the opportunity to inherit the tenancy. However, I understand that this section of the guidance to local authorities was removed in 2012. The Minister very kindly agreed to meet Carers UK to discuss the previous amendment. I suggest that we add this issue to the agenda for such a meeting, especially in the context of the Government's carer strategy, currently in development, which looks at how we can better support carers across all aspects of their lives.

Baroness Evans of Bowes Park: I thank the noble Baroness for her amendment. While I remember, I will happily extend the discussion with carers' groups to cover this as well as the previous issue. I know it is late, but before I turn to the amendments perhaps it would be helpful to say a few words about the provisions in the Bill.

Clause 114 introduces Schedule 8, which changes the rules on succession to secure tenancies and makes equivalent changes in relation to introductory and demoted tenancies. Currently, there are significant differences between the succession rights of secure tenancies granted before April 2012 and those granted after that date when changes introduced by the Localism Act 2011 came into force. These provisions will deliver a consistent approach across all local authority tenancies by bringing the succession rights to tenancies granted before April 2012 in line with those granted after that date. They will put common law partners on an equal footing with married couples and civil partners. Other family members of those with secure tenancies granted before April 2012, who may have had an expectation that they would succeed because they had lived with the tenant for at least 12 months, will lose their statutory right to succeed. Instead, local authorities will have discretion to grant whatever additional succession rights they consider appropriate. Where local authorities grant additional succession rights, we expect them to apply the same rules to tenancies granted before and after April 2012. However, we will provide guidelines to assist local authorities to exercise their discretion.

11.45 pm

Spouses, civil partners and those who live together as such will continue to have an automatic right to succeed to a lifetime tenancy. However, in future, where local authorities decide to grant additional succession rights, if the deceased had a lifetime tenancy, the successor will be given a five-year tenancy. In line with other fixed-term tenants, there will be a review at

the end of the five years. Where the tenant is still in need of social housing, the landlord will be able to grant a further fixed-term tenancy of up to five years. These changes will not apply where the tenant died before the Bill comes into force.

Turning to Amendments 82GB and 82GC, which would give full-time carers a statutory right to succeed to introductory and demoted tenancies, we are concerned that they could lead to inconsistency and as a result could be confusing for tenants. The Bill will deliver a consistent approach across all local authority tenancies, whether they are secure, introductory or demoted, and will ensure that the succession rules are consistent with the changes that we are making to lifetime tenancies.

As I said, spouses, civil partners and those living together as a spouse or civil partner will continue to have a statutory right to succeed to a lifetime tenancy. However, we think it is difficult to justify why other people, who may not even need social housing, should have an automatic right to succeed when there are thousands of households on council waiting lists. Neither do we think it is right that they should be able to inherit a lifetime tenancy when all new tenants will receive fixed-term tenancies in future.

Instead, we think that it makes more sense for local authorities to have discretion to provide any additional succession rights they think appropriate. This will mean that local authorities will be able to give additional succession rights, not just to close family members, but to other people including those who have given up their own home to care for a tenant over a number of years. However, where they grant additional succession rights, and the deceased tenants had a lifetime tenancy, they will receive a five-year fixed-term tenancy.

We believe that the changes strike the right balance between protection for tenants and their families, and flexibility for landlords. On the basis that we would be happy to discuss the issue further with Carers UK, we hope that the noble Lord will be happy to withdraw his amendment.

Lord Beecham: I accept the noble Baroness's invitation and beg leave to withdraw the amendment.

Amendment 82GAE withdrawn.

Schedule 8: Succession to secure tenancies and related tenancies

Amendments 82GB and 82GC not moved.

Schedule 8 agreed.

House resumed.

House adjourned at 11.48 pm.

Grand Committee

Monday 14 March 2016

3.30 pm

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Baroness Henig) (Lab): My Lords, if there is a Division in the House, the Committee will adjourn for 10 minutes.

Companies (Address of Registered Office) Regulations 2016

Motion to Consider

3.30 pm

Moved by ***The Earl of Courtown***

That the Grand Committee do consider the Companies (Address of Registered Office) Regulations 2016.

The Earl of Courtown (Con): My Lords, I shall also speak to the draft Register of Companies and Applications for Striking Off (Amendment) Regulations 2016. The aim of both sets of regulations is to provide new procedures to protect innocent parties where information on the public register about a company's registered office address, or about the appointment of a director of a company, is inaccurate.

First, I shall deal with the regulations about registered office addresses. The Companies Act 2006 requires every company to have a registered office to which all communications and notices may be addressed. The registered office acts as the company's address for service. It is not necessary for the company actually to carry on business from the registered office; it can use the address of a third party, such as a firm of solicitors, as its registered office.

The Registrar of Companies receives complaints that some companies use as their registered office the address of another business or private individual which they are not authorised to use. If someone finds that their address is being misused in this way, the impact can be significant and distressing. In the worst cases, bailiffs could be sent to the address in the false belief that it is linked to the company.

The Companies Act 2006 allows the Registrar of Companies to remove factually inaccurate, invalid or ineffective material from the public register, either through an administrative process or by order of the court. However, there is a slight oddity in the Companies Act provisions on registered office addresses. What makes an address a company's registered office address is the fact that it is recorded on the public register as such. As a result, it cannot be removed under the existing provisions. A new mechanism is needed to stop a company from continuing to use an address where it is not authorised to do so. This is what the regulations do.

Under the new system, a person will be able to apply to the registrar for the company's registered office address to be changed on the grounds that the company is not authorised to use it. The registrar will send a notice to the company directing it to either change its registered office address or provide evidence that it is authorised to use the address. Where the registrar is satisfied that the company is not authorised to use the address, the registrar will change the registered office to a temporary default address. The intention is for the registrar to operate an address at Companies House for this purpose.

I turn now to the regulations on director appointments. Companies must inform the registrar when a director is appointed or removed or when a director's details change. At present, a person appearing on the public register as a director of a company can apply to have their name taken off on the grounds that they did not agree to the appointment. However, the company can stop an application merely by objecting, without having to provide any evidence to support its objection. The regulations change this by requiring the company to provide evidence that the person consented to become a director. If the company supplies this information, the person's name will stay on the public register; if the company does not, the person's name will be removed from the public register.

These regulations share the same aim of providing a more effective way of correcting information on the public register. They will enable the registrar to quickly change addresses to protect innocent third parties and make it easier to resolve cases where people have been appointed as directors without their agreement. I commend both sets of regulations to the Committee.

Lord Stevenson of Balmacara (Lab): My Lords, I am grateful to the noble Earl for his introduction. These are not contentious issues and I do not intend to hold up the debate for long, particularly as we are ready to go on to the next debate, my noble friend Lady Sherlock having arrived—she was worried that we would finish even before she could arrive.

My general point is that these seem to fall into the category of sledge-hammer and nut issues. I am a little more concerned about the address of registered office regulations than about the striking-off regulations, but it is true that, in both cases, the regulations have been brought forward because there is a defect in the original legislation and it is right and proper that at the appropriate time these are corrected—I am singing the same tune as the noble Earl did in his introduction. My points are therefore rather lightweight, but they are made for the purposes of scrutiny.

First, on a factual point, in both sets of regulations it is clear that a review will be required not only before December 2020 but every five years thereafter. However, it does not say that in the Explanatory Memorandum, although it does say it in the regulations and, in one case, in the Explanatory Note. When these things are brought before the Committee, it would be helpful if such things were all along the same lines. I assume that the substantive position in the regulations is correct and that these provisions will be subject to periodic review. Having said that, these changes are so trivial that, given their nature, I wonder whether it was necessary to make them in quite such a gold-plated way. The statement is fairly clear that not only is there

[Lord Stevenson of Balmacara]
to be a review within five years and every five years thereafter, but that there is also provision for a review should there be any unexpected responses to the regulations, so the Government are well covered on this. I certainly would not be shouting from the rooftops were this to be watered down a little, but it may be too late for that.

My second, slightly more substantial, point applies to both sets of regulations, but primarily to the registered office address regulations. The regulations seem to give the registrar a quasi-judicial authority. In a sense, this is entirely in line with the broad approach that is taken to the Registrar of Companies, because there are points on which the registrar must make a determination. However, I worry slightly about the extent to which these are going to be treated as judicial events when and if there are complaints about them, as opposed to their being done administratively with any subsequent actions to be taken up through the courts. Just before I came in, I was looking at the Explanatory Memorandum for the registered office regulations, in which there are some references. For example, regulation 9 provides:

> "For the purposes of determining the application, the registrar may … refer the application, or any question relating to the application, for determination by the court".

However, the regulation does not explain which court and under what basis.

If one were to take rather a cynical view, one could see this undermining the whole basis of the costings. If you are talking about bringing in expensive lawyers and fancy courts at a high level, then costs will be a lot more than the very small sum of £180,000 that is currently estimated. I assume that is not the case and I am not asking for a detailed response at this stage, but perhaps in a moment of greater leisure the noble Earl could write to me or put the position on the record and in the Library. Is this an issue related to the interpretation of statute, or are these matters of fact that need to be determined by the court, or is it because we are concerned generally that the registrar should not become too judicial so, where the decision is tricky, it goes to the courts? These are matters of judgment and there may not be a specific line on them, but the regulations are a little vague. I can imagine myself in a company position not being quite clear where I might end up and therefore being a little confused about it. I should like a little more clarity.

This question may not be particularly well dealt with in the response because—it does not need to be said again—we are talking about a very small sample of companies likely to be affected. This will not have a major impact on the way in which the economy operates, but there is a default position that this is largely a nuisance issue where people discover that the house which they have just bought, or the rooms which they occupy, have an office with a registered address there, so they get flooded with letters and, if things go really badly, bailiffs will be forcing their way into their accommodation. I suspect that it is a rather rare occurrence and do not imagine that it is what we are talking about. However, the impact assessment says that this facility might be of value in cases of fraud. I could see no figures given in the impact assessment on whether we are talking about substantial numbers of companies here, which are in fact required to be affected because they are engaging in fraudulent activity. If we are talking about a significant number of fraudulent companies, then clearly that is slightly different from the irritation of having your previously private address taken over by another company. Again, I am not looking for a full response today. I just wondered whether the fraud element which creeps into the impact assessment but is not mentioned in the Explanatory Memorandum is a significant issue. If it is, perhaps the Minister could write to me at some point to explain that.

The Earl of Courtown: My Lords, I thank the noble Lord, Lord Stevenson, for his contribution.

On the issue of companies referring applications to the courts, I can say that in the vast majority of cases the registrar will be able to make a decision quickly and easily. The regulations allow the registrar to rely on certain evidence without further inquiries about the address that the company is authorised to use as its registered address—for example, evidence that the company has a property interest at that address. However, there may be exceptional cases—for example, those which are particularly complex—where the court is better placed to make a decision. I note carefully what the noble Lord said about the other use of courts and where that use can go, but in those circumstances where the courts are better placed to make a decision, the registrar should be able to refer the dispute to the court to determine the matter. The aim is that it will be concerned solely with issues of fact.

