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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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

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House of Lords

Wednesday 14 September 2016

3 pm

Prayers—read by the Lord Bishop of St Albans.

Brexit: Single Market

Question

3.05 pm

Asked by ***Lord Taverne***

To ask Her Majesty's Government whether, in their negotiations to leave the European Union, they will seek to preserve the United Kingdom's membership of the single market.

The Parliamentary Under-Secretary of State, Department for Exiting the European Union (Lord Bridges of Headley) (Con): My Lords, we are determined to protect and build on our economic strengths while implementing the decision of the British people to leave the EU. We want the right deal for trade in goods and services for the United Kingdom.

Lord Taverne (LD): My Lords, has the Minister had a chance to consider the recent paper by the Centre for European Reform with its detailed analysis of the very complex problem that Brexit raises for our trade relations with the European Union and non-EU members of the World Trade Organization? If so, does he not agree that it demonstrates pretty convincingly that, when it comes to the impact on our future prosperity and trade, the least bad solution is to preserve our membership of the single market at all costs?

Lord Bridges of Headley: My Lords, I thank the noble Lord for drawing that paper to my attention. I have actually seen it and it is extremely interesting. It sets out a number of questions and outlines some—just some—of the complexity that we face. I will not be drawn on his point, I am sorry to say. I know how frustrating it is for all noble Lords with regard to the position that we are in, but, as I said in the Statement last week, we are analysing the position, analysing the options open and determined to come up with the best deal and the best outcome for our country.

Lord Lamont of Lerwick (Con): Will my noble friend acknowledge that there is a difference between access to the single market and membership of the single market? Will he recognise the fact that many countries have increased their exports to the single market more than we have and are not members of the single market? If EU law continues to be applied to companies in this country that are not even exporting to the EU, Brexit will not mean Brexit.

Lord Bridges of Headley: My noble friend makes a number of very good points. He is right to draw a distinction between access and membership. I would add that we are—and we must never forget this—negotiating from a position of considerable economic strength in this country, endorsed once again by the employment statistics that came out today. Therefore, as we enter these negotiations, that should buoy us.

Baroness Hayter of Kentish Town (Lab): At 10 am yesterday, our Constitution Committee introduced its report stating that a parliamentary vote was needed before Article 50 could be triggered. It took David Davis just five hours to reject it. Does the Minister think that that bodes well for the advice he will take from your Lordships' House? Would it not be a good idea if some of the advice was read before it was rejected?

Lord Bridges of Headley: I am sorry that the noble Baroness feels that way. I have read the report with regard to Article 50, but the Government's position on Article 50 has been clear for some time. I have nothing further to add other than that we are intent on delivering the verdict of the British people.

Baroness Wheatcroft (Con): My Lords—

Lord Hannay of Chiswick (CB): My Lords—

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, it is the turn of the Cross-Benches.

Lord Hannay of Chiswick: My Lords, will the Minister be prepared to say when the Government will produce an objective, factual assessment pointing out the substantial differences between being in the single market, being outside the single market in free trade but not free trade in services and not having access free of customs controls and regulatory burdens, or the third option—the WTO option—and paying the common external tariff on our exports? Will we get the facts on that some time soon?

Lord Bridges of Headley: My Lords, all I have to add to the Statement that the Government set out in this House last week is that the next milestone in this process will be the triggering of Article 50, which will make our position clear. Clearly, we are looking at all the options open, which the noble Lord so eloquently outlined.

Baroness Ludford (LD): My Lords, does the Minister accept that, essential as it is, membership of the single market short of EU membership, let alone mere access to it, entails a severe loss of sovereignty, especially if we leave the customs union—what my right honourable friend Nick Clegg called a potential tsunami of red tape? So were not the promises of taking back control and slashing bureaucracy if we left the EU a complete work of fiction?

Lord Bridges of Headley: The noble Baroness makes a number of points. We are assessing all these options. I am not in a position to comment further right now.

Lord Howell of Guildford (Con): My Lords—

Lord Tomlinson (Lab): My Lords—

Lord Davies of Stamford (Lab): My Lords—

Baroness Evans of Bowes Park: My Lords, this really is not helpful. We have time to get a number of questions in. It is the turn of the Conservative Benches, then we will come to the Labour Benches. This really is not helping us make sure we can get our points across, and frankly it is not helping how the House looks to the public.

Lord Howell of Guildford: Would my noble friend explain to some noble Lords opposite a point they do not seem to have quite twigged? The single market in services is very weak in Europe—indeed, it hardly exists. This country's GDP is 81% in services. We shall need to look for markets outside the single market if we are to expand our prosperity and future export earnings.

Lord Bridges of Headley: My noble friend makes an extremely good point about services and all these things. I confirm that we are looking at these issues through the prism of the United Kingdom economy as it currently is and the strengths I have already outlined.

Lord Tomlinson: My Lords, the noble Lord in his earlier reply said that the Government were busy analysing the advantages and disadvantages relating to the single market. Does he not think that a sensible way to deal with something quite so significant and important to the British economy is to analyse the problem first before coming to a conclusion?

Lord Bridges of Headley: My Lords, we are looking at the British economy, sector by sector, to see the impact that Brexit might have on it and taking a sounding of views right across the economy. That seems to me to be the perfectly logical way to approach this, acting purely in the national interest.

The Lord Bishop of St Albans: My Lords, many parts of our country are deeply concerned about the negotiations, not least the farming community, as evidenced by the Back British Farming demonstration going on outside. We produce food of the highest quality, by environmental and welfare concerns, of almost anywhere in the world. For the sake of our health, our livestock and the environment, can the noble Lord assure the House that Her Majesty's Government will be very careful to ensure we will not be flooded with cheap imports of food produced to much lower standards than that which our excellent farming industry produces?

Lord Bridges of Headley: The right reverend Prelate makes a very good point about the various options open to us and their consequences. I assure him we have already started to have extensive negotiations with the farming community and others about the impact Brexit has on their sectors.

Lord Elystan-Morgan (CB): My Lords, does the Minister accept that the issue of whether Article 50 can be triggered by royal prerogative or by a vote in Parliament is wholly arid? Indeed, for Brexit to be brought into execution it will be necessary for us to cancel and undo completely the European Communities Act 1972. That, of course, will involve legislation.

Lord Bridges of Headley: Indeed. The noble Lord makes a point about the role of the ECA. We are currently reviewing what action will be required regarding the review, amendment or otherwise of that Act.

Hate Crime

Question

3.14 pm

Asked by ***Lord Singh of Wimbledon***

To ask Her Majesty's Government why their report *Action Against Hate: The UK Government's plan for tackling hate crime*, published in July 2016, does not report on the incidence of hate crimes against non-Abrahamic faith communities.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, we take all forms of hate crime very seriously. Until April, the police did not routinely record religious hate incidents by faith. However, we are grateful to both the Community Security Trust and Tell MAMA, which have provided anti-Semitic and anti-Muslim hate crime data for some time. The first disaggregated police recorded data will be available in 2017. *Action Against Hate* brings together a range of departments and agencies, and includes funding for places of worship and further action in education.

Lord Singh of Wimbledon (CB): My Lords, I thank the Minister for her response but it does not address my concerns over the narrow and biased thinking in a report that details 45 examples of hate crime against Abrahamic faiths but not a single example of the many, well-documented mistaken-identity hate crimes suffered by Sikhs and others—and this in a report emanating from a department with specifically designated officers to consider hate crime against the Jewish and Muslim communities but not anyone else. Would the Minister agree that that omission is more due to ignorance than deliberate discrimination? Would she further agree that those who preach the need for religious literacy should first themselves acquire some basic religious literacy, and apologise to those they have offended in such a way?

Baroness Williams of Trafford: My Lords, the Government have engaged with non-Abrahamic faith communities and will continue to do so. In Manchester in July, in my previous role, I held round-table events with victims of hate crime, including members of the Sikh community alongside other faiths. On Monday, my noble friend Lord Bourne also hosted a round table to discuss hate crime with Sikh organisations as

the latest engagement with the Sikh community. We find such round tables a good way to discuss widely concerns on hate crime and look at a variety of issues and approaches. However, while we know that there are common issues across the strands of hate crime, we also accept that there are issues that affect communities specifically. I and/or officials will be very happy to meet the noble Lord to discuss his concerns. On religious literacy, we have talked about this in the past. People such as the media have a role to play in improving their religious literacy.

Lord Polak (Con): My Lords, sadly, we are all too aware where hate crime can lead. Will my noble friend join me in welcoming the launch of the international design competition for the national memorial and underground learning centre commemorating the Holocaust, announced by my right honourable friend the Prime Minister earlier today and officially launched in 15 minutes' time by Sajid Javid, the Secretary of State for Communities, next door in Victoria Tower Gardens? Would my noble friend also agree that this memorial and learning centre aim to inspire future generations to respect and embrace difference, and to fight prejudice and hatred?

Baroness Williams of Trafford: I most certainly join my noble friend in welcoming this announcement and the fact that my right honourable friend Sajid Javid will be launching it in about 10 minutes' time. My noble friend is absolutely right that these memorials do not just serve to help us remember. The education centres alongside them ensure that our children and the children of future generations know the horrors that went on in the past and, we hope, learn from them for the future.

Baroness Whitaker (Lab): Can the noble Baroness tell me how the genocide of the Roma people is to be commemorated in the Holocaust memorial drawn attention to by the noble Lord opposite?

Baroness Williams of Trafford: My Lords, of course the killing of the Roma people was all part of the terrible Holocaust. I will provide more details to the noble Baroness in due course.

Lord Pearson of Rannoch (UKIP): My Lords, do the Government agree that when we describe hateful and violent people as "radical", "extreme" or "militant", we are nearly always referring to Islamists and not, in this country, to the adherents of any other religion?

Baroness Williams of Trafford: I am afraid to say to the noble Lord that we are not talking about just Islamist extremism. Hate crime against Polish people rose in the aftermath of the EU referendum, and of course, hate crime against the Jewish people has been happening for as long as we can all remember. It is not confined to Islamist extremism.

Baroness Hussein-Ece (LD): My Lords, just yesterday a woman in a headscarf was attacked and lost her baby as a result. We know from the rise in this sort of hate crime that it is now a daily occurrence. Can the public sector equality duty be used to reduce such hate crime, and will the Government consider looking at the analysis of the figures she is collecting as a way of trying to reduce it?

Baroness Williams of Trafford: I know the case that the noble Baroness refers to—on the face of it, a truly horrific thing has happened to this lady, but I cannot comment on it further as it is being investigated. The public sector equality duty and other elements of the Equality Act certainly have their role to play. The hate crime action plan which my right honourable friend the Home Secretary published just a few weeks ago will add to measures on what is really quite a vicious crime.

Baroness Smith of Basildon (Lab): My Lords, perhaps I may bring the Minister back to the original Question, which is about the concern felt by the Sikh community regarding the reporting of crime. The police have to be able to identify those who have been attacked because they are Sikhs. What discussions has the Minister had with the College of Policing and chief constables about the training of police to ensure that they can accurately record such crimes?

Baroness Williams of Trafford: As I mentioned earlier, the police are disaggregating the types of hate crime by religion, such as against the main Abrahamic religions plus crimes against Sikhs and Buddhists. That disaggregation went live in April. However, we have published a new cross-government hate crime action plan to drive forward action, including training for the police, against all forms of hate crime.

Calais Jungle Camp

Question

3.22 pm

Asked by ***Baroness Sheehan***

To ask Her Majesty's Government what is the nature of their collaboration with France Terre d'Asile (FTDA), with respect to refugees in the Calais "Jungle" camp, and what assessment they have made of FTDA's effectiveness.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the UK has jointly commissioned and part-funded France Terre d'Asile's project to identify vulnerable people and victims of exploitation within the camps, directing them to protection and support within France and delivering training for French officials and volunteers on identifying victims. Performance is regularly monitored. The French Government have also commissioned FTDA to identify children within the camp with potential UK links. Staffing has been increased and the project extended to December.

Baroness Sheehan (LD): I thank the Minister for her reply. France Terre d'Asile is the only authority in the camp allowed to enter cases into the French asylum system, which is an essential first step for family

[Baroness Sheehan]
reunification cases in the UK. But this falls at the first hurdle because there are not enough child protection guardians. In France you need administrateurs ad hoc, who are a prerequisite to initiating the process. Is it not the case that 66 of the 70 successful reunification cases to the UK have been completed by British NGOs and volunteers? So why are British taxpayers paying a French agency more than £500,000 to do a safeguarding job that it is patently unfit to carry out?

Baroness Williams of Trafford: My Lords, this is a joint effort. These children are in France and therefore obviously under the jurisdiction of the French Government, but we are very much involved. We have provided funding of more than £500,000 but the staffing has also been increased, which will hopefully bring an improvement in performance.

Lord Anderson of Swansea (Lab): Does the Minister agree that the new directive given by the French Government to prefects in metropolitan France and its overseas territories to accept precise details of migrants is a significant departure? It is a recognition by France of her responsibilities and should be welcomed.

Baroness Williams of Trafford: I agree with the noble Lord.

Lord Hylton (CB): I have no knowledge of the organisation mentioned in the Question, but is it not the case that there should be much greater co-operation between British and French NGOs and the two Governments, in particular to identify cases for family reunion and to ensure that there is adequate protection for unaccompanied children?

Baroness Williams of Trafford: The noble Lord is absolutely right, and that is precisely what is happening with the partnership work between the British and French Governments. There is a steering group of the FTDA project, made up of representatives of the Home Office and officials from the French Ministry of the Interior, the Jules Ferry centre, the Calais prefecture and French law enforcement.

Lord Roberts of Llandudno (LD): My Lords, the Minister will remember that we passed the Immigration Act on 8 May this year. Under it, the Government will accept an unspecified number of child refugees in the coming year. How many children have been accepted under the renowned Dubs agreement? None. Not a single child has been accepted. Is it not time that we took our finger out as far as the children of Calais and Dunkirk are concerned? I am sorry if I am taking my time. Is now not the time to register the children and the families which will receive them so that when the nod comes that they can come, there will not be a rush as the information will already be known by the Government?

Baroness Williams of Trafford: My Lords, 120 children have been accepted here under the Dublin regulations since the beginning of the year, 70 of them from France. There are 30 Dublin cases that meet the Dubs criteria, and most of them are here already. I must say that, whether a child is a Dublin child or a Dubs child, it is still a child.

Baroness Jowell (Lab): My Lords, I thank the Minister for her remark in support of my noble friend's intervention. Is she aware that last Friday the names of 387 children considered to be eligible under the Dubs amendment for admission to and care in this country were submitted to the Home Office? Will she bring forward to the House a detailed statement of progress on placing these children?

Baroness Williams of Trafford: My Lords, I am aware that a list of children was brought forward. Obviously those children will go through the same process as other children. They may be the same children who are being identified. Certainly I am being tasked twice a week at the moment on progress on what is happening in Calais, and I expect that that will continue.

Grammar Schools

Question

3.28 pm

Asked by ***Lord Bird***

To ask Her Majesty's Government what plans they have to give schools the right to apply to select pupils by ability, and to allow grammar schools to expand.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, this Government are dedicated to making Britain a country that works for everyone, not just the privileged few. Every child should have a good school place. On Monday, the Secretary of State for Education launched our consultation on how we bring greater choice and stronger capacity into the education system. Allowing both new selective schools and more expansion of existing selective schools in return for fairer access for low-income families is part of that consultation.

Lord Bird (CB): I thank the Minister for his comments and observations. Is the Minister aware that a large part of the business of this House is about the 20% to 30% of children who fail at school and fail their exams? Their concerns are always being kicked around in the House and being decided on—whether it is to do with law and order, prison, homelessness or the crisis of poverty. Is the Minister aware of the need to transfer some of the eggs from the grammar school basket to the children-in-need basket—the children who do not get a proper education and come out of school at the end of their time and you would never know that they have been to school?

Lord Nash: First, I pay tribute to the great work that the noble Lord has done over many years with the *Big Issue* and in helping the homeless and many other people. I am very much aware of the points the noble Lord makes, having taken the Children and Families

Bill, the Childcare Bill and now the Children and Social Work Bill through your Lordships' House. We want our education system to deliver for everyone. We have been very much focused on more disadvantaged pupils, with our pupil premium and our sponsored academies programme. We are now seeing 350,000 more children in sponsored academies that are rated good or outstanding—schools which previously were generally performing very badly. Sponsored academies do particularly well for pupils on free school meals and at narrowing the gap. However, there is more to do, which is why we have launched our consultation.

Lord Storey (LD): My Lords, the Minister frequently—and movingly—talks about his own in involvement in education and the establishment of the Pimlico Academy. How would he feel if a grammar school was to park its tank on his community? Would that not be socially divisive and would it not have a major impact on the schooling of all children in the Pimlico area?

Lord Nash: The noble Lord raises an extremely good question. We are surrounded in Pimlico by a lot of schools that, in one way or the other, partly because they are independent, are selective. But through our reforms, we are determined to see the selective sector—all selective schools, including existing ones—engage much more widely with the system, focusing particularly on lower-income households, so that we can help drive a school system that works for everyone.

Lord Knight of Weymouth (Lab): Parents in this country are spending an estimated £4 billion to £7 billion a year on private tuition for their children. I declare my interest in respect of my employment at *TES*. What is the Minister's estimate of how much that private tuition bill will go up for those anxious parents and of how many teachers will be displaced from the classroom in order to pursue that lucrative business opportunity?

Lord Nash: I am fully aware that tutoring is a thriving business, and I know that many of these tutoring firms provide tutors pro bono to comprehensive schools—in fact, we have such a programme in my own schools. We are working with the Grammar School Heads Association to devise tests which are much more difficult to tutor for. As for the last question, I am not going to predict the answer to that.

Lord Mackay of Clashfern (Con): My Lords, the word "ability" is used in the Question. Does that include, for example, manual dexterity and artistic skill?

Lord Nash: Schools are allowed to select for a certain amount in some aptitudes, and of course early years do look at making sure that the motor skills of young children are developed, but I think the answer in this context is no.

Baroness Farrington of Ribbleton (Lab): Would the Minister accept that all serious education research—from Midwinter in Liverpool, to Head Start in America, to Sure Start—shows that detailed intervention with very young children is the best way of helping disadvantaged children? I accept the Government are doing more about childcare, but that does not solve the problem of disadvantaged children. When will the Minister accept that these children need detailed help from a very early age?

Lord Nash: I entirely agree with the noble Baroness that early years is so important. That is why we have seen so many people who started life in the secondary sector moving into the primary sector, and many of them are now moving into the nursery sector. I am delighted that since we started allowing, as of this round, free school applications to include applications for nurseries, a third of applications have included them.

Lord Lansley (Con): My Lords, would my noble friend agree that it is at least as important for parents to be able to select the right school for their child as it is for schools to be able to select pupils?

Lord Nash: I entirely agree. Part of the proposals set out in our consultation document are to enhance choice. They are permissive, to allow local communities, parents and school leaders—if they want to—to apply to open new schools.

Baroness Watkins of Tavistock (CB): My Lords, it is very clear that the Government want to provide the best education that they can to the majority of pupils. The idea that people should be able to enter selective education at 11, 14 and 16 is to be welcomed. However, in the very best academies, in which we have all been investing, that is exactly what is happening. People can be streamed across, depending on their particular skills: some are not particularly good at science but brilliant at the arts and English, and vice versa. I fail to understand the need for a sudden acceleration of grammar schools rather than an investment in that kind of excellent free school and academy.

Lord Nash: I entirely agree with the noble Baroness about setting and streaming. I know the chief inspector is a great supporter of that. Within multi-academy trusts and groups of schools, that is so much more possible. It is important that we identify late developers. However, we believe that under our proposals, by putting more requirements on all selective schools, we can create a system that has a much wider benefit for all schools.

Tax Credits: Concentrix

Statement

3.36 pm

Lord Young of Cookham (Con): My Lords, with the leave of the House, I shall repeat as a Statement the response to an Urgent Question given in the other place by the Financial Secretary to the Treasury on the activities of Concentrix in relation to tax credit investigations. The Statement is as follows.

[LORD YOUNG OF COOKHAM]

"Mr Speaker, the Government recognise the importance of tax credits to individuals and families who are struggling to make ends meet. But it is also important that this support reaches the people who really need it. That is why HMRC works hard to check that it is making the correct payments, and to tackle any fraudulent claims.

We must acknowledge that error and fraud does exist in the system and should be addressed to ensure that taxpayers' money is spent correctly. As part of this work, HMRC engaged Synnex-Concentrix Ltd in 2014 to help to check people's eligibility. As a result, almost £300 million worth of incorrect payments have been identified.

I want to reassure the House on two key points: first, Concentrix was paid only when making the right decisions—it would not receive payment for taking someone's money away wrongly. Secondly, Concentrix was not allowed to engage in "fishing expeditions" or pick on vulnerable claimants at random. Where there was evidence to suggest that a claim might not be correct, Concentrix wrote to claimants to seek further information and confirm their eligibility.

I realise that it can be stressful for someone to receive such a letter but it is right that we investigate the full picture, with contributions from claimants themselves, to ensure that we make the right payments. That is why both Concentrix, and HMRC where it does the same work, always send a letter and give claimants 30 days to provide information before taking any further action. It is important that people do indeed respond, and that they get in touch if they are struggling to respond to any of the questions.

However, despite the best efforts of the staff manning the phones, with a high volume of calls in recent weeks, Concentrix has not been providing the high levels of customer service that the public expect and which are required in its contract. HMRC has therefore given notice that this contract will not be renewed beyond its end date in May 2017. HMRC is also no longer passing new cases to Concentrix, but instead is working with it as a matter of urgency to improve the service that it provides to claimants and resolve outstanding cases. I can confirm to the House that 150 HMRC staff have been redeployed with immediate effect to help it to resolve any issues that people are having with their claims as quickly as possible.

I realise that colleagues on all sides of the House are concerned to get difficult cases resolved and assist vulnerable constituents appropriately. In addition to the resources that I have already referred to, I have arranged a drop-in session for parliamentary colleagues in Room B1 in Parliament Street between 9.30 am and 11 am tomorrow, at which HMRC officials will be available to offer guidance to colleagues, should that be helpful."

3.39 pm

Lord Davies of Oldham (Lab): My Lords, the House will be grateful to hear that the contract is to be terminated, but it is quite clear that Concentrix will still be involved over the next seven months, despite its deplorable record. We should recognise just how badly affected those who are dependent on tax credits have been through the operations of this company.

Only yesterday, the House assented to the Finance Bill, in which cuts to corporation tax and capital gains tax which benefit relatively few were agreed, but today, we have this appalling story of ordinary people—there are 4 million and more people dependent on tax credits—vulnerable to the operation of an American company which provides a public service for profit and has made very many mistakes. We need to hear from the noble Lord about not just the patch-up over the next seven months but the future operation of tax credits.

Lord Young of Cookham: I am grateful to the noble Lord for his comments. I begin by apologising to all those who have been distressed by an unacceptable level of service, to which the noble Lord referred. I know from my experience in another place how distressing it can be if families who are, by definition, on low incomes, suddenly find that a flow of income is stopped. Referring to the action now being taken, a priority is to deal with those cases where payments have been stopped. As I said, HMRC has now seconded another 150 staff to tackle the backlog of cases, to see whether we can get them up to date. As for the future, the contract will not be retendered. At the moment, the bulk of the work is being done by HMRC and, as from next May, it will do all the work. Looking ahead, over the next six or seven years, those on tax credits will move over to universal credit, and that system will incorporate the lessons we have learned running the procedures under tax credits.

Baroness Kramer (LD): My Lords, I listened to the discussion of this Urgent Question in the other place and it is evident that, month after month, Members from across the House have been bringing their complaints not just to Concentrix but to HMRC and Ministers and have essentially been ignored until the BBC got involved in the process. Does the Minister agree that this is a good indication that for tax credits and other complex issues, we need a review of whether outsourcing is appropriate? I refer him to the comments of the right honourable Member for Chingford and Wood Green, who has asked Questions about this. Also, where contracts are outsourced, not only must there be proper training and resourcing for HMRC or the department supposedly managing it, it must understand that active, not passive management is necessary.

Lord Young of Cookham: I am grateful to the noble Baroness for her comment. As I said, this contract was outsourced in 2014, when there was a coalition, and I would not rule out all outsourcing by government departments as a matter of principle. As for this particular case, as I have just made clear, it will not be outsourced in future; the work will be taken in-house. As we develop the new process of migrating from tax credits to universal credit, we will learn the lessons that have become clear in this case.

Lord Cormack (Con): My Lords, my noble friend will have reassured many of us, but, further to the point made by the noble Baroness, Lady Kramer, does he accept that some things should never be outsourced? I suggest to my noble friend that this is one of them.

Lord Young of Cookham: As for HMRC, this is the only enforcement function that has been contracted out. There are other contracted-out arrangements—for example, for IT—but this is the only enforcement contract that has been outsourced and, as I said, it will not be outsourced when the contract expires next May.

Baroness Hollis of Heigham (Lab): My Lords, I, like others, am delighted that we are bringing a lot of this back in-house—quite rightly so. We have had the history of G4S, Atos and now Concentrix. First, HMRC must introduce the system that applies to other benefits used by DWP, which is that before a decision to cut benefits is implemented, it is reviewed by a mandatory decision-maker—a more senior officer within the Civil Service—to ensure that no basic errors have been made. Secondly, the main reason why errors occur—errors far outpace fraud—is because there are so many changes of circumstances. Half of lone parents have 12 changes of circumstances a year; the computer never catches up. UC is intended to overcome this—and I hope it will—by using real-time information. Will real-time information be built into tax credits, because, given the recent security review of UC, it looks as though migration may now not be complete until 2022?

Lord Young of Cookham: The noble Baroness speaks on the subject with great experience, having had ministerial responsibility for this. I will take back the suggestions that she has made about the action that needs to be taken before we move to the enforcement regime. As I said, the system of universal credits has a different approach with every person having a personal adviser right at the beginning, which of course is not the case with tax credits. I think that I am right in saying that Atos had its contract before the 2010 Government came to power but I take on board what she said about the need to be sensitive. I understand that we are moving over to a real-time information basis which should help those on tax credits. HMRC will have up-to-date information from the employer in real time rather than waiting for the claimant to notify it five or six months later that their circumstances have improved, and then, perhaps even later than that, getting a letter saying that they now owe huge sums of money. It is very important that any new regime should avoid that problem.

Lord Elystan-Morgan (CB): My Lords, I thank the Minister for the tone with which he has approached this somewhat embarrassing Question. Is it not the case that outsourcing was entirely inappropriate in this context? The constitutional position surely is that the Inland Revenue acts as an organ of state for the collection of taxes and exercises its functions in a quasi-judicial way. This is utterly contrary to that basic principle. Not only is it a breach of principle but, in so far as performance is concerned, it has been blatantly incompetent. Apparently 6,000 people found that their tax credits had been cancelled unlawfully and that 64% of the claims made against Concentrix have succeeded.

Lord Young of Cookham: I am grateful to the noble Lord for what he has just said. As for mandatory reconsiderations which are the appeals against the decision, the noble Lord is right that 67.97% end up in the customer's favour and 32.03% in favour of HMRC. At the moment, the number of mandatory reconsiderations awaiting decision is 2,197. That is when benefit has been stopped and the claimant has asked for that decision to be reviewed. I understand the point the noble Lord makes about outsourcing. I am not sure that I would go quite as far as saying that it was totally inappropriate ab initio to outsource this to the private sector. I hope that what I said in response to the noble Lord, Lord Davies, that this contract is not being renewed gives him some assurance.

Baroness McIntosh of Pickering (Con): My Lords, I take this opportunity to congratulate my noble friend the Minister on his appointment. Does this whole sorry saga not point to the fact that working family tax credits were simply too complicated in the first place and why they are in need of such fundamental reform?

Lord Young of Cookham: I am grateful to my noble friend for her welcome and I miss sitting next to her in this House. The WFTC is a complex system and in the Statement and response that my honourable friend gave in the other place, she referred to the complexity. As I said in response to an earlier question, all these cases will over a period of time—some six or seven years—be migrating to universal credits. We hope to learn from the complexity to which my noble friend referred in devising a better system than the one we have.

Lord Haskel (Lab): The Minister spoke of 150 staff being taken on to do this work. Will new staff be taken on or will existing HMRC staff be stretched still further?

Lord Young of Cookham: The answer is the latter but I would not use precisely those words. I would say that HMRC may have to reorder its priorities to cope with this additional responsibility.

Bus Services Bill [HL]

Order of Consideration Motion

3.49 pm

Moved by ***Lord Ahmad of Wimbledon***

That the amendments for the Report stage be marshalled and considered in the following order:

Clauses 1 and 2, Schedule 1, Clauses 3 to 6. Schedule 2. Clauses 7 and 8, Schedule 3, Clauses 9 to 15, Schedule 4, Clauses 16 to 26, Title.

Motion agreed.

Policing and Crime Bill

Committee (1st Day)

3.49 pm

Clause 1 agreed.

[Lord Ahmad of Wimbledon]

Clause 2: Duties in relation to collaboration agreements

Amendment 1

Moved by ***Baroness Hamwee***

1: Clause 2, page 2, line 24, after "the" insert "economy,"

Baroness Hamwee (LD): My Lords, Amendment 1 is an amendment in the name of my noble friend Lord Paddick and myself, as are Amendments 2, 3 and 7 in this group. The clause provides for duties in relation to collaboration agreements between the emergency services which are the subject of this part of the Bill. Clause 2 refers in two places to the interests of the "efficiency or effectiveness" of the relevant service and of other services. My first two amendments would insert the term "economy", which those of us of a certain generation from local government are accustomed to hearing alongside efficiency and effectiveness. My question is in two parts: first, is "economy" now considered to be covered by the terms "efficiency" and "effectiveness"—I can see an argument that it might be—and, secondly, why is there no reference to all three of these attributes? They are all referenced in Schedule 1 to the Bill, which comprises the new Schedule A1 to the Fire and Rescue Services Act 2004.

Amendment 3 provides for consultation. I have listed a rather unambitious group of people to enable me to ask whether consultation is provided for elsewhere. If it is not, it should be. Even leaving aside Sir Ken Knight's recommendation of trialling such agreements before their wholesale application, collaboration must, in our view, be on a case-by-case basis, best fitting the needs of the local community, hence the reference to the local community in our amendment, as well as to the employees of the proposed parties to the collaboration agreement. It needs no expansion that the views of employees should be important in the decision-making. A formal public consultation is required, not least because of the risk of politicising the process. Transferring responsibilities to police and crime commissioners is a political decision in terms of the service, and perhaps of how it is dealt with in each area. I am not making any pejorative comments about whether particular police and crime commissioners act with politics at the forefront of their minds, so I hope the noble Lord, Lord Bach, will forgive this comment. We now have far more politically aligned police and crime commissioners than we did after the first set of elections, when many independents were elected. We also believe that organisations such as the NHS, the Environment Agency and other emergency responders should be involved.

Amendment 7 probes the strength of the consultation, and would require that the chief officer of police be satisfied that there is no operational problem in the arrangement—a point made by my noble friend Lord Paddick, who will join us soon, after rowing for Queen and country, or at least this House. When the office of police and crime commissioner was created, there was great emphasis on the commissioner not interfering in operational matters. It is a continuation of that thought.

Government Amendment 4 apparently innocently substitutes "or" for "and". However, the amendment is quite significant. In the relevant wording, the term "its" is used. It is not entirely clear to me whether the "its" in subsection (4)(b) refers to the "proposed party" referred to in subsection (4)(a) or the "other proposed party" referred to in subsection (4)(b). I read it as the original party, but I suggest that that bit might stand some tweaking at the next stage to make it completely clear, so that the casual reader does not go down the wrong route. The more important point is that I would need a lot of convincing that a party should be frogmarched into a so-called agreement, which is the effect of this amendment. I beg to move.

Lord Harris of Haringey (Lab): This is a surprisingly interesting group of amendments, although not obviously so at first sight. It immediately brings us to the question of the purpose of these clauses. Are the Government asserting that there is a failure to collaborate between emergency services around the country—and, if so, that this is the mechanism to fix it? I am not sure that evidence exists of a failure to collaborate; in my experience, the emergency services work extremely well together and go out of their way to do so. So what is the problem the Government are trying to fix? If the problem is to be fixed by a collaboration agreement as set out, we will need a bit more clarity, which I assume is the purpose of Amendment 3, in the names of the noble Lord, Lord Paddick, and the noble Baroness, Lady Hamwee, on the proposed consultation. What process do the Government envisage will be followed? Presumably, a failure to collaborate will have been identified in a particular area. Who will have identified that, and what is the process? By implication, it looks as though an agreement to collaborate will be imposed not as an agreement, but because one side rather wants it to happen. There has to be more a lot more clarity.

Then, there is the attempt to correct the drafting error—"or" versus "and". What is envisaged in that respect? For example, when would it be "efficient" but not "effective" to do this, and when it would be "effective" but not "efficient"? If you are making a big point of changing "and" to "or", you are implying that there will be circumstances when it is a good thing to have one of these agreements because it is efficient, but actually it is not effective—so why are we doing something that will not be effective? Alternatively, you might be saying that it is a good thing to have a collaboration agreement because it is effective but, unfortunately, not very efficient. Again, I am not quite clear why it is in the interests of anybody to do that. What is the purpose of the Government's amendment? Can the Minister explain to us in precisely what circumstances she envisages it would be possible to be efficient but not effective, or effective but not efficient?

4 pm

Baroness Scott of Bybrook (Con): First of all, I make the House aware of my job as a leader of Wiltshire Council, which is on the register of interests.