The noble Lord also referred to the instances of this raised in the consultation. The consultation involved a relatively small number of people, but I think that about 80% to 85% of the people who responded—it was in the region of 120 to 130 people on both regulations—thought that these provisions would be of use, because they would prevent people using their home address for nefarious deeds.

The noble Lord also asked a number of other points, and I will ensure that I write to him with a little more detail than I can give now.

These regulations will provide a more effective way of correcting information on the public register. I therefore commend both sets of regulations to the Committee.

Motion agreed.

Registrar of Companies and Applications for Striking Off (Amendment) Regulations 2016

Motion to Consider

3.43 pm

Moved by ***The Earl of Courtown***

That the Grand Committee do consider the Registrar of Companies and Applications for Striking Off (Amendment) Regulations 2016.

Motion agreed.

Child Support (Deduction Orders and Fees) (Amendment and Modification) Regulations 2016

Motion to Consider

3.44 pm

Moved by ***Baroness Altmann***

That the Grand Committee do consider the Child Support (Deduction Orders and Fees) (Amendment and Modification) Regulations 2016.

The Minister of State, Department for Work and Pensions (Baroness Altmann) (Con): My Lords, these regulations were laid before both Houses on 8 February 2016. They enable the department to waive collection and enforcement fees on the 2012 child maintenance scheme for a specific group of cases for a limited period of time. This is to support a process that provides a safety net for parents with care. It will require non-resident parents with a poor history of meeting their child maintenance obligations to demonstrate a change in behaviour and prove that they could reliably be allowed to access the direct pay service on the 2012 scheme rather than having to pay collection fees in the new scheme. We will also introduce minor technical amendments to the existing powers to improve the effectiveness of regular deduction orders and lump sum deduction orders.

A comprehensive reform of the child maintenance system began in 2012 which aims to incentivise parents to collaborate in the best interests of their children and move us away from the idea that state intervention via a statutory child maintenance scheme should be the default option for separated parents. To achieve these aims, a programme to close all existing Child Support Agency cases began in June 2014. Closing cases gives parents the chance to consider which arrangement best suits their circumstances for the future, while access to Child Maintenance Options, a free and impartial service, ensures that they have relevant information available to help inform this important decision.

Where parents believe a statutory solution would be best for them, they can apply to the new 2012 scheme, which is operated by the Child Maintenance Service. New, simplified calculation rules and improved IT systems are delivering better outcomes for parents and children. At the same time, fees and charges are helping to incentivise parents to consider closer collaboration and use a direct pay service, while also providing a contribution towards the cost of running the service. This policy change is predicated on the view that encouraging parents to co-operate when arranging child maintenance payments is likely to lead to less confrontation between parents, and this is ultimately normally in the best interests of the children.

When approaching case closure, we are of course mindful of the need to take careful steps to reduce the risks of child maintenance payments being disrupted, particularly for those cases where money is flowing only as a result of enforcement action being undertaken on the old CSA cases. We want to address concerns raised by stakeholders following the public consultation on case closure undertaken in 2012.

The last segment of cases that we will close—segment 5—will include those cases where money is flowing as a result of enforcement action. But to try to give clients an opportunity to avoid charges, as well as giving a chance for future co-operation between parents who may have been in conflict previously, we want to introduce a new positive test of compliant behaviour for these previously recalcitrant non-resident parents. This is known as a compliance opportunity. The compliance opportunity will take place during the first six months of the 2012 scheme case for this group. During that time, the non-resident parent is required to pay half of their maintenance liability via the collection service by a non-enforced method of payment such as direct debit.

In order to ensure that the parent with care is protected, we will issue a deduction from earnings order to the non-resident parent's employer to collect the other half of the ongoing maintenance liability directly from the non-resident parent's wages, wherever this is possible. This payment safeguard aims to minimise disruption for the parent with care during the compliance opportunity. Where the non-resident parent misses even one payment, they will fail the compliance opportunity and prompt action will be taken to resume collection of the full amount of maintenance by the enforced method of payment already in place, with the collection and enforcement charges applied. Only in circumstances where the non-resident parent is not at fault will an exception be made.

If all payments are made, the non-resident parent will pass the compliance opportunity and have a chance to continue paying child maintenance directly to the parent with care in future. So the outcome of the compliance opportunity will inform a decision over whether a 2012 scheme case should be a direct pay arrangement, which does not attract collection fees, or a collect and pay arrangement, where CMS manages collections and the usual fees are charged.

The initial proposal, outlined by the previous Government, was to offer the compliance opportunity in the final six months of the closing CSA case. It would be offered to all clients regardless of whether they intended to apply to the new 2012 scheme. This would have meant expending resources unnecessarily, including significant investment in the CSA computer systems close to their retirement date. However, it is now our intent to move the compliance opportunity to the first six months of the new case. It will then be offered to those who choose to apply to the 2012 scheme before their CSA case closes and cannot agree between themselves on whether their new case should be managed on the direct pay service or the collect and pay service. We have consulted with stakeholders and they are supportive of this approach.

We will administer cases on the collect and pay service type for the duration of the compliance opportunity, which will allow us to use an enforced method of payment as a payment safeguard. Ordinarily these actions would attract collection and enforcement fees on the 2012 scheme, but we are committed to

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delivering a compliance opportunity as it protects the interests of the parent with care and can help to maximise the number of effective arrangements on the new 2012 scheme. The fee waiver that will be introduced under this instrument is required in order to be fair to both parents while testing the reliability of the non-enforced payments. That is considered necessary for the successful delivery of this essential measure.

The instrument will also make some technical amendments to clarify the existing rules governing regular deduction orders and lump sum deduction orders to allow them to include collection and enforcement charges. RDOs and LSDOs are enforced orders that are used to secure child maintenance liabilities by deducting money directly from non-resident parents' bank accounts. The provisions in these regulations will put beyond doubt that we are able to collect the fees and charges associated with the new 2012 scheme, as well as the maintenance liability, and collect CSA arrears that have been moved to the 2012 system. This is in line with existing policy, and these provisions aim to put the legal position beyond doubt.

I am satisfied that the instrument is compatible with the European Convention on Human Rights, and I commend it to the Grand Committee.

Baroness Manzoor (LD): My Lords, I have a couple of questions for the Minister. First, there is no mention of CSA arrears in the new compliance opportunity in these 2016 regulations. Will the Minister expand on how those cases will be dealt with? Secondly, what does the Government's analysis show about subsequent child maintenance outcomes where cases involving children have closed, particularly as the Minister has mentioned that IT systems were providing much better outcomes?

Baroness Sherlock (Lab): My Lords, I thank the Minister for her explanation of the draft order. I remind the Committee of my historic interest as a former non-executive member of the board of the Child Maintenance and Enforcement Commission, and my decidedly historic interest as a long-distant chief executive of the National Council for One Parent Families. I am going to raise points very similar to those raised by the noble Baroness, Lady Manzoor, although, I fear, in rather less concise a manner, so the Minister is warned now.

As I understand it from what the Minister said, these regulations are aimed at non-resident parents in segment 5—people whose cases are facing closure on a legacy system but who are the subject of some CSA enforcement action. The idea is that they will get this compliance opportunity, or chance to show willing. These are people for whom, in the past, we have had to use enforcement, but they will now be able to show that they will do it. Their success in doing so will decide whether or not they end up on direct pay or on what is known as collect and pay under the CMS. I can see the Minister nodding, so I know that I have got that much right. I gather this came about because concerns were expressed about the Government's original plans to move people on to direct pay; this is a way of testing it out. That seems a sensible idea and we have no objections in principle. However, I do have a number of questions.

The first is a really simple question. I found it impossible from the draft regulations or the memorandum to understand what regulation 2 does. It may be that the last paragraph of the Minister's opening remarks told me that, but I wonder whether she could clarify it. The EM says of regulation 2 that,

"These provisions are likely to attract minimal public interest".

That may well be because nobody, myself included, has the slightest idea what the regulations are doing, so it would be helpful if the Minister could clarify that. In particular, will the Minister set out for the record what powers the regulation will give the Government that they do not have now and in what circumstances they envisage using them? If the answer is in her last paragraph, she can point to that. Secondly, will the Minister confirm that all the cases covered by these regulations will still have statutory maintenance arrangements, not voluntary or family-based arrangements?

Next, I want to pick up the point raised by the noble Baroness, Lady Manzoor, about arrears under the legacy system. I understand that there is going to be a cleansing process to make sure that any arrears liability that is transferred across to the CMS is solid and accurately recorded. The intention is to move the ongoing liability across first and then to cleanse the arrears; once they have been verified, the arrears will follow. However, the Minister mentioned that the Government have decided to delay the compliance opportunity until the end of the process rather than have it at the start. Therefore, I am worried about whether the Government have considered what will happen. Under the compliance opportunity, the non-resident parent who has previously shown him or herself not to be able to pay without enforcement action will be tested only on their ability and willingness to pay ongoing maintenance liability as determined by the CMS system. Therefore, they will not have been tested on their ability and willingness to pay arrears, which they may or may not be happy to do. Why did the Government make that decision in the light of that? Would it not have been better to leave it right until the end so that, by the time the compliance opportunity came along, the arrears would have gone across and it could then be applied to both? Can the Minister explain that some more?

Will the Minister tell the Committee whether any arrears still within the CSA which are awaiting transfer across at the end of the cleansing process will continue to be collected by the same enforcement method, whatever may be going on with the compliance opportunity? In other words, will that be enforced in the way that it was under the CSA?

If an NRP passed the compliance test, it seems that they could opt to use direct pay to pay any arrears, as well as any CMS maintenance due. Is that correct? However, given that we do not know that they would be willing to pay CMS, would it not have made more sense, when the arrears do come across, for them simply to carry on with the same enforcement mechanism in the new system as was there in the old system?

Since there are no fees for the parent with care for arrears collection anyway, that would not have had any implications for him or her.

On a separate point, will the Minister explain what enforcement methods will be used during the compliance opportunity for the bit that is being enforced alongside the voluntary partial payments? She mentioned using deduction from earnings orders, but there would be cases, such as self-employed non-resident parents, where a DEO was not appropriate. What other tools will be used for the enforcement part of that payment if a DEO is not appropriate? For example, will deduction orders or freezing orders or setting aside of disposition orders be available during the compliance period?

This is the first opportunity we have had to question the Minister about the progress of transition to the new system, so I would like to ask her some questions about how that is going. Can she tell the Committee how many cases have been closed in each segment so far? When does she expect to complete the bulk closure of segments 3 and 4? Can she tell us when the programme of closing all the CSA live cases is now expected to finish?

To come on to the point raised by the noble Baroness, Lady Manzoor, about child maintenance outcomes, will the Minister tell us how many parents affected by CSA case closure have transferred to CMS or made a private family-based arrangement or made no arrangement? This is crucial information. We want to be sure not only that people have decided not to move across but that they have some maintenance being paid. The figures in the public domain suggest that, up until the end of December 2015, around a quarter of a million CSA cases had received final notice of the ending of their CSA case. However, figures between January 2015—when the case closure started—to August 2015 showed that during that time only 22,000 applications had been made to the CMS from cases affected by proactive case closure, plus another 6,800 from reactive closure. That means that only 28,800 CMS cases had been started from January to August, when around a quarter of a million had had notice of the ending of their CSA case. I hope very much that does not mean that hardly anybody is using the new service, but the noble Baroness will understand why we would like to know that.

4 pm

There is real concern from both within Parliament and outside, including from Gingerbread, which kindly provided us with a briefing, that the Government's action in imposing fees and diverting people via advice services before they are allowed to use the new system could succeed in diverting them away from the statutory system without ensuring that they come to any other arrangements that would be necessary to protect the welfare of children.

Let me say a word on arrears more generally. About 70% of cases closed under the current closure programme were expected to have arrears according to the DWP's own 2013 paper. The DWP arrears and compliance strategy suggests that they were a priority for collection because, by definition, there is still a child in the system able to benefit from the arrears because, of course, they are entering the new system. At the end of December, more than £92 million of CSA arrears was transferred to the CMS for collection, but Ministers have so far failed to provide any information about the extent to which these transferred arrears are now being repaid by non-resident parents or, indeed, collected by the CMS. So will the Minister please update the Committee on what is happening to those? How long will the arrears cleansing process take? In particular, on average how long is it taking from a case with arrears being closed, which parents with care want collected, before the arrears are transferred to the CMS?

I understand that parents with care who were preparing to move to the new scheme are being asked whether they still want to have arrears collected. Gingerbread tells me that parents with care are getting letters saying, "Some clients in a similar position to you tell us that they do not want their child maintenance to be managed by the new organisation and wish to make a fresh start by writing off their arrears". Do I detect the hand of the "nudge unit" anywhere in the drafting of this letter? Is the letter being sent to all parents with care in that circumstance? Is the Minister at all concerned that this experience might put pressure on a parent not to apply to the new system, as if somehow she was doing the right thing in wanting a fresh start and she would not want the money owed to her child to be collected by the state, which had so far failed to collect it?

Mrs Thatcher, as Prime Minister, decided to set up the CSA because she believed that both parents had an obligation to pay for the upkeep of their children. They could divorce or separate from each other, but they could not divorce their children. It is the responsibility of the Government to demonstrate that, in their desire to save money running a child maintenance service, they have not reduced the incentive on non-resident parents to take responsibility for their children and reduce the incomes of their children as a consequence. I look forward to the Minister's reassurance to the Committee on this matter.

Baroness Altmann: My Lords, I thank the noble Baronesses, Lady Manzoor and Lady Sherlock, for their questions. I will try to offer reassurance and some responses.

Both noble Baronesses mentioned the issue of arrears. The aim of this compliance opportunity is to test behaviour. Once the compliance opportunity has been either passed or not passed, if the case moves on to direct pay, the parents will be able to agree among themselves how to deal with the arrears; if the compliance opportunity is failed, it is clear that we will need the collect and pay service to collect arrears as well. We are moving the segment 5 cases on to the new scheme before the arrears have been cleansed, so the arrears relating to such cases will still be being assessed and cleansed in order to be accurate while the parents are moved on to the 2012 scheme.

We are not offering the compliance opportunity on the previous scheme, as the previous Government originally suggested, partly because that would mean that we would be offering every parent the compliance

[Baroness Altmann]
opportunity, while not all parents will transfer to the 2012 scheme. From an efficiency point of view, that would not be optimal. Also, the cost of upgrading the old IT systems and the amendments that would need to be made to them to accommodate the compliance opportunity on the old system would be significant, so moving everyone on to the 2012 scheme is much more efficient and cost-effective from the taxpayer or funding perspective. We will also focus on those parents who will use the 2012 scheme rather than include all those who may have no intention of doing so.

I welcome the fact that the noble Baroness, Lady Sherlock, has no objection in principle to these changes. I will just refer to her question of clarification about the RDOs and the LSDOs, which I specifically tried to answer in the last part of my opening speech. It is not a policy change; this is merely to try to ensure beyond doubt that there is the ability to collect not just the maintenance and the arrears on the 2012 scheme but the fees and charges that are associated with the 2012 scheme. Obviously, I apologise if that was not clear, but I hope that I have now made it clear.

The 2012 scheme will still be statutory. If people are on the 2012 scheme, it is no longer merely a voluntary scheme—they will have paid their fee to be on it and it will be statutory.

As regards the tools for enforcement for self-employed people, which is an important issue, the vast majority of cases have earnings, but for those where there is self-employment the compliance opportunity will consist of allowing the non-resident parent to pay 100%, rather than 50%, by a non-enforced method. However, after any payment is missed, the usual enforcement action will be taken. Part of the issue here is that we are moving people on to the 2012 scheme—it is not reactive, where they have requested to come across. As I understand it, we are trying to make sure, in response to stakeholder representations, that we do not impose collection charges before giving people at least some chance to prove that they can be trusted to make the payments reliably.

On the question of the numbers and the timings, which the noble Baroness, Lady Sherlock, requested, given the range of data that the noble Baroness has asked for, I will write to her to confirm these points.

As regards the collection of arrears and why the compliance opportunity does not include payment towards the legacy arrears, as I have said, this compliance opportunity is primarily a measure of behaviour and is designed to give the non-resident parent the chance to show that they can proactively manage their child maintenance obligations. This is based on the belief that, the more parents we can encourage to agree among themselves arrangements such as maintenance, the better this is in the interests of the children.

So it is not a question of trying to force people, or cajole them against their will, with no purpose. The purpose of the exercise is to try to encourage more parents not to rely on a statutory scheme to enforce the collection of child maintenance but to have the ability to agree among themselves, while obviously, as the noble Baroness says, giving them this behavioural nudge and indeed the financial incentive to do more to come together, in the interests of their children, to arrange child maintenance. The noble Baroness is right that the Government are committed to this scheme in the interests of the children. That is the overriding and most important element of our efforts in this area.

I was asked how successful the new scheme is. It is too early to provide that analysis, but we will be completing the 30-month review by the end of 2016, and we are currently testing, assessing and investigating what is happening on the scheme. We have commissioned research that is being undertaken to identify the kinds of questions that the noble Baroness has rightly asked. The noble Baroness, Lady Manzoor, also asked for that assurance. I assure both noble Baronesses that we are investigating how the system is working and what is happening to the families who do not come across to the 2012 scheme, as well as what is happening to the families who do. However, it is early days.

On the question of the number of cases that are coming across, the migration of cases on to the 2012 scheme is being very carefully managed and assessed. Cases do not move over in large numbers until we are satisfied that the particular segment that is being moved over is doing so successfully. That is really important, given the experiences that we had with previous schemes, where there was perhaps a little too much hurry in managing large numbers of cases without ensuring that all the underlying systems and processes were in place to make sure that they would be handled successfully.

That is where we currently are. We are moving across and, so far as we can tell, the programme is going very successfully. It is being carefully handled and managed. We are also ensuring, as much as we can, that the order in which we are transferring cases across also helps to ensure that those who move on to the 2012 scheme are likely to have a more positive experience. That certainly seems to be the case: the number of complaints and queries is much lower than we might have expected.

The Child Maintenance Options service seems to be helping families to come together in the interests of their children and to understand more what needs to happen in order for them to be able to make a successful agreement. Child Maintenance Options has a calculator to help parents to work out how much maintenance needs to be paid; previously, they would often have been unaware of that, or would have had to have gone to court or have gone through some other procedure in order to assess it, but they can now do that themselves. Two out of three parents using the new Child Maintenance Service are already opting not to rely on the state to collect and pay maintenance on their behalf, so again the new system's aim of significantly reducing the numbers of parents for whose child maintenance the state is responsible seems to be being achieved.

4.15 pm

The other key element of the second phase of reform is that, with the closure of the existing Child Support Agency schemes of 1993 and 2003, cases are actively being moved across. We will then have just one system as we close down the old systems. This is a really important and fundamentally new reform, because

in future everything will be on one system, instead of trying to piece together systems from the past that we know have had problems. We hope that we can manage this reduced case load more effectively—that is the aim—ensuring that more agreed and reliable payments get through to more children, while also reducing the costs to the taxpayer.

As I said, the outcomes will be evaluated and are being evaluated for the 30-month review. I hope that my explanation has been helpful, but I will reply to any further questions.

Baroness Sherlock: I thank the Minister for answering some of my questions but I confess to disappointment that she was not able to provide any figures at all, given that I gave her office a few hours' notice that I would be asking for that information, which ought to be in the public domain. However, I shall look forward to the letter expressing the figures in detail.

There are two questions which either the Minister did not answer or I expressed poorly—I take full responsibility for her answering a different question from the one I asked. The first question was on the timing of the compliance opportunity. I was not trying to ask her—I apologise if I did—why she was not doing the compliance opportunity on the existing scheme, as opposed to the CMS. What I was asking was: why did the Government not delay the compliance opportunity until the arrears had been moved across as well as the ongoing maintenance, so that the compliance opportunity could then be done on the entire liability of both ongoing maintenance and arrears? She said that it was testing behaviour, but that tests only the willingness to pay a small amount of that, and the arrears may be significant.

As to the second question, I did not quite understand what the Minister said about why the Government did not want to use the compliance tools available to them on self-employed non-resident parents. What is the reason for assuming that they do not need enforcement in the way that employed parents do? She could, I presume, use deduction orders as they are used now. She did not explain why that would not be the case.

Baroness Altmann: I will try to be a little more forthcoming with some figures, but, as I say, I will write to the noble Baroness with a more detailed reply. So far, 700,000 to 800,000 segment 3 and 4 cases have been moved across. When all cases are finished, there will be 800,000 to 900,000 cases expected to come over on to the 2012 scheme. I apologise to the noble Baroness that I may have omitted to answer the two specific questions that she asked me. It is not that she was not clear; it is that I was unable to keep up with all the questions.

The timing of the compliance opportunity is partly to ensure that we can successfully complete the migration of the old cases on to the new system in time to be able to close the existing IT systems before they run out of their usable life. There is a timing issue of requiring to get on with the compliance opportunity for segment 5 so that we can meet the end deadline for closing the 1993 and 2003 IT systems without incurring significant extra cost. If we were to delay until all the arrears had been cleansed on the old system, that might well take us beyond the period. By moving segment 5 across slowly now, we are trying to test how this compliance opportunity is working in a small number of cases, as I described earlier, and how the new system is working for those cases before we ramp up with these significant additional thousands of cases that still need to come across and meet the end deadline. This migration and the new system are being very carefully managed. It is a massive undertaking. We know the problems we have had with IT systems in the past, and we do not want those to happen with the new system.