I have looked at these clauses on collaboration of emergency services and I would have preferred the Government to have been stronger. On considering the opportunities to collaborate, I quite agree with the noble Lord, Lord Harris, that there is a lot of good collaboration already going on, not just between fire and police but with local authorities as well. In Wiltshire, there are police stations in all the main hubs; they are not just front offices. We have guns and CS gas and response cars outside. That has meant that some of our major police stations have been able to close, saving huge amounts of public money. In Wiltshire, we also do all the police's IT and we manage their project management. It is quite usual to see the chief constable and the PCC in my offices, working together with my officers. That is good collaboration. This should continue and the Government need to encourage more authorities to do that more readily.

There are, however, barriers to further collaboration. In Wiltshire, we would have loved to have joined both fire and police under our PCC. That would be the best use of public resources, not just financial, but people and assets as well. But we cannot do that now, because Wiltshire fire and rescue, earlier this year, joined with Dorset fire and rescue. Dorset police work with Cornwall and Devon. Wiltshire police work in collaboration on major crimes with Avon and Somerset and Gloucester. There are two PCCs—the whole thing is a muddle. The barrier is that there is no co-terminosity between different public service authorities and this is, I think, probably getting worse. If Wiltshire or any other authority were to ask to change the joining up of fire authorities or police authorities to make them co-terminus with the local authority, would the Minister listen to that request so that we could perhaps have properly joined-up public services? Health is a thing on the end; I think that is a more difficult discussion. In Wiltshire, we could get fire, police and a local authority working very closely together, saving huge amounts of money. Can we look at the areas that are barriers to doing that?

Lord Bach (Lab): My Lords, I declare an interest as the police and crime commissioner for Leicester, Leicestershire and Rutland. This group of amendments is very interesting, as is the first part of the Bill with these early clauses on statutory collaboration. It would be hard to find anyone, anywhere who does not believe that collaboration between the emergency services is a good thing. At any time, not just at a time—as at present—of economic uncertainty, it must be advantageous for services to work closely together, not just because of the savings that may be made but because it is better for the members of the public who need the help or assistance that the emergency services can give.

On whether a statutory requirement is necessary, I remain a little sceptical. It may help, it may not. What really matters, it seems to me, is whether the collaboration is—to use the phrase—bottom-up; in other words, comes naturally and is not forced. My feeling is that that is happening more and more around the country. In the Leicestershire area—Leicester, Leicestershire and Rutland—collaborative programmes have been started and others are planned for the future. We have to take a chance with them. They may not always succeed, and we have to be aware of that.

I was grateful to the Minister and her officials for meeting me this morning to discuss such a scheme in Leicester called Braunstone Blues, which is still in its comparatively early days. Its origin lies in the excessive number of 999 calls made to the emergency services by some individuals and families living in that general area of the city, some of which could not be classed as emergencies by any standards, but were made none the less. They, of course, involved cost resources, both financial and human. As a consequence of that, the police, fire and rescue services, ambulance service, city council and health authorities got together to run a programme that involves visiting and, if necessary, helping people in that area. They are given advice about the unnecessary calls, of course, but help is also offered beyond that with other issues and concerns. This joint work has begun to show results but there is a long way to go.

The point I am attempting to make is that this is exactly the sort of bottom-up collaboration which should be encouraged. If the Bill has the effect of encouraging collaboration, with or without these amendments and with or without a statutory basis, that is very much to be welcomed. I, too, look forward to hearing what the Minister has to say in reply to the questions that have been asked.

Baroness Redfern (Con): My Lords, Clause 2 concerns collaboration, and I see that in terms of further collaboration between services. I declare my interest as leader of North Lincolnshire Council, as noted in the register of interests. In Committee, we must highlight the importance of this issue in strengthening and building the capacity and accountability of the police service.

As we know, the profile of demand for all emergency services is changing. I am pleased to say that even the fire and rescue services have seen a steep decline in the number of calls made to them. Many people now have fire detectors, which has led to a reduction in the number of call-outs. Conversely, there has been an increase in demand for the ambulance service, while a large proportion of police activity has been directed towards public protection.

Collaboration presents a real opportunity for emergency services to increase their efficiency and effectiveness, maximise resources and improve the service delivered to the public while giving value for money. Seeking greater integration with other elements of the criminal justice system also offers great benefits. Sharing good governance structures with other services such as fire and rescue services could open up a desire for collective working, resulting in real efficiency gains. With a joint delivery of training, fleet, logistics and the collocation of premises, a fully integrated prevention and community protection team, formed from a police and fire joint operation team, could plan all operational activity across these emergency services. Therefore, today's debate must be about endorsing collaboration to make significant savings through the multiagency implementation of a hub to transfer incident data. We know that quicker, smarter and more advanced technologies are operated by emergency partners when more than one service is required at an incident, again saving operator hours per year.

[Baroness Redfern]

The more we can do to improve taxpayers' value for money and improve our service to our communities, the better it will be, and the Bill will give that opportunity. This is not about the takeover of one emergency service by another. There is a distinction between operational police and firefighting which should always be recognised. Like my noble friend Lady Scott, I do not have experience of the police and fire services being co-terminous. Lincolnshire is progressing through devolution and, at the moment, part of the county is served by Lincolnshire PCC while the northern part comes under Humberside. We hope that that anomaly can be looked at so that we can move forward on it.

Lord Rosser (Lab): We have an amendment in this group to which I will speak. Like other noble Lords who have spoken, I wait with interest to hear the Government's response to the various questions that have been raised.

Our amendment in this group provides that an emergency service would not be required to enter into a collaboration agreement if to do so would not be in the interests of public safety, in addition to the provision in the Bill that a relevant emergency service would not be required to do so if it was of the view that it would have an adverse effect on its efficiency or effectiveness.

Surely public safety must be a key consideration. Indeed, it is more important than either efficiency or effectiveness. As has been said, voluntary collaboration agreements already exist—there are a great many of them—and presumably the Government would have expected considerations about the impact of those voluntary agreements on public safety to have been a key factor in determining whether to proceed and continue with them.

Under the terms of the Bill, collaboration is now being placed on a statutory footing. Surely it is therefore even more important that a proposed agreement not being in the interests of public safety should be in the Bill, as well as an adverse impact on efficiency or effectiveness, as a reason for a relevant emergency service not to enter into such an arrangement.

The criteria against which a proposed collaboration agreement has to be assessed is that it would be in the interests of the efficiency or effectiveness of the proposed parties. But of course being in the interests of efficiency or effectiveness is not the same as being in the interests of public safety. Indeed, being in the interests of efficiency or effectiveness could well run contrary to being in the interests of public safety, depending on how effectiveness is defined and who defines it, and particularly in relation to the ability of an emergency service carry out its emergency functions and to have emergency cover available.

It would certainly be helpful if the Government could say in response, with regard to a relevant emergency service being invited to enter into a collaboration agreement, who will determine whether it would impair effectiveness or efficiency. Is it the emergency service concerned, and if it decided that it would have an adverse effect on its efficiency or effectiveness, does one take it from the terms of the Bill that the emergency service in question can decide not to be involved and that that is the end of the matter? Or can some sanction then be imposed on, or some body overrule, an emergency service that decides not to get involved in a collaboration agreement on the grounds that it would have an adverse effect on its efficiency or effectiveness?

The other issue is why, if we are going down the road of statutory collaboration agreements, there is still apparently a need in the Government's view to have a forced collaboration through the later clauses in the Bill that provide for a police and crime commissioner to be able to take over a fire and rescue service. That will have to be debated later, although not too much later. One of the amendments that the noble Baroness, Lady Hamwee, spoke to referred to consultation with employees. Under the terms of the clauses on collaboration agreements, do the Government intend there to be consultation with the relevant trade unions, where the employees are members of one? I would have thought that having that consultation was rather important; in fact, I would have thought that employees might have a considerable amount to offer, either in support of what was proposed or pointing out its difficulties. Probably better than anyone else, they know what is likely and unlikely to work when it comes to collaboration.

I turn to government Amendment 4, as did the noble Baroness, Lady Hamwee. To put it in the simplest terms, I think that it attempts to put right a clanger that has been dropped over the wording of the clause. The question of why the criteria should not be "efficiency and effectiveness", rather than only one of them, has already been raised. What is the point of greater efficiency if it adversely affects effectiveness? Presumably the Government have looked at existing voluntary collaboration agreements. How many of them have they decided do not improve both efficiency and effectiveness, as opposed to only efficiency or effectiveness?

4.15 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank all noble Lords who have spoken so constructively to this group of amendments. I shall start with its government amendment, Amendment 4. Part 1 places a duty on the three emergency services to enter into collaboration agreements where it would be in the interests of efficiency or effectiveness to do so. In one place, the Bill inadvertently specifies a test of "efficiency and effectiveness", and Amendment 4 rectifies that. The noble Lords, Lord Harris and Lord Rosser, rightly ask why the duty applies when the collaboration agreement would be in the interests of efficiency or effectiveness rather than both. Collaboration can lead to service improvements through either increased efficiency or increased effectiveness. Consequently, it should not be a precondition of a collaboration agreement that it should improve both. If an initiative would improve the quality of the service but not save any money, for example, we would still want the emergency services to give effect to that project. I hope noble Lords are satisfied with that explanation.

Lord Harris of Haringey: My Lords, is the noble Baroness leaving that point? It looks as though she is. I understand if she is saying that the collaboration must

improve one of them and not have a negative effect on the other, but that is not what "effectiveness or efficiency" necessarily implies. If it means that it must be neutral about efficiency but improve effectiveness, say that. If it means that it must improve effectiveness but is neutral about efficiency, again, say it. By leaving the wording as "or", the implication is that one might be detrimentally affected but that it would still be appropriate. So that we can understand what the Government are getting at, will she give us an example of a collaboration agreement that has improved one but not the other?

Baroness Williams of Trafford: As I said, a collaboration agreement could vastly improve the quality of a service, which is a good thing, but it may not save any money. However, the improvement of the quality of that service may be deemed to be very effective in that collaboration agreement. It obviously ties to both: it could increase the efficiency or it could increase the effectiveness. The happy outcome is that it might improve both. I hope that that is a decent explanation.

Lord Kennedy of Southwark (Lab): I have just one point. Could it be more effective and less efficient or vice versa?

Baroness Williams of Trafford: It could be.

Lord Harris of Haringey: I am sorry to do this to the noble Baroness, because she is trying to be helpful. However, her answer to my noble friend has actually made the situation worse. If she had said, "As long it does not hurt either efficiency or effectiveness but there is an improvement in one", that would have been fine. But she is now saying that there can be an improvement in efficiency that makes effectiveness worse, or vice versa. The question then is: how much will that have to be balanced and how will that balancing effect be measured? Surely the argument must be that it does not make either efficiency or effectiveness worse and it improves at least one of them.

Baroness Williams of Trafford: In that case, I will stick to the answer that I gave the noble Lord and perhaps disagree with the noble Lord, Lord Kennedy. We are so used to agreeing that that is almost my default position.

Perhaps we could move on to Amendments 1 and 2. I start by talking about some of the very good examples of emergency services collaboration that have gone on up and down the country. As noble Lords have said, there is clear evidence that emergency services can deliver real benefits for the public and help each service better meet the demands and challenges that they face. On Friday, I visited the emergency services collaboration in Greater Manchester. I was deeply impressed with the activity I saw, both in improving the service provided to the public—in all sorts of ways, as the noble Lord, Lord Bach, said in his speech—and in saving the taxpayer money.

On my visit to the Earlham tri-service station, I saw the benefits of collocation between the police, the fire and rescue service and the ambulance service in practice. Not only is this breaking down professional barriers but it is leading to far more innovative ways of delivering local services. If the noble Lord, Lord Bach, visits Earlham, he will see that the critical-risk intervention teams, which are led by the fire and rescue service in collaboration with Greater Manchester Police, respond to low-priority calls from the ambulance service regarding falls and mental health incidents. This innovative working is not only saving money, with an estimated £13 million in value being added across the region, but it is better protecting the public from harm.

There is a wide range of other examples from across the country of where emergency services collaboration is improving outcomes for local communities. For example, as the noble Lord, Lord Bach, said, in Leicestershire, the Braunstone Blues project has built on the success of a home fire-safety visit programme to involve all three emergency services in health, safety and well visits to local communities and schools. As he said, the programme is in its early stages, but I am sure it will be very successful.

Lord Bach: Now that the Minister has made those kind remarks, I hope that if she has time she will visit to see that project for herself.

Baroness Williams of Trafford: The noble Lord gave me that invitation this morning. I was happy to take it up then and I am happy to take it up now. It is good to see how things are working well on the ground. It gives one a much better picture than hearing about the theoretical application. I would be happy to visit.

I was talking about Northamptonshire, where there is an interoperability programme working towards bringing the police and fire and, in the longer term, the ambulance service even closer together. Their achievements include joint delivery of training, shared fleet and logistics, co-location of premises across a number of sites and a fully integrated prevention and community protection team. That has delivered savings of more than £460,000 to date.

In Hampshire, the H3 project has successfully integrated police, fire and county council back-office functions to deliver savings across the three services of approximately £4 million per year. I hope that this goes to the question asked by the noble Lord, Lord Harris. He asked why, if it is working so well, we are doing what we are doing. There are so many more collaborative projects that I could list, but collaboration is still patchy. More needs to be done to ensure that it becomes common practice at a local level. That is why the Bill introduces a raft of measures to ensure that collaboration can go further.

Amendments 1 and 2 probe why the test for making a collaboration agreement is whether the proposed collaboration would be in the interests of efficiency or effectiveness, whereas the first limb of the test for making an order establishing a PCC-style fire and rescue authority is based on whether the PCC's proposal would be in the interests of economy, efficiency and effectiveness. Of course it is important that the potential economic impacts of collaborations are taken into account by the emergency services. However, these considerations are already provided for in the Bill. I hope that that answers the question of the noble

[Baroness Williams of Trafford]
Baroness, Lady Hamwee. The Bill states that services must consider whether potential collaborations are in the interests of the efficiency or effectiveness of the services involved. Considerations of the financial implications for the service in question would form part of that process.

That aside, the reason for the drafting approach taken in Clause 2 is essentially one of consistency. The test for the duty to collaborate in this clause mirrors that in respect of collaboration agreements between police forces under Section 23A of the Police Act 1996. Similarly, the adoption of the three "Es" in the test for making an order establishing a PCC-style fire and rescue authority mirrors the existing tests, in the Fire and Rescue Services Act 2004, in relation to the merger of fire and rescue authorities. As we are operating in this Bill on existing legislation, it is important to maintain consistency where possible.

The noble Baroness also talked about "its". The "its" in Clause 2(4)(a) relates to the first proposed party. The "its" in Clause 2(4)(b) relates to the second or further proposed parties. No one will be frogmarched into a collaboration agreement; it must be agreed between the parties.

Amendment 3 would introduce additional and in our view unnecessary barriers to collaboration and duplicates existing duties on the emergency services to engage with local people when exercising their functions. For instance, PCCs have existing duties under Section 96 of the Police Act 1996 to engage with local people when exercising their functions. "Local people" is broad in its scope. It is up to individual areas and localities to agree what that means. Further, ambulance services are also required to make arrangements for the involvement of users when there are proposals to change the way in which the services are provided under Section 242 of the National Health Service Act 2006.

Similarly, fire and rescue services must have regard to the *Fire and Rescue National Framework for England*, which provides that they must be transparent and accountable to their communities for their decisions and actions, and must provide the opportunity for communities to help to plan their local services through effective consultation and involvement. Given these existing requirements, I am not persuaded that the additional, bespoke duty to consult before entering into a collaboration agreement is either necessary or proportionate.

4.30 pm

I am more sympathetic to Amendment 6. When the emergency services consider opportunities to collaborate, we would expect them to ensure that such projects would not have a negative impact on the safety of the communities that they serve. The Bill already provides that the emergency services are not required to enter into a proposed collaboration if it would adversely affect either their effectiveness or efficiency. We would expect that any consideration of the impact of collaboration on the service's effectiveness would take account of the impact on public safety, which is a primary function of all emergency services.

Further, the duty to collaborate is broad to allow for local discretion in how it is implemented, so that the emergency services themselves can decide how best to collaborate for the benefit of their communities. I hope that gets to the nub of the question asked by the noble Lord, Lord Rosser. We would expect the emergency services to consider their duties relating to public safety when considering what opportunities there are to collaborate in the interests of efficiency or effectiveness.

However, I am minded to give further consideration to the amendment. There may be other ways to make it clear that there is absolutely no question of collaborations being proposed that would have a detrimental effect on public safety. If the noble Lord, Lord Rosser, would be content to withdraw his amendment, I will reflect further in advance of Report on what he has said, although he will understand that I cannot give an absolute commitment at this stage to bring forward a government amendment.

Finally, I recognise the important principle that Amendment 7 seeks to uphold, namely the operational independence of chief constables. The existing duty to consult already affords chief constables the opportunity to make objections on operational grounds—and, indeed, on any other grounds. I would expect that a police and crime commissioner would consider any such objection very carefully and discuss it with the chief constable before proceeding. If a chief constable continues to voice operational objections to a proposed collaboration agreement, we would expect a PCC to have regard to these concerns. Under the Policing Protocol Order 2011, PCCs are under a duty not to fetter the operational independence of the police force and the chief constable who leads it.

I should add that this provision in the Bill regarding consultation with the chief constable mirrors that applicable to collaboration agreements between local policing bodies made under Section 23A of the Police Act 1996. The existing provisions have worked effectively without any difficulties and, in the interests of consistency, we should adopt the same approach here.

The noble Lord, Lord Rosser, asked who decides whether a collaboration agreement is in the interests of efficiency or effectiveness and what sanctions there are if a service refuses to collaborate. It is for the individual emergency services to consider whether it is in the interests of their efficiency or effectiveness to enter into a collaboration agreement. If one service considers that it is in the interest of its efficiency or effectiveness to give effect to a collaboration but the other service or services do not, the service proposing the collaboration cannot force those services to collaborate and the duty would not apply.

Lord Rosser: I thank the Minister very much for her response to Amendment 6 and for what she just said about who defines efficiency and effectiveness, which was certainly a very clear answer. I will ask this as a question, rather than advocating that it should necessarily be done. In order to get some consistency, are the Government intending to send out any guidelines on how to interpret efficiency or effectiveness in the context of these clauses?

Baroness Williams of Trafford: I can certainly follow up on that question and give the noble Lord an answer before Report, but it would not be unusual in these circumstances for guidance to be issued to relevant people. I think the answer would be yes but I will double-check that and get back to the noble Lord.

The noble Lord asked what happens if a party refuses to collaborate. All local services would be under a duty to explore opportunities for collaboration and to enter into such collaboration agreements where it is appropriate to do so. They should be open and transparent about their reasoning. We will consider how the service inspectorates could take these decisions into account as part of their inspection programmes.

The noble Lord also asked about consultation with staff and trade unions. I sort of answered this question but the Bill is not prescriptive about consultation. It is relevant to the local area. Existing consultation duties will apply only to each of the services. This will not prevent consultation on a voluntary basis at all. I hope I made that clear in my remarks but thought I would answer it again now as the noble Lord asked a specific question.

The noble Lord, Lord Harris, asked how the new duty to collaborate will work in practice. The Bill places a new statutory duty on the police, fire and rescue, and emergency ambulance services to keep collaboration opportunities under review, and further for them to implement collaboration where it would be in the interests of their efficiency or effectiveness. Ambulance trusts will not be obliged to enter into collaboration agreements where they would have an adverse effect on either their non-emergency functions or the wider NHS. The duty is broad. It allows for local discretion in how it is implemented so that the emergency services themselves can decide how best to collaborate for the benefit of their communities.

My noble friend Lady Scott asked—this is an important issue—about the Government considering proposals to demerge FRA areas to enable further collaboration. As I am sure my noble friend knows because she was here with me on the devolution Bill, where police and fire boundaries are not coterminous it would be for local areas to consider how boundaries could be changed to support that further collaboration she talked about between the emergency services. The Government will consider any local case for a fire boundary change that demonstrates that it would be in the interests of economy, efficiency and effectiveness.

Lord Rosser: Would the Government also look at it if two PCCs decided they wanted to merge their police areas?

Baroness Williams of Trafford: If two PCC areas came to the Government with a proposal for change, the Government would consider it, just as in devolution where the Government considered any proposals that came forward. For example, just thinking of home, if Manchester and Cheshire wanted to come together—I am not saying they do—they could put forward a proposal. I hope that I have answered all noble Lords' questions and that the noble Baroness will be content to withdraw the amendment.

Baroness Hamwee: My Lords, I am grateful for the care that the noble Baroness took in the detail of her response. On my Amendment 7 and operational matters for the police, I am not sure whether she was saying that if a PCC disregards concerns expressed by a chief constable about operational matters—she several times used the phrase "have regard to" such concerns—that would be a breach of the 2011 Act. I am not clear on that. Maybe that is not a matter for answering now. I would be happy to hear from her after today if that is a better way of dealing with this.

I am not sure which of the noble Baronesses who lead their respective councils used the phrase further collaboration—I think it was the noble Baroness, Lady Redfern. But since this is about further collaboration, it raises the question: why? The LGA argued strongly, I think in response to the Government's consultation paper, that the sector should be enabled to continue to effect change without the Government resorting to legislation. It said that a duty to collaborate was,

"likely to provide a constraint that stifles innovation and broader collaboration. In the LGA's view, the provision of incentives like transformation funding is more likely to produce greater collaboration between the emergency services, and between them and other public services".

It said that such incentives,

"would also encourage the ambulance service, which in some cases has been less ready to engage with collaborative programmes".

Despite what we have heard, that question still hangs in the air.

There was also the comment about consultation on a voluntary basis. When people resist consulting, that is when they most need to be required to consult; I think that must be the experience. The examples used about where things have worked well from the bottom up, prompted by what has been identified locally as desirable, obviously bear careful reading. There are still questions hanging over this but for the moment, I beg leave to withdraw Amendment 1.

Amendment 1 withdrawn.

Amendments 2 and 3 not moved.

Amendment 4

Moved by ***Baroness Williams of Trafford***

4: Clause 2, page 3, line 4, leave out "and" and insert "or"

Amendment 4 agreed.

Amendment 5

Moved by ***Lord Rosser***

5: Clause 2, page 3, line 14, at end insert—

"( ) For the purposes of this Act, when considering whether a collaboration agreement would improve the effectiveness and efficiency of one or more emergency services, a relevant service shall consider the effectiveness and efficiency with which the emergency service is able to meet its duties under the mental health crisis care concordat."

Lord Rosser: My Lords, I appreciate that later clauses will enable us to have a much fuller debate on mental health issues in relation to the new provisions in the Bill, related to the Mental Health Act 1983, and I do not want to trespass into that territory with this amendment.

The mental health concordat was agreed between the third sector, the police, local authorities and the NHS in February 2014. Included in its wording is that the bodies and organisations to which I have referred will make sure that they,

"meet the needs of vulnerable people in urgent situations",

and,

"strive to make sure that all relevant public services support someone who appears to have a mental health problem to move towards Recovery".

It then says that "jointly" they will hold themselves,

"accountable for enabling this commitment to be delivered across England."

There is no statutory basis for this concordat. Amendment 5 raises the question as to whether we should not put the concordat on some type of statutory footing in the Bill, since the collaboration agreements which are placed on a statutory footing in it cover parties that are covered by the concordat.

4.45 pm

There are already examples of mental health professionals being collocated with police officers and others. Properly implemented, the concordat could save money and improve effectiveness since time that the police spend on dealing with people in mental health crisis because appropriate professional personnel from health and social services are not available is time that they, the police, are not spending on doing other things that they are fully qualified to do and which we would expect them to be doing.

In Committee in the Commons, I think on 22 March, the Minister who spoke on police involvement with those appearing to have a mental health problem referred to an interministerial group having been formed during the previous Government and stated that it was still sitting. Perhaps the noble Baroness can tell us a bit more about the activities of this group, what it has achieved and what it hopes to achieve. It does not appear to be asking too much to have a requirement in the Bill that collaboration agreements geared to effectiveness and efficiency should also be required to take into account the impact in that regard on the mental health crisis care concordat since I suggest that there is a real danger that otherwise a concordat that is not on a statutory basis may all too easily be overlooked or forgotten.

Despite wanting collaboration agreements to be placed on a statutory footing within the Bill, it does not appear that the Government want to go down that road as far as the concordat is concerned. If I am correct in thinking that, no doubt the Minister will explain why that is the Government's position when she responds. I beg to move.

Baroness Hamwee: My Lords, I am reluctant to say anything that could be interpreted in any way as negative about the initiative of my right honourable friend the Member for North Norfolk with regard to the mental health crisis care concordat. It is a very important—I was going to say "document", but it is far more than a document. I am sure that the noble Lord, Lord Rosser, will not disagree that we should be mainstreaming mental health care in everything and should not have to refer to it specifically. I dare say we will come back to the concordat when we deal with the detention of people who are mentally ill, which we will do later in the Bill.

My only hesitation—and perhaps I should have waited to hear from the Minister, but I am afraid I could not resist jumping in to claim credit for my party and its part in the creation of the concordat—is about whether it is appropriate to refer in legislation to something which I read as being a living arrangement, something that is developing, drawing more and more parties into it and finding more and more ways of achieving its essential objective. The issue is important. It may be a matter of how it is dealt with legislatively.

Lord Adebowale (CB): I support the amendment moved by the noble Lord, Lord Rosser. I have some experience of the police and their responses to mental health as chair of the commission on the Met's response to mental health policing in London which—I hesitate to claim credit—led to the concordat mentioned by the noble Baroness, Lady Hamwee and the noble Lord, Lord Rosser. It is important that mental health is included in reference to collaboration because those people are at the sharp end of the inverse care law when it is not. I am concerned and would like to know more about the Government's intentions in this regard. I support the amendment.

Baroness Chisholm of Owlpen (Con): My Lords, I am grateful to the noble Lord, Lord Rosser, for explaining the rationale for this amendment. I feel sure he would agree with me that we are already seeing how much of a difference the concordat is making in developing and improving the response to people who experience a mental health crisis. This includes improving the accessibility of local preventive mental health services and reducing the number of times a police cell is used as a place of safety for a person detained under the Mental Health Act. As the noble Lord, Lord Rosser, stated, we shall have an opportunity to debate that issue further when we reach Chapter 4 of Part 4 of the Bill.

These are important developments that should be supported and encouraged, and I recognise the noble Lord's intentions in proposing such a requirement. However, we must also recognise that the strength of the concordat is the flexibility that comes from it being—here is the nub—a local voluntary agreement. This means that all local partners who can make a difference can be involved, which will vary from area to area, and enables every local concordat partnership to agree actions that make sense in its area.

I will give some examples of how it is working. In Greater Manchester, local concordat partners have worked with the charity Self Help to create three places of calm where people with mental health concerns can go at unsociable hours and receive the support that will hopefully avert a crisis. In Sussex, which sees

the emergency services respond to a particularly high volume of crisis incidents, the partners are working directly together in street triage schemes in most of the main towns. The triage approach has saved lives, notably at Beachy Head, where, as we know, a lot of suicides have been recorded. In the West Midlands, the police, ambulance and mental health trust share details of people who frequently call them in distress and jointly review the care being offered to them. In many cases these people are now following a constructive care plan instead of phoning in at least four times a day.

As the concordat is a voluntary agreement and does not, as such, impose specific duties on its signatories, we believe that this amendment is misconceived in suggesting otherwise. I would also question the appropriateness of singling out mental health crisis care in the Bill to the exclusion of other areas where collaboration agreements could lead to improved efficiency and effectiveness in the delivery of front-line services.

Our local emergency services are acutely aware of the need to appropriately and compassionately respond to those in mental health crisis. I have already pointed to a number of excellent examples of collaboration between emergency services. The provisions in the Bill will encourage and support further such collaboration, and although the noble Lord is right to flag this as an important area where local agencies need to work better together, I am not persuaded that adding this amendment to the Bill helps to secure such an outcome.

Lord Harris of Haringey: The noble Baroness keeps talking about the strength of the concordat, and I do not think any of us disagrees about its importance and potential value. However, she will be aware of figures that have been released by the National Police Chiefs Council, which show that in the last year the police use of Section 136 has increased by almost 20%. Earlier in her remarks, she cited the improvements in Greater Manchester, where the use of Section 136 increased by 2.3 times in the last year. Where exactly is this improvement that she describes happening? Given that there are perhaps some problems with the delivery of the concordat—probably more in the availability of mental health services than necessarily in the response of the emergency services—is that why the Government are so reluctant to see the concordat mentioned in the Bill?

Baroness Chisholm of Owlpen: No, that is not the reason. As I was saying, the strength of the concordat, which is making real changes in many places to services at the local level, is the flexibility that comes from it being a local voluntary agreement. That is its main strength: it means that all local partners who can make a difference can be involved, rather than having an inflexible list of partners set out in law. Similarly, this enables every local concordat partnership to agree actions that make sense in its area.

Lord Harris of Haringey: The noble Baroness seems to miss the point. If the concordat is working so well, why has the police use of Section 136 increased by 20% in the last 12 months? Why has it increased by 2.3 times in Greater Manchester?

Baroness Chisholm of Owlpen: I cannot answer that. We have to give these agreements time to work; a lot of them are quite newly put together, and it may well be that it has not been worked out where they need specific people to deal with the problems that are happening. On the whole, where they are working, they are working well. They have led to collaboration between the police and all the emergency services, such as the health service, to come together to find where they need extra help in the areas where they have problems.

Lord Adebowale: I understand the point that the Minister is making but I wonder whether she might comment on this question: in areas where such concordats do not exist, are the Government willing to accept that those with mental health challenges will receive a poorer service? Do they accept that if you happen to live in an area where the voluntary agreements have not come together, you get a poor service? If the concordat is doing as well as she states, why should it not be in the Bill so that everyone can benefit?

Baroness Chisholm of Owlpen: I am not suggesting that where there is no concordat, people are not receiving good help. The whole point is that you do not have to have a concordat; it is voluntary. That is the strength of it. It is not always necessary to intervene in everything. People should be allowed the flexibility to organise their arrangements as they feel fit for their area.

Lord Harris of Haringey: In her earlier remarks, the Minister specifically referred to Greater Manchester. There, the number of Section 136 cases has increased by nearly two and half times in the last year. If the example that she cited of the concordat working well has delivered an increase of 2.3 times in the number of Section 136 referrals, what does that imply constitutes doing badly or failing to work at all?

Baroness Chisholm of Owlpen: I am sure the noble Lord is correct that the use of Section 136 has gone up in the 2015-16 data, but perhaps that is not necessarily a negative. It could be that it reflects better understanding between the police and their partners of what is happening. From statistics that I have, the use of police cells as a place of safety is down by 50%, so that must show that something is working well somewhere. I invite the noble Lord to withdraw his amendment.

Lord Rosser: I thank the Minister for her response, and I thank noble Lords who have contributed to this debate. I say before I go any further that I will of course withdraw my amendment. I accept that in later clauses we will undoubtedly have a much fuller debate on the police, the provisions of the Mental Health Act 1983 and the changes proposed in the Bill.

I have to say I am slightly disappointed with the response. It did not seem to me that the amendment I moved sought in any way to alter the terms of the concordat or indeed to fix what those terms should be. I accept that the concordat is a voluntary local agreement but, as I understand it, so will be most of the collaboration agreements that we have been talking about, and in

[LORD ROSSER]
that sense they will be on a statutory footing. All my amendment asked was that, in considering effectiveness and efficiency, the impact on the effectiveness and efficiency with which the emergency service is able to meet its duties under the mental health crisis concordat should also be taken into account. I do not intend to push the matter further at this stage; there will be an opportunity for a further and, I am sure, much longer discussion of these issues later.

My final point is that I said that I understood that on 22 March, the Minister referred to an inter-ministerial group having been formed during the previous Government, with the inference that it was dealing with the kind of issues on which the amendment touches. I should be grateful, if the noble Baroness cannot answer the question about what the group is doing, has achieved and hopes to achieve—I fully understand if she cannot—if she would agree to write to me with a response.

Baroness Chisholm of Owlpen: Yes, I apologise to the noble Lord for not getting back to him on that; I will have to write to him, as I am not quite sure to what he is referring.

Lord Rosser: I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Clause 2, as amended, agreed.

Clause 3: Collaboration agreements: specific restrictions

Amendments 6 and 7 not moved.

Clause 3 agreed.

Clause 4: Collaboration agreements: supplementary

Amendment 8

Moved by ***Baroness Hamwee***

8: Clause 4, page 4, line 38, leave out "a subsequent collaboration agreement" and insert "the agreement of the parties"

5 pm

Baroness Hamwee: My Lords, Amendments 8 and 9 are short amendments relating to Clause 4(8), which provides:

"A collaboration agreement may be varied by a subsequent collaboration agreement".

I wonder why it is necessary to state that. Any agreement can be varied if the parties agree to vary it. Is it the statutory nature of a collaboration agreement that requires this provision? Our second amendment, also probing, is to ask whether the requirements that have to be met before an initial agreement can be proceeded with apply to a subsequent agreement. I assume so, but it would be useful to have that confirmed, and interesting to know if it is not confirmed. I beg to move.