Also, we would have had to either let everyone have direct pay or charge everyone for their ongoing maintenance. That is why we have not used the tools for the self-employed people. We are giving them the opportunity that we believe we have to give them. We cannot collect arrears until they have not paid. As I understand it, the deduction orders and the lump sum deduction orders will help us collect arrears but we cannot consider arrears from the old scheme as arrears in the new scheme, so we would either have to deem all the self-employed as unreliable payers, and therefore we could then enforce collection and charges, or give them the opportunity to prove that they are unreliable before we then take the fees for the collection and charges.

If further clarification is required, I will write to the noble Baroness. However, as I understand it, those are the bare bones of the issue. We can expand on that.

I thank noble Lords for their contributions to the debate and for their constructive approach to today's proceedings. This Government are committed to ensuring that those parents who choose to apply to the statutory 2012 child maintenance scheme benefit from a successful and stable arrangement for payments in the interests of their children. Introducing a compliance opportunity will ensure that non-resident parents with a history of non-compliance should not access the direct pay service unless they have demonstrated a change of behaviour. This aims to help parents with care have confidence that their new arrangement will suit their circumstances and work in the best interests of supporting their children. I commend this instrument to the Grand Committee.

Motion agreed.

Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016

Motion to Consider

4.25 pm

Moved by ***Baroness Altmann***

That the Grand Committee do consider the Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016.

The Minister of State, Department for Work and Pensions (Baroness Altmann) (Con): My Lords, in my view, the provisions in these regulations are compatible

[Baroness Altmann]
with the European Convention on Human Rights. By way of these draft regulations, we have responded to concerns raised by stakeholders by making some changes to ensure that occupational pension scheme governance requirements work as intended.

We already have over 6 million workers automatically enrolled into pension saving. We expect this to rise to around 10 million by 2018. Therefore, it is vital that pension schemes are well governed, particularly as most workers will not have made an active choice about their scheme or investments. With this in mind, we introduced new governance requirements from April 2015 in the Occupational Pension Schemes (Charges and Governance) Regulations. These cover occupational pension schemes providing money purchase benefits. They include annual statements regarding governance, certain requirements for processing financial transactions, appointing a chair of trustees responsible for signing the annual statement, and further requirements relating to the default arrangement. We also wanted to strengthen the independent oversight of schemes used by multiple employers, so in those regulations we introduced additional governance requirements for relevant multi-employer schemes. Under these requirements, relevant multiemployer schemes must have at least three trustees, and the majority of all trustees, including the chair, must be independent of providers of services to the scheme. These independent trustees must be appointed for limited terms and by open and transparent recruitment processes. The trustees must also make arrangements to encourage members or their representatives to make their views on matters relating to the scheme known to them. This could be done through members' panels, annual general meetings or similar.

These additional governance requirements do not apply where the employers are part of the same corporate group, as we considered these schemes to be closer in nature to single employer schemes and thus less likely to require these additional member protections. These regulations amend the definition of "relevant multiemployer schemes" to ensure that it captures both commercial and industry-wide schemes that promote themselves to unconnected employers. Under these new regulations, a corporate group scheme may consist of one or more holding companies and subsidiaries of such companies.

We also made a temporary exemption from these additional requirements, until April 2016, for schemes set up by statute. This was because we wanted to carry out further work on their current governance arrangements before deciding whether this exemption should continue. I should also add that the National Employment Savings Trust is exempt from these additional requirements, as it already has rigorous governance requirements set out in law.

These governance measures cover occupational schemes offering money purchase benefits regardless of whether they are used for automatic enrolment or not. In addition, they exclude schemes where the only money purchase benefits offered are from additional voluntary contributions.

I recognise that pension law is complex and technical, and sometimes we need to change it to ensure that it does the job we want it to do. Since last April, some stakeholders have told us that the way in which we currently define a relevant multiemployer scheme has the unintended consequence of bringing corporate group schemes, which may undergo mergers, acquisitions or disposals, within the additional governance requirements, thereby causing an employer to become unconnected from the group. We have addressed these concerns by way of these draft regulations, which will amend the definition of a multiemployer scheme to ensure that such corporate activity does not bring a corporate group scheme within the additional requirements unless it promotes itself as open to unconnected employers.

I appreciate that the pre-existing governance arrangements for schemes set up by statute may be a good reason to continue their exemption from the additional governance arrangements. However, as I am sure the Committee will agree, we need to have better regulatory safeguards in place for the future across the pensions landscape. These draft regulations will not extend the temporary exemption for multi-employer schemes set up by statute. On balance, we considered that there was no significant reason to provide a further exemption from good governance standards. However, we will give such schemes up to six months to comply with the requirements for the appointment of independent, non-affiliated trustees.

4.30 pm

We are also using these regulations to make some minor tidying-up provisions to ensure that the governance standards work as we want them to. They will remove the requirement for the chair of NEST to be appointed within a three-month timeframe, as this appointment is already covered by other statutory requirements and NEST has to comply with the public appointments process. They will also ensure that a deputy chair, or a person appointed by the trustees, can sign the annual governance statement if there is no chair in place—for example, if the chair has recently resigned.

We know that, for some schemes, certain provisions governing the appointment of trustees are set out in their trust deeds and rules, and these may conflict with what is required in the governance requirements on how independent trustees are appointed. We want to make it easier for these schemes to comply with these requirements and in these regulations we have introduced a statutory override where any provisions in trust deeds and rules conflict with the requirements for the appointment of independent trustees in multiemployer schemes.

Finally, these draft regulations will correct a typographical error in the Occupational Pension Schemes (Investment) Regulations 2005. This simply involves substituting paragraph "(9)" for paragraph "(8)" in the definition of "default arrangement" in regulation 1(2) of those regulations.

As required by the Small Business, Enterprise and Employment Act 2015 for secondary legislation that regulates business, these regulations will oblige the Secretary of State to review both the original governance requirements and the amendments made in this instrument, publishing a report within the next five years.

In conclusion, by way of these draft regulations we will be clarifying the scope of the governance requirements. These regulations will also ensure that the governance

requirements are practicable for occupational pension schemes and multiemployer schemes in particular. I commend these draft regulations to the Committee.

Lord McKenzie of Luton (Lab): My Lords, I thank the noble Baroness, Lady Altmann, for introducing these regulations in such a clear manner. We share the commitment to the importance of schemes being well governed. It is accepted that these regulations are generally focused on several technical amendments following on from governance requirements that were introduced last year, driven in part by the requirement to ensure that the growth of money-purchase schemes flowing from auto-enrolment is fit for purpose.

As we have heard, the thrust of these amendments seeks: to put beyond doubt that multiemployer group schemes are excluded from the additional governance requirements; to remove the chair of NEST from the required appointment timescale, because this is otherwise dealt with in statute; to allow a deputy to sign the chair's statement when the latter is not in place; to enable a statutory override where scheme rules are in conflict with the trust deed requirements; and to let those schemes established by statute have a limited period to comply with the trustee appointments so that the current exclusion can expire—as well as some other tidying up.

We have no quarrel with those amendments, but seek clarification on just one aspect. In regulation 4, the substituted sub-paragraph (2ZA)(a)(ii), participating employers are "connected" if, inter alia, they are,

"are or have been partnerships, each having the same persons as at least half of its partners".

The test seems to be a head count rather than being a sufficient commonality of shares of partnership activities. Is this what was intended?

That having been said, I should like to return to some points that my colleague, Angela Rayner MP, raised when these matters were debated in another place, particularly as they received scant response from the Minister in the Commons. Of course, we know that our Lords Minister, particularly being forewarned, will be able to do better. These issues concerned the growth of multiemployer schemes or master trusts. It was said that there is no official list of master trust providers although as many as 70 or 80 could be operating at the moment. What is the Minister's understanding? My honourable friend cited two pieces of evidence given to the Work and Pensions Select Committee, one from the ABI and the other from the Pensions Regulator. The former pointed out that:

"Trust-based … schemes (including master trusts) … are not currently subject to the same stringent regulatory standards as contract-based schemes, which are regulated by the FCA".

The latter pointed out that:

"Due to their scale, commercial purpose and design for use by multiple employers, master trusts represent different risks to members and consumer protection … master trusts themselves are not authorised prior to market entry and the regulatory framework is not designed for similar levels of ongoing supervision",

unlike providers regulated by the FCA.

Does the Minister share these concerns? To what extent if at all has the position been ameliorated by the governance arrangements that we are discussing today? Is it satisfactory that the take-up of the voluntary master trust assurance framework seems to be so low? Does the Minister have an update on the previous figure of just five schemes? Is the Minister satisfied that the fit and proper persons test is being applied rigorously? Is it the case that master trusts are not protected either by the Financial Services Compensation Scheme or the Pension Protection Fund and is this an acceptable position?

The Minister will have read the *Hansard* record of other concerns expressed in the debate. I will not go over them all. It is understood that the Minister is on record as asserting that legislation is needed, particularly to deal with master trusts given their proliferation and the ongoing progress of auto-enrolment. We will have to wait and see what is in the Queen's Speech in a few weeks' time but one way or another, there are substantial issues here that need to be addressed.

Baroness Altmann: My Lords, I thank the noble Lord, Lord McKenzie, for his remarks. I am grateful that he shares our commitment that schemes should be well governed and welcome that he has no quarrel with our proposed regulations on these measures. I shall try to respond to some of his questions.

The noble Lord asked if the Minister shares the concerns that have been raised, and I can tell him that the Minister does share those concerns. It is true that trust-based schemes are not subject to the same regulatory controls. The authorisation of master trusts and trust-based schemes is the responsibility of HMRC. There is a "fit and proper persons" test now, but clearly even if that is applied rigorously more protection may be required. That is under active consideration. Such schemes are not, unless they are defined benefit, protected by the Pension Protection Fund, and even if the assets are protected by the FSCS, it is true that the costs of winding up the scheme could be deducted from the protected assets. Therefore, there is still a requirement for us to make sure that we protect as many people as possible in auto-enrolment and protect their pensions. These regulations, however, will ensure that there are improvements in governance standards. They will ensure that multiemployer schemes are better run and will clarify the governance requirements, which of course are such an important part of our pension system, to ensure that trustees are in place who can protect the interests of members.

With regard to the figures, over 90% of members who automatically enrolled into master trusts have been enrolled into those schemes that had signed up to the master trust assurance framework, which ensures that some quality features apply but is not, in and of itself, sufficient as a guarantee. It is a good indication of well-run schemes. There are a number of large master trusts available for auto-enrolment, and the Pensions Regulator is obviously trying to signal to employers that they have been through some quality assurance testing. Again, that is important because the worker who is auto-enrolled into a pension scheme has no control over the scheme chosen for them by their employer. It is therefore essential that we help

[Baroness Altmann]
employers to know how to choose a good pension scheme for their staff that is safe and secure, and indeed that they do so.