Lord Hope of Craighead (CB): My Lords, I suggest that the Government might like to look favourably on Amendment 8, in particular. One should focus on the word "varied". If an agreement is varied by something else, the original agreement survives—it is simply changed a little and varied in form. Clause 4(8) refers to a collaboration agreement being varied by a "subsequent collaboration agreement". The word "varied" should really be "replaced", because you then have something different. So there is force in the noble Baroness's amendment, which is small but neat way of expressing what everyone agrees should be done. The agreement should be capable of being varied; my point is that the original agreement survives, but with a small or large change made to make it more effective. For those reasons, I support that amendment.

Baroness Chisholm of Owlpen: I thank noble Lords for taking part in this debate. I understand from the noble Baroness, Lady Hamwee, that these are probing amendments designed to tease out how collaboration may be varied. It is of course vital that collaboration agreements can be amended where appropriate to reflect local developments and to ensure the best outcomes for the public they serve. There may be a number of reasons to vary a collaboration agreement, perhaps to include a new partner to the agreement or to change participant roles and responsibilities. Clause 4(8) is simply intended to make it clear that such variations may be made. In locally agreeing to vary the terms in an existing collaboration agreement, the parties will in effect create a new or subsequent collaboration agreement. Such an agreement would be subject to all the provisions that pertain to collaboration agreements. I hope that clarification reassures the noble Baroness and that, accordingly, she will be content to withdraw her amendment.

Baroness Hamwee: I think it may have become not a probing amendment.

Lord Hope of Craighead: With great respect to the Minister, she did not address my point. One has a choice: either one varies an agreement or one replaces it with something else. The example given is a very good one of a variation, leaving the existing agreement in place. We are at a very early stage of this Bill and all I am suggesting is that the amendment might be taken away and looked at again. It is a question of the proper use of the English language, which is why I have taken the liberty of standing up and making my point.

Baroness Chisholm of Owlpen: Certainly. I feel I must bow before the noble and learned Lord's incredible intelligence in these affairs. I cannot possibly completely disagree with what he says because he is way above my intellect. Of course we can go away and look at this.

Baroness Hamwee: My Lords, that is very helpful. The noble and learned Lord makes the argument far better than I did. I will attempt to rope him in on future amendments. As I said, it became not a probing amendment in the course of that exchange. I want to make it clear that we are not at all arguing against the

variation of collaboration agreements—that would be intellectually incoherent. That is not the purpose of this. For the moment, at any rate, I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendment 9 not moved.

Clause 4 agreed.

Clause 5 agreed.

Clause 6: Provision for police and crime commissioner to be fire and rescue authority

Debate on whether Clause 6 should stand part of the Bill.

Lord Rosser: The clauses and schedule to which I will speak enable police and crime commissioners take over the functions of the fire and rescue services for their area and enable their combined authority mayor to exercise functions that are conferred on the fire and rescue service or to arrange for a chief constable to exercise fire and rescue functions.

We do not believe that the Government have made a case for their proposal, including explaining what benefits a police and crime commissioner would bring to a fire and rescue service by taking it over, as provided for in the Bill—particularly bearing in mind the extent of existing collaboration between emergency services and the future statutory requirements to be placed on such collaboration, which we have just been discussing.

What skills and expertise do police and crime commissioners have that are not possessed by fire and rescue authorities, bearing in mind that police and crime commissioners have not been on the scene all that long? How will they help the fire and rescue service cope with the new challenges it faces—dealing with an increasing number of major incidents, involving flooding, for example? What indication is there that the governance of the fire and rescue service is substandard? If that were the case, how would being taken over by the police and crime commissioner improve the position? Does the Government's proposal mean that they have decided against any further changes to the structure and governance of the police service? Does it mean that there will be no more changes to what will be covered by local police forces, what might be dealt with by the police on a regional basis and what would be regarded as matters requiring to be addressed by the police on a national basis?

We are now beginning to find out the extent of cybercrime, which does not recognise local police force boundaries. Neither do serious organised crime or the threat of terrorism. Are the Government now saying that the present structure of our police service and the number of separate forces and police and crime commissioners are here to stay, and that that structure is equally relevant and applicable to the organisation and governance of our fire and rescue service, both now and in the future? As the noble Baroness, Lady Scott, has already said, the Dorset and Wiltshire fire and rescue services have recently merged, but there are still separate Wiltshire and Dorset police forces, each with its own police and crime commissioner. That does not seem to fit very well with the direction in which the Government want to go.

The consultation exercise that preceded the Bill neither addressed nor answered the questions I am raising, any more than it sought to make the case for the changes in the Bill related to the role of police and crime commissioners in respect of the fire and rescue service. Neither did it show any apparent interest in the views of those with specialist knowledge and experience on the substance of the proposals. Instead, it set out a process by which a police and crime commissioner could take over responsibility for a fire and rescue service and then asked consultees what they thought of the process. It did not ask what consultees thought of the proposals themselves and whether, for example, they felt that they would enhance public safety or lead to better governance. It was an inadequate consultation, under which the Government did not make their case for the major change now being proposed or permit people to express their views, supportive or otherwise, of that case.

That was despite the then Home Secretary, in a speech in May of this year, extolling, quite rightly, the achievements of the fire and rescue service in recent years, and saying that,

"what is striking about those achievements is that they were achieved not by change imposed from above, but by reform driven from below"—

yet the Government are now seeking to impose change on the fire and rescue services from above through this Bill. The then Home Secretary went on to say that,

"unlike in policing, fire and rescue services seized the need for change at a local level and reformed themselves from the ground up",

with,

"wholesale change in the culture and priorities of fire and rescue services, marshalled not by Whitehall but by chiefs and authorities themselves".

Mrs May, since that is who it was, continued by saying that,

"working in partnership with other local services and using data more systematically, fire and rescue services have developed a deep understanding of the needs and the risks of the communities they serve … By understanding these risks, fire and rescue services have been able to better manage them—saving countless lives as a result".

Now the Government, under Mrs May, want to put the fire and rescue service, whose virtues she was highlighting so recently, under police and crime commissioners, who have their hands full and could scarcely yet be said to be tried and tested, and also chief constables, whose knowledge and experience of managing fire and rescue services is hardly likely to be their key strength. The Knight review into the future of the fire service recommended that transferring control to the police and crime commissioner should be attempted only if a rigorous pilot could identify tangible benefits. That not unimportant recommendation appears to have been ignored by the Government.

The Government's impact assessment accompanying the Bill is a threadbare affair at best. The only rationale offered for this transfer of control and responsibility

[LORD ROSSER]
for the fire and rescue service to police and crime commissioners is the Government's unsubstantiated belief that there needs to be greater collaboration between the emergency services—a collaboration that we have already discussed, which as I understand it the Government are saying would be on a voluntary basis. That does not seem to square with what is now being proposed in relation to the police and crime commissioners and fire and rescue services.

5.15 pm

I should think that few think otherwise than that increased collaboration is desirable, but the Government have not provided any reason why it is more likely to occur under police and crime commissioners than it is under existing collaboration agreements or future statutory requirements on collaboration in the Bill. Nor is there any analysis of any current barriers to collaboration or of the risks of the change proposed in the Bill. The most significant risk is that fire and rescue, with its much smaller budgets and media attention than policing, will become the service of secondary concern under its new police-oriented management and governance structure and suffer from what has been described as benign neglect.

Another risk is that since the fire and rescue service will be geared to the police force structure and the structure of police and crime commissioners, mergers between fire services will become more difficult. I have already mentioned the recent merger of the Wiltshire and Dorset fire services. The 2007 merger of Devon and Somerset fire services increased resilience and delivered savings. How many potential mergers between the fire services will not even be considered as a result of police and crime commissioners taking over responsibility for the service and the need for co-terminosity? Other potential risks have been highlighted, including the potential complexity of moving to the single employer model and the amount of time and potential cost of bringing together personnel with very different roles and conditions of employment.

The reality, too, is that fire and rescue services work more closely with the ambulance service, particularly in emergency situations, than they do with the police. The consultation made no attempt to address the impact on existing or future arrangements if fire and rescue services were in effect going to become a combined force with the police. Neither was any attempt made to assess the impact of being seen as combined with the police on the perception that the public have of the fire and rescue service as a humanitarian service as opposed to the police with their law enforcement role. Much of the work of the fire and rescue service is now preventive, which involves visiting buildings and talking to people, including in their homes. Will a close tie-up with the police and a possible view, rightly or wrongly, that there may be an increased exchange of information, make that role more difficult? These are risks that the Government did not want their consultation to include and, consequently, have never been addressed or answered properly by the Government, since they have never set out their case and the hard evidence to support it, to justify the need for the proposed change in responsibility for the fire and rescue services, which would involve bringing them under the control of police and crime commissioners—almost certainly, in most cases, chief constables.

I hope that proposing that these clauses should not stand part will at least provoke debate this evening on the justification for the proposal that the Government have made in relation to police and crime commissioners and their future role in respect of fire and rescue services, and that we may begin to hear from the Government their hard evidence that it will lead to improvements in effectiveness or efficiency or improving public safety. Up to now, there has been something of a silence on that issue.

This is the opportunity for the Government to make their case. I am certainly more than willing to sit here this evening and listen to what that case is. Bearing in mind the priority that the Government—perhaps not incorrectly—wish to put on increasing collaboration between the emergency services, on which a number of Members of this House have already spoken quite glowingly, would it not be better, in fact, to see the extent to which the clauses in this Bill that seek to promote further collaboration actually work, before deciding to include an unproven measure in the Bill for which no case has been made, which goes contrary to the view that there should be greater collaboration and appears, on the face of it, to impose quite a lot of compulsion in relation to the future of our fire and rescue services?

Baroness Scott of Bybrook: My Lords, as the noble Lord, Lord Rosser, has mentioned Wiltshire and Dorset fire authority, I should make it clear to the House that the joining up of those two fire authorities was made under the previous coalition Government, not this Government. A different view has been taken by this Government on this Bill. That is why I asked the Minister whether we could decouple them. The most important thing for the community—I am talking about Wiltshire, not Dorset or any other authority area—is how we can maximise the effectiveness and efficiency of our blue-light services over a particular geographic area. I do not mind who runs them, I just want the services that local people want to be efficient and effective and to be delivered together.

We cannot get away from the fact that, for any road traffic accident, ambulance, police and fire services will all attend. Can we do things better and can we be more effective or more efficient? When we have floods, for example, all three services are probably going to be at a particular place at the same time—along with, I have to say, the local authority and emergency planning. It is not a matter of how we govern a service but how we make it more effective for people and more efficiently delivered.

Lord Paddick (LD): My Lords, I rise to support, to some extent, the remarks of the noble Lord, Lord Rosser. Police and crime commissioners have an extremely complex and wide-ranging job to do as it is. It is not simply overseeing the police service and arranging for its funding, it is also working with other agencies to ensure that crime is reduced in their local area. It is an

extremely large and complex operation. To add to that at this early stage in the evolution of the role of the police and crime commissioner could throw the progress that has been made to date off course.

There are of course situations where the police, fire service and ambulance service work together, such as floods or road traffic accidents, but there are distinct areas where the police operate alone, such as law enforcement. There is a very serious and important role that the police and the police and crime commissioner perform in crime reduction, crime detection and prosecution of offenders that does not involve the fire or ambulance service in any way. Indeed, we have seen that when there has been spontaneous public disorder on the streets of the UK, there is a very different approach towards the police and, say, the fire brigade and ambulance service—there is a lot more hostility towards the police. Any merging, or unnecessary merging, of those organisations —creating confusion in the public's minds—could create more problems than perhaps the Government have hitherto considered.

One has only to read the Bill to see the enormously complex changes in legislation that will be required if police and crime commissioners take over fire and rescue services, particularly if the employees of the fire and rescue service become employees of the police and crime commissioner, or even of the chief constable.

I can see enormous benefit from greater co-operation between emergency services, but an enormous administrative nightmare from going that one further step of allowing police and crime commissioners to take over the running of fire and rescue services. I agree with the noble Lord, Lord Rosser, that the Government, as far as I can see, have not made out a compelling case to show that the advantages will overcome the enormous bureaucratic, administrative and legislative problems created by police and crime commissioners taking over fire and rescue services.

Lord Bach: My Lords, I agree very much with what my noble friend Lord Rosser said on Clause 6. However, I also agree very much with what the noble Lord, Lord Paddick, said about the role of a police and crime commissioner. That job involves a large amount of full-time work right from the start, but I would say that, wouldn't I? The noble Lord mentioned a police and crime commissioner being the bridge between the police and the public in the area in which he or she is elected. Every new police and crime commissioner and, I suspect, those who were re-elected, has to produce a police and crime plan by 31 March next year. That is a formidable undertaking, certainly for the likes of me. Already, a large part of my life is spent trying to work out what I will put in the plan and, perhaps more importantly, what I will not.

In addition, as the noble Lord, Lord Paddick, hinted, partnerships have to be formed—these are very important in a police and crime commissioner's work—and commissioning has to be carried out to make sure that the limited but important amount of resource that a police and crime commissioner is given under the 2011 Act is used for the general activity of preventing crime and making communities safe. All the while, of course, there is an obligation to look, as a critical friend, at the police force with which they are connected. As far as I am concerned, that is a pretty full-time job. Perhaps I have been lucky in my life, in that that seems an extremely hard-working role.

I do not think there is anything wrong with amalgamating services, if a community wants that. I know the Minister will argue in due course that this is a voluntary step. I will come back to that in a moment. Following our earlier discussion on collaboration, this measure does not fit terribly well with the best collaborative work, which is voluntary, bottom-up, happens, works or does not work and is experimented with. The scheme will look to many people as one that is effectively being imposed.

5.30 pm

One of my concerns, which my noble friend Lord Rosser referred to, is what happens if there is another bout of public expenditure cuts. That is quite possible, either shortly or at some time in the next few years. There will be difficulties and choices imposed on a police and crime commissioner, who, after all, has been elected as a PCC and nothing else. In real life there will be a choice between the police service—the chief constable will say, "We have taken a huge hit already; do you really want crime to go up in our area?" —and a popular fire and rescue service. But one is tiny in comparison with the other and has already felt public spending cuts, yet the PCC will be obliged to make cuts to it if they do not make cuts to the police. That is not a fair choice to put on police and crime commissioners, unless they want to take that decision. Very difficult choices will have to be imposed on sitting police and crime commissioners.

I hope I know by now how Governments behave. It is a relief that the legislation will not include the mandatory making of an amalgamation. However, I am concerned about the pressure that will be put on police and crime commissioners to go down this path once the Bill becomes an Act of Parliament, and I will be interested to hear what the Minister says about this. They may find that there are various hints and suggestions—and maybe more than that—that this is what the Government want, and will get. This is not a party-political point. Police and crime commissioners will be forced, one way or another, to go down this path. I very much hope that that is not the intention or the plan, or something that will develop after the Bill becomes law. There is a danger that PCCs who do not want to go down this avenue will be forced to do so by government action—or non-action. I think the Committee knows what I am talking about with regard to pressure.

I remind the Committee and, with great respect, the Minister, that, after all, it was the present Prime Minister who introduced the legislation that resulted in the emergence of police and crime commissioners, who were to be and have been directly elected. Even on the basis of small turnouts, that has to give them some authority to make decisions that they feel are right. I repeat: they are elected as police and crime commissioners; they are not elected as anything to do with the fire and rescue services as such. Therefore, I hope the Government will respect the independence of police and crime commissioners, who are of all parties and none. I am afraid that legislation such as this gives cause for

[LORD BACH]
concern that, on the one hand, the Government say they are in favour of police and crime commissioners being independent elected authorities, but on the other they will put pressure on them to do what central government wants. We do not want to find ourselves in that position. I finish with this comment: I do not want to become a fire and rescue authority.

Lord Harris of Haringey: My Lords, the speech from my noble friend Lord Bach underlines the perils the Government are going through with these clauses. I hope I am not being unfair to the Government when I characterise the first five clauses of the Bill as a sort of machismo exercise in saying, "Despite the fact that we can't find a problem, we're going to have a thundering great piece of legislation which places a statutory duty on people to do things that they do already".

Then you move into the next chapter of the Bill, whose clauses say, "We'd really like to do something here but we're a little scared of the consequences"—all the speeches in the debate so far have highlighted the difficulties and complexities—"so, although we'll appear a little tentative, we are going to make it voluntary". The reality is that the Government are being incredibly cautious here and not really saying what they want. Precisely as my noble friend Lord Bach suggested, they want this to happen, I suspect: they want directly elected police and crime commissioners for areas to take over responsibility for fire.

There might be a case for doing that, but not if it will cause immense difficulties and will work in only a comparatively small part of the country. The noble Baroness, Lady Scott, highlighted the problems with co-terminosity. The Minister took through this House the devolution Bill that has created yet more problems in the relationship between the new directly elected mayors and police and crime commissioners in their areas—and presumably between them and fire services in their areas. Of course, we do not know whether the re-formed Government are still in favour of the old agenda of directly elected mayors, and if so how much, but it was a further piecemeal change—a further complexity—so far as co-terminosity was concerned. We also know that the Government have been timid on the fact that some police forces around the country are too small to deliver the full range of policing services—that the Government are not prepared to embrace directly the need for mergers.