Well-run master trusts can and do offer good value for consumers and their employers, and of course we are keen that this market develops in the right way. We are aware that there are some potential issues and, as I am sure the noble Lord is aware, we are working with the Pensions Regulator to improve protection and ensure that the right protection is in place, which is likely to require legislation. We will come back to the noble Lord when the measures can be further elaborated upon.

There are a number of governance requirements that master trusts already have to meet under the current law, and I believe that the voluntary master trust framework covers seven schemes—is that right? I understand that it covers five at the moment, but others are in the pipeline. Still, we need to be sure that we are exploring, and will succeed in achieving, other protections in addition to those that already exist as auto-enrolment moves forward. Currently the contribution levels are extremely low, but numbers will increase—contribution levels will be quadrupling by 2019—so we must ensure that we have protections in place for those who enter auto-enrolment in the coming years.

On the noble Lord's question about the head-count issue in partnerships, the purpose of the definition of "connectedness" is to help schemes to establish the degree of connection within a corporate group or partnership. If they are sufficiently connected, it can be exempted from the requirements. The partnerships definition is designed to ensure that two employers that are partners share a sufficient number of partners—that is, at least half—in order to be connected. This is about not just numbers but connection. As long as the multiemployer scheme is multiowner only because of connected employers, it is treated more like a single-employer scheme, but if a scheme promotes itself to bring in other employers rather than just being within the group then it is a multiemployer scheme, and we are trying to clarify that with these regulations. We hope that that will be clear.

Lord McKenzie of Luton: I will perhaps expand a little on the question, although maybe we should follow it up outside this session. I understand the thrust of employers needing to be "connected" for these purposes and, so far as partnerships are concerned, connection looks to be driven by a certain commonality of numbers of partners. However, numbers of partners may not tell you very much about where the weight and financial interest of any particular partner is. It would have been quite easy to construct something where you had a sufficient number of partners but all the clout and financial substance was with just one or two partners. I wonder how the "connected" rules would operate in those circumstances. I am afraid that this is a bit of a nerdy issue, and maybe we should deal with it outside this session if the Minister is not able to cover it fully today.

4.45 pm

Baroness Altmann: I am happy to try to cover it if the answers that I have given are not sufficient. One of the crucial tests here is whether a scheme is promoting itself to outside employers rather than being part of a group. If a company is being taken over or if shares are changing hands, but it is all within the same group, same company and same partners, it is likely to be considered a connected scheme rather than a multiemployer scheme and therefore exempt. However, if there are other issues that the noble Lord would like me to elaborate on outside this debate, I am happy to explore those.

Baroness Drake (Lab): I was not going to come in on this regulation but the Minister's comments have prompted a question in my mind. If a company is in the corporate group and participating in a pension scheme—so it does not come under the definition of a multiemployer scheme—and that company then leaves the corporate group but continues to participate in that pension scheme, would that automatically transfer it to the status of a multiemployer scheme?

Baroness Altmann: The noble Baroness raises an interesting point, which I myself have explored. It is the case that if an employer leaves a previous group but the employees are still part of that scheme, it will be considered a connected scheme because the members are still part of the same group. The group stays in the scheme, so in that circumstance it would still be part of the group rather than becoming a multiemployer scheme, as long as it is not then opening itself to promotion to attract other employees and employers. I hope that that answers the noble Baroness's question.

Baroness Drake: I do not want to labour the point but I am still not clear in my mind: if you have a corporate group of companies and one of them literally is divested in some way, and it continues to use that pension scheme but is no longer part of the corporate group, what status does that trigger? I am happy to pursue this question offline.

Baroness Altmann: Regarding these regulations, as I have just described, if employers that are outside the group can fit within these corporate scenarios—that will include where an employer was part of the corporate group but has now left the group and continues to participate in the scheme—they are considered a corporate group scheme.

Lord McKenzie of Luton: If that is the end of the exchange, I thank the Minister for a very full and quite frank response. It is very helpful to get that on the record.

Baroness Altmann: I thank the noble Lord. I am grateful for noble Lords' careful attention and scrutiny of these draft regulations. We believe that good governance is fundamental to securing good member outcomes and these draft regulations will help ensure that schemes are better run, in members' interests. The regulations that we have put forward today will make amendments that will help to clarify the scope of the governance provisions. I am grateful for Members' contributions to this debate. I hope I have set out the need for these regulations, and have responded as best as I can to the

matters raised. If necessary, I will continue to answer any further questions that noble Lords may have. I commend these draft regulations to the Committee.

Motion agreed.

Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2016

Motion to Consider

4.51 pm

Moved by ***Baroness Altmann***

That the Grand Committee do consider the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2016.

The Minister of State, Department for Work and Pensions (Baroness Altmann) (Con): My Lords, this order, which was laid before the House on 8 February 2016, reflects the conclusions of this year's annual review—required by the Pensions Act 2008—of the automatic enrolment earnings thresholds. The review considered both the automatic enrolment earnings trigger, which determines the point when someone becomes eligible to be automatically enrolled into a workplace pension, and the qualifying earnings band, which determines the earnings levels in relation to which the enrolled employee and their employer have to pay contributions into a workplace pension.

The order sets a new upper limit for the qualifying earnings band and is effective from 6 April 2016. The earnings trigger and the lower earnings limit are not changed within this order. The lower earnings limit remains as set in the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2015. The earnings trigger also remains that set in the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2014.

Automatic enrolment continues to make workplace pension saving the "new normal". The proportion of those enrolled who later choose to opt out remains low, at 9%, according to the *Employers' Pension Provision Survey 2015*, which is well below the original programme assumption of 28%. Our new awareness campaign, launched in October 2015, Don't Ignore the Workplace Pension, builds on previous campaigns that sought to normalise pension saving among individuals and is designed to prompt employers—small and large—to find out about their duties and the process of automatic enrolment.

Automatic enrolment continues to bring into its target group those least likely to save for retirement. Low-paid workers and women, who are often likely to be low earners, have traditionally been underrepresented within workplace pension savings. Since 2011 the private sector has seen a 24-percentage-point increase in eligible female participation in workplace pensions, and in 2014 there was no gender gap in participation, with 63% of both eligible men and women participating.

This positive trend is expected to continue as we enter automatic enrolment's most significant stage: the phased rollout to small and micro employers from now on. Last year saw the successful staging of the first tranche of small and micro employers. Over the next 12 months, more than 700,000 small or micro employers are projected to have started enrolling their employees into a workplace pension. Many tasked with this legal duty are not commercial enterprises but individuals who employ single members of staff, such as nannies, home helps or personal care assistants. At this crucial stage of implementation, it is therefore more important than ever that when deciding the thresholds for joining and contributing to a workplace pension we strike the correct balance between minimising the administrative burden on employers and ensuring that as many people as possible save in a workplace pension.

To describe the impact of the order, I turn first to the qualifying earnings band. This sets the earnings levels within which an automatically enrolled employee and their employer have to pay a proportion of the employee's income into a workplace pension. Past reviews have generally linked this to the national insurance bands and this has been uncontroversial. As I signalled in my Written Ministerial Statement on 15 December 2015, the lower limit for the qualifying earnings band will remain unchanged and aligned with the national insurance lower earnings limit of £5,824. This order will align the qualifying earnings band upper limit with the new national insurance upper earnings limit of £43,000. By maintaining the alignment with the national insurance thresholds, both at the point where contributions start for low earners and are capped for higher earners, the overall changes to existing payroll systems are kept to a minimum. This decision therefore both ensures simplicity and minimises the administrative burden of compliance for employers in 2016-17.

The order does not change the earnings trigger. This remains at the value set in the 2014-15 order. This trigger is the earnings level at which individuals are eligible to be automatically enrolled into a workplace pension scheme by their employer. We have decided to maintain the existing automatic enrolment earnings trigger for 2016-17, so it will remain at £10,000. Due to anticipated wage growth, and with maintenance of the earnings trigger, we expect that an additional 130,000 individuals will now meet the earnings criteria and be brought into the automatic enrolment population. Of these, we estimate that 71%, or around 91,000, will be women. Individuals earning below the £10,000 earnings trigger but above the lower earnings threshold will still have the option to opt into a workplace pension and benefit from their employer contributions, should they wish.

In conclusion, the decision to maintain the earnings trigger at £10,000 will increase the number of low earners and women who meet the earnings criteria, and who are therefore automatically enrolled into a workplace pension. This decision will increase the total numbers saving into a pension and total savings. It is expected to further increase the number of women eligible to enrol, or be re-enrolled, into a workplace pension.

The decision to maintain the alignment of the lower and upper earnings qualifying bands with national insurance contributions thresholds maintains simplicity, and ensures that there are no new potential administrative

[Baroness Altmann]
burdens on employers at a crucial stage of the programme's wider rollout. The order therefore ensures that automatic enrolment will continue to provide greater access and opportunity for more individuals to save into a workplace pension with the help of their employer, and those enrolled will have a chance to build up meaningful pension savings. I commend the order to the Committee.

Baroness Drake (Lab): My Lords, these regulations provide an annual event for me. While I consistently recognise the success of the department in rolling out auto-enrolment, and we have all been pleased by the power of inertia to sustain low levels of opt-out, in previous years I have been increasingly frustrated by the number of women being excluded from auto-enrolment because of the rather aggressive way in which the earnings trigger was increased. Last year I came with a little more humility and was pleased to see that the earnings trigger was being maintained at £10,000 rather than tracing the tax threshold, and of course I am pleased that it is being maintained at £10,000 again. Those are the positives, and I am a "half full" person, but even a "half full" person still wants the extra half-glass that remains empty. I continue to remain concerned that only 38% of the eligible auto-enrolment population are women. In my view, that is still too low. A core principle in designing the new private pension system was that it should work for women, and I do not think that that principle is being met with in that percentage level.

5 pm

Whenever there has been a discussion with the Government on the earnings trigger and why they chose to put it so high, three reasons have been put forward. One is that small amounts of savings may be inefficient for the industry; I will not dwell on that, other than to say that I find it an intensely irritating argument. The second is that the earnings trigger being set at the level of the income tax threshold makes it administratively easier for employers, but that reason has not held for the past two years. By freezing it at £10,000, more women have been brought into auto-enrolment than would otherwise have been the case.

The key argument that keeps dominating this debate as to where the earnings trigger should be is that low earners, when they retire, will get sufficient replacement income from the state so they do not need to save. I have three problems with that reasoning. Many women who earn below £10,000 will not work part-time all their lives but will have patterns of employment where sometimes they work full-time and sometimes part-time, and their persistence in saving during those periods when their earnings fall is very important. Many women on lower earnings are in households where the household income can clearly support them in their saving.

I believe fundamentally that women on low earnings should still be able to build up a pot of long-term saving in their own right. I really do not buy into the argument that being on low earnings somehow gets a mental wrap of "pin money" around it, because their savings will be supported by an employer contribution and may well be supported by the tax credit system. The argument for women on lower earnings being able to build up a pot of savings in their own right is even more powerful now that we have pensions freedom because, with auto-enrolment, funds go into a long-term savings product, not into a pension product as such.

So I make my annual plea: I still think that the attitude towards low-income women that is brought to bear in the private pension system is wrong and still excludes too many women. Obviously, I am pleased that the earnings trigger is being held at £10,000—that is a positive—but too many women are excluded from auto-enrolment.

Lord McKenzie of Luton (Lab): My Lords, I thank the Minister for introducing this order. We support the progress which has been made on auto-enrolment and we should take this opportunity to pay tribute to those who helped to create it. My noble friend Lady Drake was there at the start, or indeed before it, and she has expressed her concerns that the system still does not seem to be dealing adequately with the concerns and needs of low-paid women. It will be interesting to hear the Minister's response to all that.

In her introduction, the Minister referred to the fact that those between the LEL and qualifying earnings can opt into the system. Do we have any data about how many actually do that? I think she cited that there was equality in 2014, in so far as 63% of eligible men and 63% of women opted in. The trouble is that the numbers of men and women were not equal, which meant that many more men opted in, so her statistic was a bit unfortunate.

As my noble friend Lady Drake has recognised, freezing the earnings trigger for a second year has a modest impact in drawing more people in and will help women, who are of course disproportionately represented among the lower paid and have missed out on auto-enrolment previously. One of the effects of freezing the trigger at £10,000 is a widening gap between the contributions and the income tax threshold, which means that, as a practical matter, those who are on the net pay tax relief arrangements are not actually getting effective tax relief. There are, of course, two ways in which you can get your tax relief: one is through the net pay arrangement and the other, the name of which escapes me—

Baroness Altmann: Relief at source.

Lord McKenzie of Luton: It is indeed relief at source. I am grateful to the Minister. What is happening to try to ensure that those people who are subject to the net pay arrangements are getting their tax relief? I am not quite sure what the arrangement with NEST is. I think that relief at source, which generally operates for NEST, will obviously cover a good many people, but how many people are missing out? These are people at the low end of the income scale who are not getting their tax relief, which was an important ingredient of the overall arithmetic.

Has there been any progress on aggregating mini-jobs for the purposes of the trigger and qualifying earnings band? If our noble friend Lady Hollis were here rather than in the debate on the Housing and Planning Bill, she would be on her feet extensively.

Baroness Altmann: I am sorry—what was the question?

Lord McKenzie of Luton: It was about people with mini-jobs being able to aggregate to reach the thresholds. We understand some of the practicalities, but has any progress been made on that?

I have another question to which I genuinely do not know the answer, about the impact of zero-hours contracts and fluctuating earnings on take-up arrangements. Looking at the varying pay periods, how does this work when somebody is within a pay period and above the threshold for one month but not for the subsequent period, so that they fluctuate in and out of the system? I think those were all the questions that I had. We will obviously not be opposing these provisions, and I look forward to the Minister's response.

Baroness Altmann: My Lords, I thank the noble Baroness, Lady Drake, and the noble Lord, Lord McKenzie, for their excellent contributions. I certainly join in the tribute paid to the noble Baroness by the noble Lord for her role in setting up and being responsible for the successful programme of auto-enrolment.

I am delighted and welcome the fact that the noble Baroness welcomes the decision to freeze the earnings trigger. I am also delighted that she is as pleased as we are with the low opt-out rate and that, so far, this programme has indeed been a real success. All the points raised by the noble Baroness are valid, and are ones that I have raised in the past. However, there is a further reason why we have to be mindful of where we set the earnings trigger, and be very careful as we move forward with this policy not to derail what is already such a success. Part of the reason why it is such a success is that there is widespread consensus among employers as well as the pensions industry that this is the right thing for the country. Employers have accepted—willingly, in many cases—the idea that it is normal, and should be normal, for an employer to be responsible for not only the national insurance and tax of their employees but also a pension for their workforce.

However, as the noble Baroness knows, that consensus was hard won. It was the result of a very long period of negotiation and renegotiation, part of which concerned the costs to the employer. Although the earnings trigger is higher than might have been expected a few years ago, we have put other burdens on employers. Were we to reduce the earnings trigger significantly at this stage, given that we have the rollout of the national living wage, the apprenticeship levy and other elements that will impact on employers' labour costs, it would be right to be mindful and careful about how quickly we move to include significantly more people in pension saving. However, notwithstanding that, as I said, 130,000 more people will be brought into pension saving—71% of whom are expected to be women—as a result of keeping the earnings trigger at the £10,000 level rather than moving it up, as was one of the considerations.

The noble Lord, Lord McKenzie, also referred to women. I once again confirm that the coverage of pensions for eligible workers is the same for women and men. As most noble Lords are probably aware, I would certainly like to see more women being brought into auto-enrolment. In time, I am sure that we will be able to do that. Of course, they can now opt in anyway if they are earning more than £5,824 a year and receive an employer contribution. That still means that they do not get the same behavioural nudge, but I can report that the latest figures suggest that 5% of those who are not eligible and are earning below the relevant figure are opting into their employers' pension scheme. It is a start. I hope that, in time, we will go further as we establish this as the norm and as more workers become aware of the fact that this could be effectively free money from their employer, and that a significant extra contribution on top of their own pension savings is on offer if they wish to take it up. Of course, it takes time for those messages to come through.

As the noble Lord may well be aware, the issue of net pay arrangements is something significant that I have raised since I became aware of it a few months ago. Clearly, it is not acceptable that the very lowest earners might be required to pay about 20% to 25% more for the same pension as someone who earns more than them. That is the potential result of their employer choosing to use this net pay arrangement-type of scheme rather than a relief-at-source scheme.

5.15 pm

I have been very clear, and the regulator has made this much clearer on its website, about helping these small and micro employers that are coming into auto-enrolment now to understand what this all means for their lower earners. It is not unreasonable to expect that large firms, which employ advisers and have their own HR departments, would understand the implications of this, but for a smaller employer coming in now, who in many cases has probably never heard of pensions or had their own, it is really important that they choose the right scheme for their staff. If they have no low earners, it is not a problem, but if they do then the regulator is making it much clearer on its website that a net pay scheme will cause those lower earners to pay a lot more for their pension. Of course, a net pay arrangement is better for higher earners.

I can confirm that NEST offers only a relief-at-source scheme. In the past few months, the People's Pension has decided that it will default all employers that do not choose into a relief-at-source scheme, although it offers both. It is important for us to ensure that we all help low earners, who probably do not understand how this works and who are at the mercy of their employer, which chooses the scheme on their behalf, to move themselves and to have the best possible chance to accrue the best possible pension if they choose to stay in, or even if they are choosing to opt into, their employer's scheme.

The issue of multiple mini-jobs is one that is exercising me, not just from the pensions perspective but from other perspectives as well. I assure the Committee that we are working on these issues. However, with pensions it is not easy to see where the responsibility could lie. If an individual does not earn more than £10,000 in any single job, even if they earn more than that in total in more than one job, who would have to pay the contributions and how would that be assessed? Each employer may not know what the worker earns with another employer; they know only what the worker earns with them. The worker themselves, as I have

[Baroness Altmann]
said, can choose to opt in if they are earning enough and want to take advantage of this employer contribution to their pension. The analysis from the Department for Work and Pensions for the year 2014-15 shows that 490,000 workers with multiple jobs who have total earnings above the automatic enrolment earnings trigger are aged between 22 and state pension age, and just 160,000 of those are ineligible for automatic enrolment because they earn less than the earnings trigger in any one of their jobs.

We have an opportunity to get clear messages to those—generally women—who have more than one job to encourage them to opt into their employer's scheme. Again, that is under consideration as another phase of our public messaging to explain and promote automatic enrolment as we move forward. However, we have an enormous amount of work to do on automatic enrolment already as we roll forward and try to ensure that these 1.8 million small and micro employers, which have yet to start between now and 2018, successfully do so without being fined and without letting their workers down, and manage to cope with the auto-enrolment system.

The issue of female participation in pension schemes is of course skewed to some degree by public sector pension schemes, where coverage for women is so much higher than it is in the private sector. However, I have been very encouraged to see that the coverage for women in the private sector is increasing so much faster than for men. We are closing the gap; I am not saying that there is not a gap, but we are closing it. I therefore hope that the noble Baroness and the noble Lord will take comfort from the fact that we seem to be moving in the right direction.

On the issue of zero-hours contracts, I am happy to write to the noble Lord but, as I understand it, workers who are on variable incomes can be reassessed each month so that those who qualify above the required trigger can be opted in one month, but if they do not earn sufficient the following month they may not be. This is a payroll issue, and I would like to come back and write to the noble Lord with more specific details.

I thank noble Lords for their contributions to this debate and for the constructive approach that they have taken, once again, to today's proceedings. This order increases the automatic enrolment upper qualifying limit to £43,000 and therefore maintains the automatic enrolment qualifying earnings bands, both at the top and at the bottom ends, with the limits for national insurance contributions. Both the lower qualifying earnings limit and the earnings trigger remain at their existing levels so they are not uprated in the order.

The combined effect of these decisions is that the number of individuals saving through automatic enrolment will increase, bringing more low earners and women into workplace pensions. As a result, total pension savings will also increase, which is of course important and an example of the success of the current programme. Our approach aims to be administratively simple, which is important, as I have said, as automatic enrolment reaches the smallest employers across the country, who are least able to manage pensions complexity.

I hope that I have set out for the Committee the need for this order and have responded to the matters raised. I commend this draft order to the Committee.

Motion agreed.

Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016

Motion to Consider

5.23 pm

Moved by ***Lord Ashton of Hyde***

That the Grand Committee do consider the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016.

Lord Ashton of Hyde (Con): My Lords, with the permission of the Committee I will henceforth refer to the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2016 as "the order". The order under consideration today makes changes to the respective regulatory frameworks for mortgages and peer-to-peer lending. I will begin by talking about the provisions that relate to the regulatory framework for mortgages before discussing the provisions relating to peer-to-peer lending.

In March 2015, Parliament approved the Mortgage Credit Directive Order, which ensures that the UK implements the EU mortgage credit directive on time and with a limited impact on the UK mortgage market. The Mortgage Credit Directive Order 2015 is due to come into effect on 21 March this year. Since that order was made, the Government have been monitoring the progress of the mortgage industry towards implementation. During the course of this ongoing monitoring, it came to light that there were some areas where the Mortgage Credit Directive Order did not achieve what was intended or where it could be improved on. The Government acted quickly and laid a statutory instrument, which was made in November 2015. This made a small number of amendments to the scope of regulation to ensure that the regulatory framework continued to operate as intended.

The order under consideration makes further changes, which aim to ensure that the legislation delivers on previously agreed policy. This order clarifies the regulatory status of a number of categories of loans entered into before April 2014. Specifically, it clarifies that the regulatory status of these loans depends on their regulatory status under the consumer credit regime, before the transfer of regulatory oversight to the Financial Conduct Authority.