We have a Government who would like to see something happen, but are too frightened to bring forward proposals of sufficient scale to merit the disruption and complications to which other Members of the Committee have already referred. If the Government were serious about saying, "We want to bring a number of the emergency services together under a directly elected commissioner of some sort", you would start to ask what the rational size around the country was for the delivery of emergency services. What is the scale? With all due respect to my noble friend, it is not Leicester, Leicestershire and Rutland. It might be larger if you were talking about all the emergency services put together. You certainly would not end up with 41 police services outside London and, for some reason, two in London. Similarly, you would not end up with the same network of fire services; again, there have already been some piecemeal changes. You would try to achieve co-terminosity. You might end up with eight or 10 regional emergency services commissioners; you could tie in the ambulance service, although that would no doubt bring a huge backlash from the health interests, which would say that it was all much too complicated. You might also look at the whole question of how the criminal justice system worked in a particular area.

If you really want to have radical change and transform things, that is the direction you would look in. However, these proposals fail by being both too half-hearted and not thought-out. It is the worst of all possible worlds. I am sure that it is not the Minister's fault; the decision has been taken elsewhere as part of a grand strategic vision—but frankly it is not really a vision and it is not really strategic. It says, "There might be an answer by bringing police and fire together, but because it's all a bit difficult we are not going to enforce it; we will encourage it and make it voluntary". I suspect that, as my noble friend suggested, it will become more and more difficult not to do something in this area because of financial pressures. It will be piecemeal and chaotic, and the disruption will not deliver the benefits that no doubt some in the Government think are there.

Will the Minister go back to the new Home Secretary and explain that the Lords have a lot of problems with these clauses? Will she suggest that the Government take them away, think about them again and come back with something that has been truly thought through? They could deal with the problems of co-terminosity, which her noble friends have raised, and look at the most sensible synergies between all the emergency services and with the rest of the criminal justice system. They could then bring back to Parliament some sensible proposals that address all those issues. Frankly, these clauses do not do it.

Lord Porter of Spalding (Con): My Lords, I shall speak briefly to the remarks of the noble Lord, Lord Harris, about the elected mayor. There is no confusion about that: the Secretary of State made it quite clear in a public statement last week that the 11 deals on the table would not be renegotiated and that the mayor was a mandatory requirement. The noble Lord sitting behind the noble Lord, Lord Harris, will be aware that the north-east deal fell over last week because they would not agree on a mayor; five of the authorities would not agree and that deal was rejected by the Government. They have made it quite clear that a mayor is mandatory for those devolution deals. It would be unhelpful for this House to spread any more confusion about that.

Lord Beecham (Lab): My Lords, I endorse the approach that my noble friend Lord Harris has advanced. Equally, I was very taken with the argument of my noble friend Lord Rosser in questioning why, for example, the ambulance service was not regarded as a likelier partner for the police service in any reorganisation. It seems to me that, if one has to do this—and that is

another question—it would make more sense than amalgamating the two rather more discrete services of fire and police.

That is not to say that, in any circumstances, whether there is any reorganisation or not, there might not be some financial savings to be made by looking at the joint running of the back offices for all three of those services. It seems to me that that is potentially practical without changing the nature or accountability for the service. It would be a sensible investment in making savings, which can of course then support the services.

It seems odd that, despite suggestions that one should take place, there has been no consideration by the Government of a trial amalgamation, whether it be as envisaged in this Bill, a potential wider amalgamation involving all three services, or an alternative approach involving the fire and ambulance services. Will the Minister indicate whether there has been any discussion about the possibility of such a trial between two or more of the relevant services?

There is a real concern about the further concentration of powers in a single pair of hands—although it is potentially two pairs of hands in this case. You will have a chief officer of a combined authority, who will have overall responsibility for the two services as envisaged in the Bill. You may also have, in a mayoral combined authority, the role of the police and crime commissioner, which will bring with it that combined service, in the hands of the elected mayor. The mayor already has enormous powers under the devolution proposals as they are proceeding in the 11 authorities to which the noble Lord, Lord Porter, referred. It is questionable, to put it mildly, whether it is sensible to concentrate so much power on issues of this kind, as well as everything else, in the hands of an elected mayor. I should refer to my local government interests, which obviously have some bearing on the approach that I take in these matters.

5.45 pm

There is clearly concern, which has already been voiced, about the pressures on the budget and the fears of other services that to protect the hugely stretched police service, resources will be diverted from other services. That would happen within the combined authority in any event and potentially of course, under this new proposal, which would set up an individual elected person in those areas with substantial powers. Has the Minister received expressions of interest from local authorities and separate police and fire authorities in adopting the concept that the Government propose in the Bill? To what extent is there a welcoming attitude, and what kind of authorities are we talking about? Is it something that is being looked at favourably within the mayoral combined authorities that got their devolution deals and/or other existing authorities in areas without the mayoral structure—they may be combined authorities but without the mayoral structure? Are they interested? Are there any other organisations of local authorities that have indicated an interest in this?

The Government seem to be embarking on a remarkable process, as my noble friend Lord Harris pointed out. They seem to have in mind leaving it open to people to bid for this new status and then to see the thing gradually evolve, when the services are under such acute and growing pressure from all kinds of things, including, as has already been mentioned, the elements in places where rescue services are involved.

Have the Government consulted fully with the relevant organisations representing the services at chief officer and ordinary officer levels, such as the relevant trade unions as well as the chiefs who operate the services? Have the Government concluded that any potential financial savings will be produced by the proposed amalgamations? On what basis have they been calculated? Are they different, for example, in areas with combined authorities as opposed to those where there are existing county or multiple-county level services across an area without a combined authority structure? It would be interesting to see if those figures are correct.

There is so much here that is untested and unanswered. It would be a mistake simply to write a blank cheque by supporting the proposals in the Bill. One fears that once that is done, incrementally a process will develop under which, increasingly, authorities will be leaned on to adopt the proposals contained in this Bill without really having any sensible opportunity to monitor progress on the ground, as and when authorities come together or the elected mayor as police and crime commissioner assumes the responsibility. It is uncharted territory and given the importance of that territory to life, limb and safety, it is risky to embark on the course that the Bill lays out. I hope very much that the Government will respond to the points made by my noble friends Lord Rosser and Lord Harris. My noble friend Lord Harris in particular has great experience in these matters and has a voice that the Government should take very seriously.

Baroness Williams of Trafford: I thank noble Lords who spoke so articulately to this group of amendments, particularly the noble Lord, Lord Bach, who is the only PCC in both Houses of Parliament. To hear his experience is incredibly helpful. My noble friend Lady Scott also articulated very well some of what I will say. I think we know how Leicestershire and Rutland will proceed in due course.

On what the noble Lord, Lord Harris, calls "timidity", the Government came into office with a clear manifesto commitment to,

"enable fire and police services to work more closely together and develop the role of our elected and accountable Police and Crime Commissioners".

If the Government had been dictatorial and autocratic in what they expected, I am sure there would be a lot more complaints in both Houses. The provisions in Part 1, including those in Clauses 6 and 8 and in Schedule 1, give legislative effect to that commitment. Noble Lords have a proper role to play in scrutinising the details of the Government's proposals.

Lord Harris of Haringey: I hesitate to intervene so early in the Minister's response, but she referred to the Conservative Party manifesto. I assume she quoted from it. The quote she gave was about improving collaboration, which is covered by Chapter 1 of the Bill. The second part was about strengthening the role

[LORD HARRIS OF HARINGEY]
of police and crime commissioners. I do not think it said strengthening the role of police and crime commissioners specifically in terms of the fire service.

Baroness Williams of Trafford: My Lords, the quote, "enable fire and police services to work more closely together", is captured—

Lord Harris of Haringey: In Chapter 1.

Baroness Williams of Trafford: If I could make some progress, I am sure the noble Lord will come back to me if he feels he needs to.

As the noble Lord said, the provisions in Part 1 give legislative effect to that commitment. Noble Lords will have ample opportunity to scrutinise the details of the Government's proposals and to put forward amendments to them, but I am a bit disappointed that the noble Lord, Lord Rosser, now seeks to strike out the key provisions in their entirety.

There are clear benefits to fostering greater joint working between the blue-light services, from better managing the changing nature of demand for services to providing greater value for money for taxpayers' money in the interests of local people. While there are many excellent examples of collaboration between the emergency services across the country, which I talked about earlier—I draw the Committee's attention to the excellent overview of such collaboration published by the Emergency Services Collaboration Working Group—it is clear that there is still more that can be done to secure smarter working, as I said. Collaboration is still patchy. We would like to make a more consistent service across the country.

The noble Lords, Lord Harris and Lord Beecham, talked about pilot schemes and trials. As I said, there is already substantial evidence to show that collaboration can work. The measures are locally enabling to reflect the Government's view that local areas are best placed to determine the type of collaboration, but the provisions will in effect, by their very nature, be piloted as some areas will go first. A number of PCCs, such as Essex PCC, have already actively worked with their local fire and rescue services to develop a local business case.

Lord Beecham: Could the noble Baroness clarify what that means for responsibility for that service? Is it a collaboration between two services, or is she proposing that a single person should ultimately have responsibility for both services?

Baroness Williams of Trafford: It is about a single person having responsibility for both services. By their very nature, some will go before others and some are more advanced in working up their business cases. The public consultation that the noble Lord asked about took place over a period of about six weeks, I understand. People had an opportunity to respond.

The noble Lord also asked whether I had had any individual representation. I certainly have from Greater Manchester, which will not surprise him. I probably have not been in post long enough for my mailbag to start filling up with people's views. I suspect that the Fire Minister, Brandon Lewis, may have had rather more.

To go back to what I was saying, Sir Ken Knight, whom noble Lords have mentioned, carried out an efficiency review of the fire and rescue service back in 2013. He concluded that opportunities to foster innovation and joint working were "hindered by local relationships" —of course, things can be vastly enhanced by local relationships in parts—and that greater leadership was required to overcome barriers to collaboration. He concluded that police and crime commissioners are well placed to provide that leadership and could clarify accountability to the public.

Taken together, Clause 6 and Schedule 1 enable a PCC to take on responsibility for the fire and rescue service in his or her local area. The Government believe that the directly accountable leadership of PCCs can play a critical role in securing better commissioning and delivery of emergency services at a local level. By overseeing both services, they can maximise the opportunities for innovative collaboration between policing and fire services, and ensure that best practice is shared.

As noble Lords have alluded to, we are introducing two models for PCC governance of fire and rescue services. The first, the "governance" model, will enable the PCC to take on responsibility for fire and rescue services in their area. In this model, the two distinct organisations will remain, with a chief constable in charge of the police force and a chief fire officer continuing to have operational responsibility for the fire and rescue service.

As a further step, a PCC could put in place the "single employer" model, under which the PCC would appoint a single chief officer, who would employ both police and fire personnel. This approach will remove the barriers that can prevent the full potential of fire and police collaboration, including the need to draw up contracts and collaboration agreements. This model will also enable upper tiers of management to be streamlined, with a single chief officer at its head. To ensure consistency, Clause 8 applies the single employer model to combined authority mayors to enable mayors with both policing and fire functions to secure the same benefits of closer alignment of policing and fire as their PCC counterparts.

I stress that the provisions in Schedule 1, providing for PCCs to take on the functions of fire and rescue authorities, are locally enabling. I hope this gives the noble Lord, Lord Bach, comfort. I stress that the Government are not mandating the transfer of these functions to PCCs. We know that a one-size-fits-all approach would clearly be inappropriate and it should be up to local communities to have a say in how their services are provided. Rather, PCCs will be able to take on responsibility for fire and rescue only where a strong local case is made that it is in the best interests of either efficiency, economy and effectiveness on the one hand, or public safety on the other, for the transfer to take place. They would be required to consult locally on that case.

If the PCC does not have local agreement to their proposal but still wishes to proceed with their case, the Home Secretary will be required to seek an independent

assessment of the PCC's business case and consider it and the representations made by the relevant local authorities before taking the decision whether to give effect to the proposal. This will be a robust process that ensures local concerns are fully taken into account and provides for independent verification of the merits of the case.

It is also important to be clear—the noble Lord, Lord Paddick, asked about this—that under these reforms, local police forces and fire and rescue services would remain distinct front-line services, albeit supported by increasingly integrated back-office and support services. It is not an operational merger. The important distinction between operational policing and firefighting will be maintained, with the law preventing a warranted police officer being a firefighter remaining in place. There is no intention to give firefighters the power of arrest or other core powers of a constable.

6 pm

It is important to say that we do not support compulsory force mergers, which would reduce rather than increase the quality of neighbourhood policing and distance police forces from the communities they serve. We will consider requests for voluntary mergers only where they are supported by the robust business case I talked about and have community consent. I hope that gives comfort on one point.

Neither will the brand identity of fire and rescue be eroded. The fire and rescue authority will remain a distinct legal entity and neither of the proposed models will enable fire funding to be spent on policing or vice versa. I know this issue is of particular concern to the noble Lords, Lord Rosser and Lord Bach, and the noble Lord, Lord Paddick mentioned it as well. I reassure them and the whole Committee that there will continue to be separate funding streams from central government and separate precepts for fire and policing, and the money spent on each service will need to be accounted for separately.

The noble Lord, Lord Bach, mentioned this to me this morning but also asked in Committee today what would happen if, for example, public service expenditure were cut or, indeed, increased. Would police budgets be able to be vired over to fire budgets or vice versa? Would one service become the Cinderella service? Under this mechanism, that could not happen because the two budgets are entirely separate. I stress that point. However, where the two services share, for example, the same headquarters or back-office functions, the cost would need to be apportioned between the relevant budgets appropriately. I hope that provides clarity on that point.

The provisions in Clause 6, Clause 8 and Schedule 1 form a central part of the overall package of reforms aimed at driving greater collaboration between local emergency services and developing the role of PCCs. By all means let us have a debate about the detail of these provisions, and I am open to suggestions about how they might be improved, but I would invite the Committee to agree that they stand part of the Bill.

Coming to some of the questions asked, the noble Lord, Lord Paddick, was concerned that it is too early in the evolution of PCCs to do this. As recognised by the Home Affairs Select Committee in its 2014 report, individual PCCs provide greater clarity of leadership for policing in their areas and are increasingly recognised for the strategic direction they provide. Indeed, the quality of PCCs is to be commended. We have some very good people. The noble Lord, Lord Bach, was not listening when I said that but I was praising him. I think noble Lords would agree that since PCCs came into post, public accountability is much sharper in that members of the public are dealing with one person, whose profile seems greater than that of the old police authorities.

The noble Lord, Lord Rosser, talked about this being too much for one person. I understand that the Official Opposition support the creation of the combined authority mayor in Greater Manchester. That mayor will have responsibility for both police and fire, and strongly supports this. If the principle of one directly elected person overseeing both services is acceptable in Greater Manchester, why could it not be accepted elsewhere in England?

The other point that the noble Lord, Lord Bach, expressed concern about is that the Government could slowly put pressure on PCCs to take on the governance of their local fire and rescue service. He made clear his views about that, but it is not the case. PCCs are elected by the public and are therefore directly accountable to them, not the Government. While the Government wish to see deeper collaboration, we recognise that it is best left to local leaders to decide what is best for their areas. With those points, unless there are any other concerns noble Lords would like to bring up, I ask them to support these clauses standing part of the Bill.

Lord Rosser: I have one or two points. Bearing in mind that this is not necessarily about a clause standing part, I am not sure I am in the position of being invited to say whether I am withdrawing something.

However, in response to the argument about having a pilot exercise first, the noble Baroness said that in effect there will be a pilot exercise because inevitably one or two PCCs may want to go down that particular road. The inference was that we will then be able to assess from what happens how well it works. Does that mean that the Government are saying that if, for example, one or two PCCs decide they want to go down this road and that is approved by the Home Secretary, there will then be a period to see whether the PCC with responsibility for the fire and rescue services actually achieves what the Government say it will before there are any further transfers of responsibility for a fire and rescue service to a police and crime commissioner?

In that context, the Minister pointed out that there will be two distinct organisational models. Would that mean that we will await the outcome of the first transfer of responsibility of a fire and rescue service to a PCC under both those organisational models, with a sufficient period to evaluate how well it worked, before there were any further moves? I am not entirely convinced by the Government's argument that in reality there will be a pilot unless the Minister can give me an assurance that there will be a gap after the first one or two go over to see how well this works and for it to be properly evaluated. That is my first question in response to what the noble Baroness said on behalf of the Government.

[Lord Rosser]

She then spoke about the provision in the Bill for a PCC to make an application to take over responsibility for the fire and rescue services and said that there would be consultation. Will there at that time also be consultation on alternative ways to improve efficiency or effectiveness, for example through greater collaboration, or will the only option on the table be the proposal from the police and crime commissioner, with no discussion or consultation on whether there is a better way to achieve what the Government say will be achieved by a police and crime commissioner taking over responsibility for a fire and rescue service? It would be helpful if the noble Baroness gave a response to those two particular points.

Finally, I asked in my contribution whether the fact that the Government say that police and crime commissioners should be able to take over responsibility for fire and rescue services meant that they were also saying that the structures of the two organisations—fire and rescue, and the police and crime commissioners and police forces—would effectively remain the same? The point has been made that they are not already co-terminous in all cases. The inference of the Government's intention to seek to go down the road of PCCs having responsibility for fire and rescue services is that they deem the best organisational and governance structure for fire and rescue services to be, in effect, the same as that for police forces and the police service, and that that is the longer-term intention of the Government: to leave things basically as they are as far as the structure of the police service is concerned. Is that what the Government are saying?

Baroness Williams of Trafford: My Lords, I talked about the provisions in effect being piloted as some areas will go first. Not every area will move at the same pace, so clearly it will be a matter for local determination. Some PCCs might come forward with proposals in 2017 and others in 2018. The Bill will also be subject to post-legislative review in the normal way. Consulting on the proposals is—

Lord Harris of Haringey: On the question of pilots, the Home Office has no doubt given careful consideration to what has been in essence a 16-year pilot, in that since the office of the Mayor of London was created in 2000, the mayor has had responsibility for both police and fire. Although the mayoralty of London has been an enormous success, as everybody around the world acknowledges, can the Minister tell us what administrative or back-office savings have been delivered as a result of a single elected person having responsibility for both services in that intervening period? Having some degree of knowledge about that, I am not sure that there have been an awful lot.

Baroness Williams of Trafford: Being of Haringey, the noble Lord probably has a far better idea of what efficiency savings have been achieved over those years. It is funny that he said that the mayoralty of London has been such a great success. It has been, but there was huge scepticism about it among many people and across parties when it began. I made the point about the noble Lord, Lord Bach, because, as time goes on, people are seeing the merit of having very accountable leadership at the top of organisations.

I return to the point on consultation. The Government have already consulted on their proposals for emergency service collaboration and that consultation informed the development of the clauses in the Bill. PCCs will undertake further local consultation on their business case, which brings me back to the question asked by the noble Lord, Lord Rosser, about the alternatives. Clearly, things evolve locally and change over time, but I do not think that they will be consulting on alternative proposals.

Lord Rosser: Does the Minister not think that that would be desirable? A proposal by a PCC who sought to take over responsibility for fire and rescue services would, to state the obvious, involve collaboration between those two services. But as we have heard today from a number of noble Lords, there are already many examples of effective collaboration that go way beyond simply the police service and the fire service. If a PCC has a desire to take over responsibility for a fire and rescue service, surely it is legitimate to raise the question of whether more and better collaboration would not be achieved through other means. The greater collaboration provided for in the first part of the Bill, which we have already discussed, would potentially go over a much wider range of services, authorities and organisations than simply between the police and the fire service.

Baroness Williams of Trafford: My Lords, there is no barrier to wider collaboration. I keep harking back to my visit to Salford last week, where the police, fire and ambulance services are collaborating. Much wider collaboration has been going on for years, and this is just part of it. The noble Lord was talking about the PCC developing the business case, but the alternatives are not the purpose of the consultation.

Clause 6 agreed.

Schedule 1: Provision for police and crime commissioner to be fire and rescue authority

6.15 pm

Amendment 10

Moved by ***Baroness Hamwee***

10: Schedule 1, page 174, line 8, at end insert ", and

(b) if the duties and restrictions provided for by sections 2 and 3 of the Policing and Crime Act 2016 have been complied with."

Baroness Hamwee: My Lords, my noble friend Lord Paddick and I tabled Amendments 10, 11 and 99 in this group and we support the other amendments in the group as well. I resisted joining in the debate about trialling the proposals because my noble friend did so and I had mentioned the issues in the debate on the first or second group of amendments. Nevertheless, it is difficult to apply experience from a situation where

there has been a voluntary arrangement, such as we have heard described, to the less voluntary arrangements proposed by the Bill.

I turn to our Amendments 10 and 11. Schedule 1 proposes amendments to the Fire and Rescue Services Act. Proposed new Section 4A will allow the Secretary of State to make an order for a PCC to be a fire and rescue authority. Under subsection (4) of the proposed new Section, he can do so only if a PCC has put a proposal to the Secretary of State; and under subsection (5) he can do so only,

"if it is in the interests of economy, efficiency and effectiveness"—

all three Es are spelled out here, as I mentioned earlier —or,

"in the interests of public safety".

Under the provisions for collaboration agreements there are various duties and restrictions, in Clauses 2 and 3, including the specific issue of the efficiency and effectiveness of the police force. These amendments probe whether wider considerations will apply under proposed new Section 4A than simply the items spelled out in its subsections (4) and (5). Amendment 11 would require the Secretary of State to consider the views arrived at during the formal process of assessment provided by Clause 2.

Our Amendment 99 and Amendments 12, 30 and 44 in the name of the noble Lord, Lord Rosser, take us back to whether we are in the territory of the interests of the three Es and the interests of public safety, or whether one of those in effect overrides the other by being alternatives. In my earlier read-throughs of the Bill I was really puzzled about why it should not be both—and, indeed, why safety needs to be spelled out. Given the Minister's response to Amendment 6, I hope she will be able to consider these amendments as well. I beg to move.

Lord Rosser: I will be brief. As the noble Baroness, Lady Hamwee, mentioned, Amendments 12, 30 and 44 in this group are in my name as well as hers. As she also said, they seem not too dissimilar to the issue we discussed earlier when we debated Amendment 6. Amendment 12 provides that before the Secretary of State may make an order for a police and crime commissioner to take over the fire and rescue authority, it must appear to the Secretary of State that it would be both,

"in the interests of economy, efficiency and effectiveness",

and,

"in the interests of public safety".

It is that last bit which the amendment seeks to achieve.

Amendments 30 and 44 are in a similar vein in respect of the making of an order by the Secretary of State for the delegation of the functions of a fire and rescue authority to the relevant chief constable and in respect of a police and crime commissioner submitting a proposal to the Secretary of State to take over a fire and rescue authority.

Without wanting to labour the point too much, it is not clear why the Government, on this major change in organisational structure for the fire and rescue services, consider that it being,

"in the interests of economy, efficiency and effectiveness",

and it being,

"in the interests of public safety",

should be separated and alternatives when it comes to the Secretary of State making an order for a police and crime commissioner to be the fire and rescue authority. It raises issues about in what circumstances the Secretary of State would make an order when he or she considered it to be in the interests of economy, efficiency and effectiveness but not in the interests of public safety, which the Secretary of State would apparently be entitled to do under the terms of Schedule 1. Likewise, in what credible circumstances would the Secretary of State make an order based on it being in the interests of public safety when it was contrary to the interests of economy, efficiency and effectiveness, as apparently he or she could also do under the terms of Schedule 1 as it stands?

As the noble Baroness, Lady Hamwee, suggested, I am rather hoping I may get a fairly sympathetic response, similar to the one I had on Amendment 6. I will wait to hear what the Minister has to say.

Baroness Williams of Trafford: My Lords, where a PCC is interested in taking responsibility for fire and rescue, he or she will work with the local fire and rescue authority to prepare a business case setting out their assessment of the benefits and any costs of a transfer. The business case will then be subject to local consultation. The business case would need to show the Home Secretary how the proposals would be in the interests of economy, efficiency and effectiveness on the one hand or public safety on the other. The Home Secretary is able to make the order only if she is satisfied that one or other of these tests has been met. Amendments 12, 30 and 44 would instead require both tests to be satisfied. Amendment 99 seeks to apply the same change to the single employer model operated by a combined authority mayor.

The provisions as currently drafted mirror those for fire and rescue authority mergers. Section 2(2) of the Fire and Rescue Services Act 2004 sets out that the Secretary of State may make a scheme combining two or more fire and rescue authorities only if it would be in the interests of economy, efficiency and effectiveness or public safety. This is a long-established test, enacted by the previous Labour Administration, for the closer alignment of two services, and we therefore do not agree that an amendment is required.

We would expect that any assessment of the impact of a proposed transfer of governance on effectiveness would include an assessment of its impact on public safety, which is a primary function of the emergency services. In forming a view on the first test of economy, efficiency and effectiveness, the services' role in protecting the public should therefore be paramount in the PCC's consideration.

However, the provisions which, as I have said, mirror those that have been tried and tested for fire mergers, also provide for a separate test based on public safety. There may be exceptional circumstances where a current service is failing to protect the public and urgent action is required. In such a case, it is right that the Home Secretary should be able to make a Section 4A order solely on the grounds that to do so would be in the interests of public safety.

[Baroness Williams of Trafford]

While I do not agree with the proposed amendments, I recognise the principle behind them. Police and fire and rescue services perform an important function in protecting the public, and we would not want a transfer of governance to have a negative impact on public safety. It is absolutely not the intention for these provisions to permit cases that would save money but damage front-line provision—which I almost said in my answer to Amendment 1—and the Home Secretary would not approve such a proposal. Indeed, such a proposal would not satisfy the test that it would be in the interests of economy, efficiency and effectiveness for a Section 4A order to be made.

However, there might be other ways of incorporating the spirit of these amendments in Clause 8 of and Schedule 1 to the Bill in order to make it absolutely clear that there is no question of an order being made that would have a detrimental impact on public safety. If the noble Lord, Lord Rosser, would be content not to move the amendment, I will reflect further on what he and the noble Lord, Lord Paddick, have said in advance of Report, although they will understand that I cannot give a commitment at this stage to bring forward a government amendment.

Amendments 10 and 11 are on assessing the duty to collaborate. I cannot be so accommodating with these amendments. As I have set out, where a PCC wishes to seek responsibility for fire and rescue, they will be required to prepare a local case setting out their proposal. The Home Secretary will then give consideration to whether it would be in the interests of economy, efficiency and effectiveness or public safety for the order transferring the functions to be made.

Amendments 10 and 11, proposed by the noble Baroness, Lady Hamwee, in the place of the noble Lord, Lord Paddick, would, in effect, additionally require the Home Secretary to assess the extent to which opportunities for collaboration under the provisions of Chapter 1 of Part 1 had been maximised before she decides whether to agree to the PCC's business case for a Section 4A order.

I do not agree that such additional steps are required. The duty to collaborate and the fire governance provisions in the Bill are distinct. It is not necessary for a PCC to have exhausted all local opportunities for collaboration in order to make a case for a transfer of governance. While PCC governance of both police and fire and rescue services can maximise the opportunity for collaboration between policing and fire and ensure that best practice is shared, the benefits extend beyond collaboration alone. As Sir Ken Knight found in his efficiency review, the directly accountable leadership of police and crime commissioners can clarify accountability arrangements to the public.

On the basis of that and the undertaking that I will reflect further on Amendments 12, 30, 44 and 99, I hope the noble Lord, Lord Paddick, will be content not to press his amendment.

Baroness Hamwee: My Lords, I reserve my right to consult my noble friend after today.

The start of the Minister's explanation of "and" and "or" made me wonder whether consistency was more important than logic and safety, but it would be unkind to pursue that thought. The thought I will pursue is the Minister's comments about safety being encompassed within economy, efficiency and effectiveness —effectiveness in particular, if I understood her correctly. Clearly they are not, otherwise it would not be necessary to have paragraphs (a) and (b) as separate paragraphs and to have paragraph (b) in addition to paragraph (a). We are all grateful to the Minister for offering to consider this further. I think we are not going to come to a meeting of minds on the two earlier amendments. I beg leave to withdraw the amendment.

Amendment 10 withdrawn.

Amendments 11 and 12 not moved.

Amendment 13

Moved by ***Lord Rosser***

13: Schedule 1, page 174, line 16, at end insert—

"(7) No order may be made under this section until the Secretary of State has conducted a review assessing the funding required by the fire and rescue service to ensure the minimum level of cover needed to secure public safety and maintain fire resilience.

(8) The review carried out under subsection (7) must assess the impact of the level of cover on—

(a) fire related fatalities,

(b) non-fatal fire related casualties,

(c) the number of fires affecting dwellings and other fires,

(d) the number of incidents responded to, and

(e) the strength and speed of response to incidents."

Lord Rosser: This amendment relates to Schedule 1 and the provision for a police and crime commissioner to seek to take over the fire and rescue authority. In essence, it provides that no order may be made to do that until,

"the Secretary of State has conducted a review assessing the funding required by the fire and rescue service to ensure the minimum level of cover needed to secure public safety and maintain fire resilience".

The amendment then lists five matters on which the review must assess the impact of the minimum level of cover.

The fire and rescue service nationally has already had to reduce spending by some 12% over the course of the last Parliament. I think that was a cumulative cash cut of some £236 million. On the basis of the last local government funding settlement, the fire and rescue service would be required to cut spending by a further £135 million by the end of this Parliament. There has been a reduction of some 7,500 in the number of firefighters as a result, and there is an issue as to the viability of the service under the Government's spending plans. According to the National Audit Office, there was a reduction of just under a third in the amount of time spent on home fire checks over the last Parliament, and the NAO said that the Government did not know what impact this would have on public safety. It is also the view of the NAO that because the Government refuse to model the risk of cuts, they will only know that a service has been cut too far after it has happened—that is, after public safety has actually been put at risk.

6.30 pm

I am not sure what the up-to-date figures are, but the figures for the period between April and September 2015 showed a significant percentage increase in the number of fire-related fatalities compared with the same period in 2014, a 10% increase in non-fatal fire casualties resulting in hospital treatment and a 7% increase in the number of fires attended by the fire and rescue service. This is after a great many years of the number of fires, casualties and deaths reducing. Yet the Government now want to pass responsibility for fire and rescue services to police and crime commissioners, who already have equally stretched budgets of their own, a reduced number of police officers and a heavy workload, without the Secretary of State even being required to assess what level of funding police and crime commissioners will need to keep the public safe and maintain the resilience of the fire and rescue service for which they are taking over responsibility.

There is, surely, a vital need to ensure that such a proposed takeover does not lead to funding for the fire and rescue services reducing still further. Those residing within the area of the fire and rescue service being transferred presumably have a right to some statutory assurance that the funding of the fire and rescue service will not be allowed to reduce still further as a result of the takeover. One would also have thought that a police and crime commissioner taking over responsibility for a fire and rescue service would want to be satisfied that the funding being provided for a service about which he or she knew relatively little would be sufficient to at least provide the minimum level of cover needed to secure public safety and maintain fire resilience, and that the Secretary of State had addressed this issue before deciding to make the necessary order. Our amendment seeks to address that issue.

I have one final point. The Minister has spoken previously about consultation and about seeking the agreement of the parties involved to a police and crime commissioner taking over responsibility for a fire and rescue service—or at least seeking to reach that agreement. Could the Minister take this opportunity to be a little more specific about the extent to which there will be a statutory requirement to consult in these circumstances? If there is one, who will be consulted? Will it cover, for example, the organisations that represent the employees of the organisation concerned? I beg to move.

Baroness Hamwee: My Lords, my noble friend Lord Paddick and I have Amendment 23 in this group. It is a probing amendment, although it no doubt looks as if it may be more than that. It would take out what will be the new Section 4E in the Fire and Rescue Services Act, which is the requirement for an authority created by Section 4A to have a fire fund and for receipts and expenditure to be dealt with through that fund.

I am not of course challenging the need for transparency or the need to enable audit trails and all the rest of it, but a separate fire fund presumably means a separate policing fund, and our amendment is intended to probe how this will work. If there are to be efficiencies through shared facilities, and perhaps shared sites and some shared staff, how are those to be dealt with? Is there to be an allocation of costs of the shared services to the fire fund and to the policing budget? What is to stop virement between police and fire—or between fire and police, whichever way you look at it? I hope that the noble Baroness can explain a little more how the budgetary and accounting arrangements are to operate.

Baroness Williams of Trafford: My Lords, public safety is of course paramount and it is important that fire and rescue authorities are properly resourced to carry out their life-saving and other functions. When a PCC is interested in taking on the governance of fire and rescue, they will work with the local fire and rescue authority to prepare their proposal, including an assessment of why it would be in the interests of economy, efficiency and effectiveness, or public safety, for the transfer of governance to take place. If the noble Lord is amenable, we can address the issue of consultation in Amendments 47 and 48, as it is relevant to them. It is also important to remember that fire and rescue authorities are required, under the duty to co-operate, to provide the PCCs with necessary information to inform their proposal. It is reasonable to expect that an authority's funding provision will be a key piece of information for any PCC to consider.

Amendment 13, put forward by the noble Lord, Lord Rosser, appears, at least in part, to be based on the assumption that under the governance or single-employer model it would be possible to divert fire service funding to the police force. The noble Baroness, Lady Hamwee, also talked about virement. I assure the Committee once again that there will be no change to the way funding is allocated to fire and rescue authorities that are the responsibility of PCCs, and no question but that FRAs will have the resources they need to carry out their important work. As the then Policing Minister said during the passage of the Bill in the House of Commons, under both the single-employer model and the governance model, there will continue to be two separate precepts and two separate central funding streams for the police and the fire and rescue service.