Since the transfer of the consumer credit regime from the Office of Fair Trading to the FCA in 2014, much of industry has assumed that the legislation applied the principle of "once regulated, always regulated" to loans entered into before April 2014. This is a different test from that which is generally applied under the FCA regulatory regime, where regulation is applied to ongoing activities, with the regulatory status of those activities changing over time.

Following engagement with both the industry and the FCA, we have been made aware that there is ambiguity as to which test now applies to some loans entered into before April 2014. This means that there is also ambiguity as to the loans that are to be moved across to the mortgages regime when the mortgage credit directive comes into force on 21 March. This order will remove that ambiguity. Providing clarity as to the regulatory status of these loans will ensure that their holders are able to assess accurately what regulatory permissions they require. Furthermore, it will ensure the continuation of consumer protections, preventing consumers inadvertently losing regulatory protections that they had at the point when they took out a loan.

In 2014, the Government removed English and Scottish housing associations' new second-charge mortgage lending from the scope of conduct regulation. This order also exempts second-charge mortgage loans made from April 2014 by Northern Irish and Welsh housing associations.

Turning to the peer-to-peer amendments included within this order, it will extend the scope of the regulated activities relating to the operation of peer-to-peer lending platforms and the provision of advice on lending through such platforms. I shall begin by addressing the changes to providing advice on peer-to-peer loans. The Government want to support savers and to increase the choice available to ISA savers. To support this aim, the Government announced at Budget 2014 that loans made through peer-to-peer platforms will become ISA-qualifying investments. From 6 April, repayments of interest and capital made to lenders on new peer-to-peer loans will qualify for tax advantages where those loans are held in a new type of ISA—the innovative finance ISA. The Government anticipate that this could significantly increase the provision of advice to investors on peer-to-peer lending.

This order will align the treatment of advising on peer-to-peer loans with other ISA-qualifying investments by making the provision of advice to lenders on entering into such a loan a regulated activity. The consultation on these changes identified broad, industry-wide support for this change, which will ensure that the FCA is able to make rules so that firms providing advice to investors on peer-to-peer loans act properly and in the best interests of their customers. This will mitigate the risk of unregulated firms setting up and acting improperly in providing advice to consumers.

The order will also extend the scope of peer-to-peer regulation to ensure that all the relevant activities are included within this framework. In particular, it brings the activity of facilitating the transfer of rights under a peer-to-peer loan between lenders on a secondary market within scope of the Article 36H regulated activity. This means that a peer-to-peer loan brought on the secondary market will be subject to the same regulatory framework as new loans originated by peer-to-peer platforms. The order also clarifies the definition of an Article 36H agreement, or peer-to-peer loan, by changing it so that if the peer-to-peer platform is the lender or the borrower on its own platform, the agreement is not a peer-to-peer loan. This will ensure that peer-to-peer lending remains truly peer-to-peer lending. These amendments are an example of the Government's proportionate and flexible regime in action, providing the space for peer-to-peer platforms to grow and provide competition to the major banks, while maintaining the right level of protection for consumers.

Finally, the order will make a minor amendment to the Small and Medium Sized Business (Finance Platforms) Regulations 2015. These regulations set out the circumstances in which designated banks must refer unsuccessful SMEs that have applied for finance to online platforms, to assist in finding other sources of finance. The amendment clarifies that where a small business is already using a broker to seek finance on its behalf, unsuccessful applications by that broker do not need to be referred to finance platforms. Taken together, the changes made by the statutory instrument under consideration are another important step in ensuring that the UK's financial system is resilient, competitive and works for the good of the nation. I commend the order to the Committee.

5.30 pm

Lord Tunnicliffe (Lab): My Lords, it is a pleasure once again to be in Grand Committee responding to a Treasury order so skilfully presented by the noble Lord, Lord Ashton of Hyde. The instrument is composed of three main issues: the first relates to the regulation of peer-to-peer lending; the second to provisions regarding the EU mortgage credit directive; and the third to clarifications surrounding small business finance. We will not be opposing the order today, but there are a number of questions that I would like to put to the Minister. The majority of my comments will be on peer-to-peer lending, particularly in the light of the recent publication of the FCA discussion paper on this issue, as well as the way in which the Government intend to carry out the commitments they made during the consultation process with peer-to-peer lenders and other interested parties.

From next month, the innovative finance ISA will be introduced for certain types of peer-to-peer lending, and advice to lenders entering into peer-to-peer loans will become a regulated activity. This is a welcome move. As the Financial Services Consumer Panel stated:

> "It is important that anyone considering saving in a peer-to-peer ISA understands the risks associated with it, and they should be covered by appropriate levels of protection".

However, there are questions as to whether or not this advice will be in place by April. The Yorkshire Building Society has estimated that more than 400,000 savers are expected to invest in this field. However, there were questions about the readiness of the financial advice sector to advise on the new products.

At the end of February, the *Financial Times* reported that the UK's three biggest lending platforms have not yet been granted their status as fully regulated authorities by the Financial Conduct Authority, despite submitting proposals in October 2015. With only a few weeks before the ISA is introduced, will the Minister update us on how many peer-to-peer lenders have been granted authorisation status?

I turn now to the secondary market and the Financial Services Compensation Scheme. In their response to the consultation, the Government stated that:

[Lord Tunnicliffe]

"Due to the illiquid nature of peer-to-peer loans and the fact that a secondary market for every loan cannot be guaranteed, the government has decided not to require that investors should be able to withdraw any non-cash investments from the Innovative Finance ISA within 30 days. However, this should not preclude platforms that can facilitate withdrawals via their own secondary market from doing so".

In the light of this decision, Andy Caton, executive director at Yorkshire Building Society, said:

"It is important that those who opt to invest in the new type of P2P Isa realise how different it is from the existing choices and that they will not receive Financial Services Compensation Scheme protection, access to their money could be difficult if required sooner than expected and, in extreme cases, could lose interest and capital".

The FCA has declared its intention to consider whether the remit of the Financial Services Compensation Scheme should be extended to include peer-to-peer lending in 2016. Given this, will the Minister clarify the Government's own opinion on covering peer-to-peer investments through the Financial Services Compensation Scheme? Will he clarify when he understands that the FCA will carry out this review and whether the required advice that this order provides will be extended to the secondary market?

Before turning to mortgage lending, I shall address the issue of set-up and ongoing costs in relation to the innovative finance ISA authorisation. The summary of the consultation document sets out clearly that of those respondents who answered question 1 on set-up costs, the majority predicted that they would have costs of £50,000 or more. These costs would include building the necessary technology platforms and legal advice, as well as costs to fund the ongoing operation through additional staffing and platform maintenance. In response, the Government committed that:

"Where available, further details of the potential costs to businesses of including peer-to-peer loans within ISA will be set out in a Tax Information and Impact Note, to be published alongside draft legislation later this year".

I note that the only costs to which the Explanatory Memorandum refers are in paragraph 10.2. The Government estimate that there will be a one-off set-up cost of £1,500 and a £2,545 annual cost. Can the Minister explain why the Government's predicted costing and the industry's differ so significantly?

The second aspect of the order relates to the EU mortgage credit directive and is due to come into force next Monday, 21 March. As the Minister implied, this is the second order relating to this directive, it having originally been discussed on 19 March 2015. The directive provides for minimum regulatory requirements to protect consumers taking out credit agreements relating to residential property. It also imposes maximum standards on member states, particularly the provision of information in a standardised format for consumers.

As I said last year, these are entirely sensible provisions. However, the reason why we are returning to this issue is because, following engagement with those in the industry, there are a number of areas where legislative change is necessary in order to ensure that the objectives of the directive are achieved. The Government have decided to create a transitional period until 21 March 2017 before first charge mortgages that were entered into before 31 October 2004 and are currently regulated as consumer credit agreements must be regulated as mortgages. It is worth quoting the Financial Services Consumer Panel, which said last year that ahead of full implementation,

"there are challenges for firms in managing the shift to the new regime because of the relatively long sales process for mortgages".

At the time it was made clear that the Government would consider whether further steps were necessary to smooth the process, so it is encouraging to see that they have done just that. With whom have the Government been engaging in order to come to this decision? Were the relevant stakeholders consulted in the drafting of this order?

Turning to buy-to-let mortgages, these are not generally subject to conduct regulations. However, the EU directive will introduce a new category of consumer buy-to-let lending that will be subject to regulation. Customer buy-to-let mortgages, as opposed to those taken out for business reasons, will be defined as loans for a property that is rented out but not,

"wholly or predominantly for the purposes of a business".

This would be a family member living in the property, or intending to live in it in the future. Will the Minister go into more detail about how regulators intend to make this distinction between the two? What information will they ask of consumers in order to make this judgment, and how many mortgages do the Government anticipate will be impacted by this provision?

The third matter covered by this order relates to small business lending. The effect of this instrument is to exempt applications from referral to business platforms that are made by a broker instead of directly by a business. It would therefore be the responsibility of the broker to provide advice. How confident is the Minister that this advice will be provided, and do the Government expect this measure to have any impact on the ability of SMEs to access finance in general? As I said at the beginning, we will not oppose this order and are conscious of the implementation deadlines. However, I would be grateful if the Minister would address the issues that I have raised.

Lord Ashton of Hyde: My Lords, I thank the noble Lord, Lord Tunnicliffe, for his kind words, his questions and for agreeing to support—or, at least, not oppose—this order. He asked a number of very reasonable questions which I will do my best to answer. He asked how many peer-to-peer lending firms had been granted authorisations. The FCA has authorised seven P2P firms to date, so they will be able to offer the innovative finance ISA, should they wish to do so. The FCA is also currently considering a number of applications for authorisations, both from firms that wish to operate peer-to-peer platforms as well as those currently doing so on the basis of interim positions. It is important to stress that the FCA has a responsibility to authorise only those firms that meet its threshold conditions. It is trying to do so as quickly as possible before the implementation date and has increased the number of people working on these applications. However, it is important that the FCA does not lower standards before the implementation date, given that we hope this provision will last for many years. As I say, the relevant figure to date is seven.

The noble Lord asked whether the P2P loans within the ISA would be protected by the Financial Services Compensation Scheme, and asked for our views on that. Peer-to-peer lending is currently not covered by the Financial Services Compensation Scheme. We want the regulatory framework for this new P2P lending to be proportionate, especially when it is young and growing. It would increase regulatory costs if it was included in the scheme, so at the moment it is not currently considered proportionate to do so. However, the FCA is committed to reviewing that framework in 2016, and during that will consider again whether those P2P loans should be within the remit of the FSCS.

There was a question about the cost on the innovative finance ISA of introducing this scheme. The problem is that the relevant figures do not refer to the same costs. The Explanatory Memorandum refers to set-up costs and FCA fees for firms applying for authorisation to undertake the new regulated activity of providing advice, but the consultation estimate refers to firms intending to offer the IF ISA and includes costs such as setting up the IT infrastructure and hiring additional staff who may be required to offer and run the scheme. We expect that firms which incur those extra costs would benefit from doing so but the decision whether to do that is, of course, a commercial decision for them.

The noble Lord asked with whom the Government have been engaging in the lead-up to the implementation date and whether relevant stakeholders were consulted. The changes today—as the noble Lord mentioned, in some cases the second round of changes—are a result of continuing engagement, and one of the benefits of laying the orders well before the implementation date was to allow us to engage with the industry and regulators. In particular, during that time, we have worked closely with the Council of Mortgage Lenders and, obviously, the FCA itself.

5.45 pm

There was an issue about how the regulators intend to make the distinction between consumer and business buy to let, and what information they will ask of consumers to make this judgment. It will be for the mortgage lenders and brokers themselves to identify the type of lending they are engaged in. That means that they will need a system in place to collect the relevant information from the borrower. The main implementing order, as I said, has been in place for a year, so they should have had time to put such systems in place. The regulators will, of course, need to be satisfied that those lenders are doing this properly, but they are not intending to prescribe a particular process as part of their proportionate regulation.

Lord Tunnicliffe: Did the regulator provide any advice to firms?

Lord Ashton of Hyde: I will have to come back to the noble Lord on that in due course, when I have got some advice myself.

On the number of mortgages that the Government anticipate will be impacted by these new provisions for buy-to-let lending, the introduction of the regulatory regime for consumer buy to let will not affect the vast majority of buy-to-let loans because they are predominantly taken out for business purposes. The impact assessment suggests that 11% of buy-to-let loans will be subject to this new regulatory framework. Based on the level of buy-to-let lending in 2015, this would equate to around 28,000 transactions. My advice is that I will have to write—I could have said that myself.

The last question that the noble Lord asked related to the last item that this order introduced in connection with the Small and Medium Sized Business (Finance Platforms) Regulations, which ensures that an unsuccessful application for finance made by brokers on behalf of small business is out of the scope of the regulations. That means that they do not need to be referred to finance platforms. The point here is that the business that is seeking alternative finance—not just from the big lenders—is already using a broker, who is able to advise on alternative sources of finance. The broker fulfils a role analogous to the finance platform and, of course, is incentivised to provide that advice and seek alternative sources of finance. We feel that nothing would be gained by requiring a bank to refer a failed application to the broker, so the Government do not feel that this will impact the amount of advice on alternative finance available, which they have increased by the finance platforms regulations.

I think that I have answered most of the questions, except whether the regulator provides advice, on which I will write to the noble Lord. Based on his helpful comments, I ask the Committee to join me in supporting this statutory instrument today.

Motion agreed.

Disabled Persons' Parking Badges (Scotland) Act 2014 (Consequential Provisions) Order 2016

Motion to Consider

5.49 pm

Moved by ***Lord Keen of Elie***

That the Grand Committee do consider the Disabled Persons' Parking Badges (Scotland) Act 2014 (Consequential Provisions) Order 2016.

The Advocate-General for Scotland (Lord Keen of Elie) (Con): My Lords, I beg to move that the draft order laid before the House on 22 February 2016 now be considered. The statutory instrument before us is made under Section 104 of the Scotland Act 1998 and in consequence of the Disabled Persons' Parking Badges (Scotland) Act 2014, which I shall refer to as the 2014 Act and which makes provision about badges for display on motor vehicles used by disabled persons. These are commonly referred to as blue badges.

One of the main aims of the 2014 Act is to help tackle blue badge misuse by providing additional powers to local authorities and the police to enforce the blue badge scheme in Scotland. The 2014 Act strengthens enforcement powers, including the ability to cancel or

[Lord Keen of Elie]
confiscate a badge in certain circumstances, and provides for security features of the blue badge format to be approved administratively by the Scottish Ministers. While eligibility for badges, scheme administration and enforcement measures vary between Scotland, England and Wales, there is overall agreement between each of the Administrations and their respective local authorities to work together on the common parts of the blue badge scheme. This has seen the creation of a shared database, used by local authorities for the production of badges, which allows local authorities to enforce the scheme across Great Britain.

The Disabled Persons' Parking Badges (Scotland) Act 2014 (Consequential Provisions) Order 2016, which I shall refer to as the draft Section 104 order, will ensure consistency throughout Great Britain with regard to the validity of blue badges issued in Scotland and give full effect to the 2014 Act. This will produce certain practical results so that, for example, a badge issued by a local authority in Scotland will, for the purposes of the law in England and Wales, be in valid form if it meets the new requirements being provided for in Section 1 of the Act. This will also ensure that enforcement officers are able to confiscate badges which are being misused and have been cancelled by a local authority in another area of Great Britain.

I will now seek to set out for the Committee what the order seeks to achieve and why it is felt to be an appropriate and sensible use of the powers under the Scotland Act 1998. Section 104 of the 1998 Act provides for subordinate legislation to be made by the UK Government which contains provisions that are necessary or expedient in consequence of any provision made by, or under, an Act of the Scottish Parliament. In this case, provision is required in consequence of provision made by the 2014 Act, which received Royal Assent on 24 September 2014.

The order extends to the law of England and Wales the effect of certain amendments made in Scots law by the 2014 Act. The amendments in question are amendments to Section 21 of the Chronically Sick and Disabled Persons Act 1970, which provides for disabled people and their carers to be issued with badges entitling them to certain parking concessions. Section 1 of the 2014 Act changes the rules about the form that a badge issued in Scotland must take if it is to be recognised as a valid badge. Badges issued in Scotland are recognised in England and Wales. Article 3 of the order therefore reproduces in the law of England and Wales the effect of Section 1 of the 2014 Act, so that on both sides of the Scottish-English border the same rules will apply for the purpose of determining whether a badge issued in Scotland is in valid form. I should add that the same applies in respect of Wales.

By virtue of Section 2 of the 2014 Act, Scottish local authorities are able to cancel badges which they have issued in certain circumstances. A badge which has been cancelled by the Scottish local authority that issued it should not be recognised as a valid badge in England and Wales. Accordingly, Article 3(3) of the order extends the effect of Section 2 of the 2014 Act so that the cancellation of a badge by a Scottish local authority is effective in the law of England and Wales.

Article 4 of the order fixes a cross-reference in subsection (8C) of Section 21 of the 1970 Act. That subsection glosses references to local authorities elsewhere in Section 21 so that they fall to be read as including the Secretary of State. The gloss is stated not to apply in relation to specified subsections. One of the subsections specified is subsection (4BB) which, in the law of England and Wales, was inserted by Section 94 of the Traffic Management Act 2004 and defines the expression "enforcement officer". This is the subsection (4BB) to which subsection (8C) is intended to refer. As a matter of Scots law, however, a different subsection (4BB) was inserted by Section 73 of the Transport (Scotland) Act 2001. It does not define the expression "enforcement officer" for the purposes of Scots law. Instead, the Scottish definition of "enforcement officer" is to be found in the version of subsection (8A) inserted by Section 5(4) of the 2014 Act. Article 4 of the order amends subsection (8A) so that it does not gloss the reference to a local authority which appears in the definition of "enforcement officer" in both the law of Scotland and of England and Wales.

The need for and content of the draft Section 104 order has been agreed between the United Kingdom and Scottish Governments. The Department for Transport, which has responsibility for the legislation which this order affects, has been consulted throughout the drafting of the order. All provisions contained in this order have the approval of the Department for Transport and of the Scottish Government.

The statutory instrument before the Committee demonstrates this Government's continued commitment to working with the Scottish Government to make the devolution settlement work. I hope that your Lordships agree that the order is an appropriate and sensible use of the powers in the Scotland Act 1998, and in particular of Section 104. I commend the order to the Committee.

Lord McAvoy (Lab): My Lords, I thank the noble and learned Lord, Lord Keen of Elie. He showed off his legal skills in presenting the order. I think that I got left behind at the fifth subsection of the seventh Act that he mentioned, but I think that I managed to catch up. If I were a suspicious person, I would think that he was trying to lead me up the highways and byways, but I have studied this order carefully and I do not think that even he is up to mischief with it.

As the Minister has explained, the Scottish Parliament passed a Disabled Persons' Parking Badges (Scotland) Act and the order will ensure that there is consistency across Great Britain for the badges issued in Scotland. It will mean that the badges issued by Scottish local authorities are recognised in England and Wales. We supported the objectives of the Act when it went through the Holyrood Parliament and we support this measure today. We are committed to making towns and cities more accessible for the disabled in Scotland and more widely, as was shown recently by our amendment in relation to parking on pavements made to the current Scotland Bill. We know that this issue causes real problems for those with disabilities. We again record our gratitude to the Government for

accepting our argument and bringing forward the changes necessary to ensure that the Scottish Parliament can act on this issue.

This order tries to establish consistency throughout the three countries. The noble and learned Lord mentioned that, on the common parts of the legislation, the three countries were working together. Are there any differing parts of the legislation left? To get consistency would need careful wording to make sure that there are no discrepancies or loopholes left.

Paragraph 8.6 of the Explanatory Memorandum points to the Scottish Government's engagement with multiagency groups,

"to bring forward new and focussed ways to educate badge holders".

My colleagues in the Scottish Parliament have raised this issue and I will ask the Minister about it today. Do the UK Government intend to carry out the same multiagency work and will they be issuing guidance to local authorities in England and Wales about this order?

There is nothing minor about legislation affecting people in the disabled community, and this order did not have any real public consultation. I wonder if the assumption there was that it had broad support; let me hasten to add that it would be a reasonable assumption. On the other hand, it is known that the Great British public, and the Scottish public, can always offer up something. Can the Minister say who was consulted by the Department for Transport and what advice they offered? Perhaps the Minister would consider committing to placing a copy of the evidence in both Libraries.

However, in the great scheme of things these are minor quibbles. We support the order, but I would be grateful if the noble and learned Lord could address some of my specific points. If there is anything new there that has not been covered, it would of course be acceptable to receive that in writing.

Lord Keen of Elie: I am obliged to the noble Lord, Lord McAvoy, for his observations with regard to the order.

As regards the commonality of the scheme, the only differences which would potentially exist would be on entitlement to badges, which is a matter for each jurisdiction to determine, and the form of the badges themselves, which may differ. What the order will ensure, by way of the 2014 Act, is the enforceability of orders made with respect to those badges. That is what I have to say on commonality.

On the matter of consultation and guidance, I am advised that the UK and Scottish Governments worked closely together with regard to the provisions in the order. It is intended that the department—well, something is intended. Perhaps the noble Lord would allow me a moment.

I am advised that steps will be taken to ensure that the Department for Communities and Local Government is properly sighted on the order so that it may then make an appropriate decision as to whether guidance should be issued. I apologise for the delay on that point.

I am also advised that, as with all Section 104 orders, relevant departments and Ministers were consulted and gave their consent to the making of the order. I do not have further detail as to what was said by or on behalf of the Department for Transport, but perhaps I can arrange to write on that point.

Unless there is any further point that I have not covered, I will leave the matter there.

Motion agreed.

Committee adjourned at 6.03 pm.

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