The noble Lord, Lord Rosser, talked about the position since 2010 regarding firefighter jobs et cetera. There has been a long-term downward trend in the number of both fires and fire deaths, which recently reached historically low levels. Despite the latest increases —which I concur with the noble Lord about—fire deaths in England in 2015-16 were still 9% lower than they were some six years ago and fire injuries requiring hospital treatment were 25% lower. At this point, I pay tribute to the fire service for installing smoke alarms in people's homes and advising them on how to reduce the risk of fire. I am sure that has helped with the long-term reduction in these numbers.

Given that assurance, I hope the noble Lord agrees that the amendment is unnecessary. By driving efficiencies in the way that back-office and support functions are provided to both the fire and rescue service and the police force, the provisions in Part 1 will help to strengthen front-line services.

I understand that the intention of the noble Lord, Lord Paddick, and the noble Baroness, Lady Hamwee, in tabling Amendment 23 is, as she said, to probe how

[Baroness Williams of Trafford]
any joint service functions could work in practice if the funds continue to be separated in the way I have set out. The Committee should be in no doubt that under the provisions in the Bill, a police and crime commissioner will not be able to use the fire budget for policing and vice versa. The money spent on each service will need to be accounted for separately in order to ensure transparency and accountability.

However, I assure the noble Baroness that it will still be possible for police and fire funding to be allocated for the purposes of shared back-office functions or other collaboration arrangements, but the costs for these functions will be apportioned back to the appropriate budget and accounted for separately. This ensures that clarity and transparency in funding is maintained. Requiring the police and crime commissioner to hold a separate fire fund for their fire funding mirrors the existing arrangements in place for them to hold a police fund.

Given those assurances, I hope that the noble Lord will be prepared to withdraw the amendment.

Lord Rosser: I thank the Minister for her response. Although I intend to withdraw my amendment, I am not quite as confident as the Government that at some stage in the process of transferring responsibility for fire and rescue services to a police and crime commissioner, there will not be at least a temptation to switch some resources away from one service to the other—because of pressure on finance, not for any other reason—and that will be in a situation where the police service is the dominant service. In those circumstances, I would have thought it would be something of a safeguard for at least the Secretary of State to be required, before the move took place, to assess the level of funding the police and crime commissioner would need to retain the resilience of the fire and rescue service. However, I note what the Minister has said, and once again I thank her for her reply. I beg leave to withdraw the amendment.

Amendment 13 withdrawn.

Amendment 14

Moved by ***Baroness Hamwee***

14: Schedule 1, page 174, line 36, after first "and" insert "(with the consent of the person to whom the liability is owed)"

Baroness Hamwee: My Lords, we have Amendments 14, 15, 32 and 100 in this group. Amendments 14, 32 and 100 concern the provisions in different parts of the Bill for the transfer of liabilities from an existing authority to a new one. My question is the same in each of these examples: will the consent on the part of the person to whom the liability is owed be required, and will there be an indemnity of that person? In the normal commercial world, where a transfer or merger is made by agreement you cannot simply transfer a liability without the other party to the arrangement being involved and agreeing to it. New Section 4C(4) provides that such an arrangement may be permitted, but it does not require it. That applies to three of the four amendments.

Amendment 15 deals with the provision under new Section 4C(5) for a scheme to provide for any modifications—that is, modifications made by agreement after the scheme comes into effect—

"to have effect from the date when the original scheme comes into effect".

Why is this necessary? It may not technically be retrospective but it could be quite confusing. Is it simply to ensure that any glitches that have been identified are put right from the start—that is how I read it—and what happens if third parties have been affected before the scheme is modified? I beg to move.

6.45 pm

Baroness Chisholm of Owlpen: My Lords, the noble Baroness, Lady Hamwee, has indicated that these are probing amendments, designed, in the cases of Amendments 14, 32 and 100, to provide some reassurance to those persons to whom a liability is owed that they will not be disadvantaged by a scheme transferring the liability. I appreciate that assurances on liabilities are important when considering arrangements for their transfer from an existing fire and rescue authority to a new PCC-style FRA or to a chief constable.

Statutory transfer schemes of this kind are well precedented. Indeed, I might add that the Police Reform and Social Responsibility Act 2011 directly transferred all property, rights and liabilities of the old police authorities to the new police and crime commissioners or other local policing body. We have adopted the usual approach here of not requiring the consent of affected persons to the transfer of property, rights and liabilities. Once a Section 4A order is made, the existing fire and rescue authority will cease to exist and it is therefore right that all property, rights and liabilities held by the existing FRA should be transferred. If a person to whom a liability was owed was given an effective veto as to the transfer, that would arguably necessitate the preservation of the existing FRA alongside the new PCC-style FRA. This is a recipe for confusion and muddle.

However, I reassure the noble Baroness that the new PCC-style FRA, or the chief constable, to whom liabilities are transferred will take on the contractual obligations in respect of those liabilities, including, for example, the repayment of any debt. The person to whom the liability is owed will not be disadvantaged.

On Amendment 15, I hope I can reassure the noble Baroness that the approach taken in the Bill to the modification of a transfer scheme is the right one. The power to make modifications is designed principally to ensure that, should it be necessary, corrections may be made to a transfer scheme, particularly to address any errors made regarding the persons to whom rights or liabilities have transferred. As I am sure the noble Baroness appreciates, such transfer schemes can be complex and it is important to safeguard the ability to make revisions. These would need to be effective from the date at which the transfer came into being, rather than the date when the modification was made. To provide otherwise would risk disadvantaging a person, for example, to whom a liability was owed. I assure her that such modifications will be made only where there is agreement to do so between the affected parties.

On the basis of these reassurances, I trust that the noble Baroness will be content to withdraw her amendment.

Baroness Hamwee: My Lords, that is very helpful, and I do indeed beg leave to withdraw the amendment.

Amendment 14 withdrawn.

Amendment 15 not moved.

Amendment 16

Moved by ***Baroness Chisholm of Owlpen***

16: Schedule 1, page 176, line 13, after "authority" insert "created by an order under section 4A"

Baroness Chisholm of Owlpen: My Lords, I recognise that there are quite a lot of amendments in this group. It is more like reading *War and Peace* than a group of amendments but not quite as gripping or enjoyable. However, as my noble friend Lady Williams explained in her letter of 7 September to the noble Lord, Lord Rosser, these amendments are essentially minor and technical in nature, and ensure that the provisions in Part 1 of the Bill can operate as intended.

In particular, the amendments ensure that the provisions in respect of the new PCC-style fire and rescue authorities, whether operating under the governance model or single-employer model, are properly aligned, with appropriate modifications, with existing statutory provisions relating to policing and fire and rescue authorities. For example, the amendments apply the existing provisions in the Police Reform and Social Responsibility Act 2011 in respect of the handling of complaints against PCCs to the new PCC-style FRAs. This ensures that complaints against a PCC, whether in respect of his or her policing or fire and rescue functions, are handled in a consistent fashion.

I should also single out Amendments 38 and 105, which are subject to amendments tabled by the noble Lord, Lord Paddick. The Bill already provides in new Section 4L of the 2004 Act a power to apply, with any necessary modifications, relevant legislation relating to police and crime commissioners to a PCC-style FRA. Similar powers are needed to apply, with any necessary modifications, relevant provisions of fire and rescue-related legislation to the chief officer and his or her staff where the single employer model is in operation.

These new order-making powers would be used in particular to ensure that references to employees of an FRA can continue to operate as intended under the single-employer model, where they will become employees of the chief constable—for example, to ensure that they have the relevant powers and functions necessary to perform their fire-fighting functions. A similar power is taken in respect of the single-employer model under combined authority mayors.

At this point, I suggest that the noble Lord, Lord Paddick, speaks to his amendments, and I will then respond. I beg to move.

Baroness Hamwee: My Lords, we indeed have amendments at the various points at which there is reference to the application of an enactment with or without modifications. I apologise to the Committee that two of the amendments were published only this morning. They were tabled at the same time as the others and I do not know at what point they got lost—there is no particular significance in that.

I missed whether the noble Baroness in her reference to existing legislation was using the term "necessary modifications" as a quote from legislation or whether it was an assurance. If it is in other legislation, that makes my case; if not, I am not clear where the assurance will be in the Bill that the modifications will be "necessary" only for the purposes that she explained. On the face of it, to be able to apply an enactment with, by definition, unnecessary modifications, gives the Secretary of State a very wide power. I am sorry if I am being dim. It is entirely possible that I have lost the plot, but assurances not just from the Dispatch Box but in the Bill as to how the power will be used would be the most desirable way to go.

Baroness Chisholm of Owlpen: I am grateful to the noble Baroness for explaining her amendments. She explained that they are designed to seek further clarification of the scope of the order-making powers conferred on the Home Secretary to enable provisions of local policing and fire and rescue enactments to be applied to a PCC in relation to their fire and rescue functions, and to a combined authority mayor, where they are exercising the single-employer model.

The ability to apply provisions for such enactments with or without modifications is important to ensure that PCCs and combined authority mayors have the necessary powers and duties to exercise their functions effectively. This may include the ability to make consequential modifications as well as those that are necessary in the strictest sense to enact the arrangements contained within the PCC's fire governance proposal.

I reassure the noble Baroness that the Home Secretary would need to exercise these powers reasonably and rationally and would do so only on the basis of applying provisions that are consequential on the implementation of either the governance or single-employer models. The Joint Committee on Statutory Instruments will also play an important role in scrutinising the use of the delegated powers and would make a report if in its view the Home Secretary had acted outside her powers or used them in an unusual or unexpected way. I should add that the Delegated Powers and Regulatory Reform Committee did not raise any concerns in respect of the existing order-making powers in the Bill relating to local policing enactments.

On the basis of these assurances, I hope that noble Lords will support the government amendments.

Baroness Hamwee: My Lords, I thank the noble Baroness. She seemed for most of her response to be making my case for me. I noted that the Delegated Powers and Regulatory Reform Committee had not commented on this—but, undeterred, I ploughed on. I will want to read precisely what she said, but I think that the important point is about the reasonableness

[Baroness Hamwee]
of any modification made by the Secretary of State and how it relates to what she and I are both describing as "necessary". I will not pursue the point this evening, but it is no reflection on her if I say that an assurance that the Secretary of State will do the right thing does not cut it for me with legislation.

Amendment 16 agreed.

The Deputy Chairman of Committees (The Countess of Mar) (CB): My Lords, before I call Amendment 17, I have to tell noble Lords that if it is agreed to, I cannot call Amendment 18.

Amendment 17

Moved by ***Baroness Hamwee***

17: Schedule 1, page 176, leave out lines 24 and 25

Baroness Hamwee: My Lords, I always relish advice to the Committee that an amendment that we know has no hope of being agreed today may pre-empt a government amendment. Amendments 17 and 19 relate to the provision for the delegation of functions of the fire and rescue authorities and the two new subsections which deal with further delegation. My question—again probing—is why further delegation is required, as distinct from a chief simply arranging for functions to be carried out by his or her officers or staff. Later, new Section 4I(4), I think, seems to envisage arranging for functions to be carried out, and that is very different from delegation. I am sorry that the noble and learned Lord, Lord Hope, is not here, because he might agree with me about the principle that someone to whom something is delegated cannot himself delegate that thing. Will the Minister also confirm that subsections (4) and (5) of new Section 4H apply to further delegation?

The other amendments in the group are consequential, and I am sure that if my amendment were agreed, other consequentials would be required—but there is a limit. I beg to move.

7 pm

Baroness Williams of Trafford: My Lords, as the noble Baroness explained, these amendments are about the delegation of fire and rescue functions by a police and crime commissioner and sub-delegation by the chief constable under a single-employer model. I understand these to be probing amendments—the noble Baroness confirmed that—which are designed to test why arrangements for delegation are required, and to ensure that the chief fire officer or chief constable, as appropriate, will continue to have operational responsibility. I hope to be able to reassure the noble Baroness on both those points.

Where an order is made transferring responsibility for the fire and rescue service to the police and crime commissioner under new Section 4A of the Fire and Rescue Services Act 2004, it is necessary for that order to make provision about the delegation of functions by the police and crime commissioner. As the fire and rescue authority, the PCC will have the functions of the fire and rescue service vested in it as a corporate sole. However, in practice we would expect it to delegate the majority of functions to a chief fire officer who, under arrangements to be made by the PCC, would have operational responsibility for the service.

The order therefore needs to specify which functions may or may not be delegated, including the strategic functions that must be performed by the PCC and those operational functions we would expect to be performed by the chief fire officer. It is right that the PCC should be enabled by the order to delegate fire and rescue functions to its fire and rescue staff, including firefighters, to secure the delivery of an efficient and effective fire service. I have also tabled technical amendments to ensure that the PCC is able to delegate fire and rescue functions to the staff of its PCC office so that the office can operate effectively, appoint a single chief executive and share policy support if it so wishes to drive efficiency.

Where an order is made under new Section 4H of the 2004 Act implementing the single-employer model at the request of a PCC, it is also necessary for that order to make provision about the delegation of functions by the chief officer. The chief officer will legally be the chief constable of the police force area, but will be the employer of both police and fire and rescue personnel. In order to secure the effective delivery of the fire and rescue service, the chief officer will need to be able to sub-delegate functions that have been delegated to them by the PCC to fire and rescue staff who have transferred to them, as well as to any fire and rescue staff they employ, including firefighters.

Additionally, to help them to maximise the benefits of collaboration between the two services, the chief officer will also be able to delegate fire and rescue functions to their police personnel. However, let me be absolutely clear that this is not an operational merger, as I have said before. The delegation of functions is subject to the clear restriction that police officers cannot be employed for the purposes of fighting fires and that firefighters cannot perform functions that are reserved for warranted officers.

Finally, I would add that, in practice, the arrangements with regard to the delegation of functions will operate in similar fashion to the way in which they do now. The 2004 Act confers functions on fire and rescue authorities, but those authorities do not discharge all functions themselves. Many are delegated to a chief fire officer and sub-delegated beyond that. We need similar flexibility under the scheme provided for in the Bill. With that explanation, I hope that the noble Baroness will withdraw her amendment.

Baroness Hamwee: My Lords, the first thing I should do is thank the Minister for putting on the record the answer to a question that I put to the Bill team a little while ago seeking some clarification. It is good to have that on the record. That was in regard to officers in different types of authority—police and fire—carrying out one another's functions.

I remain a bit confused about sub-delegation, as distinct from arranging for functions to be carried out by what under this scheme is a sub-delegatee—I do not know whether that is the right word for the person

further down the chain. I will think about what the Minister has said, and I beg leave to withdraw the amendment.

Amendment 17 withdrawn.

Amendment 18

Moved by ***Baroness Williams of Trafford***

18: Schedule 1, page 176, line 25, after "authority" insert "or of the relevant police and crime commissioner"

Amendment 18 agreed.

Amendment 19 not moved.

Amendments 20 to 22

Moved by ***Baroness Williams of Trafford***

20: Schedule 1, page 176, line 27, after "authority" insert "or of the relevant police and crime commissioner"

21: Schedule 1, page 176, line 33, at end insert—

""the relevant police and crime commissioner" means the police and crime commissioner for that police area."

22: Schedule 1, page 176, line 33, at end insert—

"(11A) References in subsection (10) to a member of staff of a police and crime commissioner are to any of the following persons appointed under Schedule 1 to the Police Reform and Social Responsibility Act 2011—

(a) the commissioner's chief executive;

(b) the commissioner's chief finance officer;

(c) other staff."

Amendments 20 to 22 agreed.

Amendments 23 and 24 not moved.

Amendments 25 to 28

Moved by ***Baroness Williams of Trafford***

25: Schedule 1, page 179, line 16, leave out from "the" to end of line 18 and insert "delegation by such a chief constable of the chief constable's fire and rescue functions."

26: Schedule 1, page 179, line 20, leave out "of the fire and rescue authority" and insert "mentioned in that subsection"

27: Schedule 1, page 179, line 22, leave out "of the authority" and insert "mentioned in that subsection"

28: Schedule 1, page 179, line 24, leave out "the functions of the authority" and insert "such of the functions mentioned in that subsection as are"

Amendments 25 to 28 agreed.

Amendments 29 and 30 not moved.

Amendment 31

Moved by ***Baroness Williams of Trafford***

31: Schedule 1, page 179, line 47, at end insert—

"(6A) In this section "fire and rescue functions", in relation to a chief constable means—

(a) functions which are delegated to the chief constable under provision made under subsection (1)(a), and

(b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment."

Amendment 31 agreed.

Amendment 32 not moved.

Amendments 33 to 37

Moved by ***Baroness Williams of Trafford***

33: Schedule 1, page 180, line 14, leave out from second "of" to end of line 15 and insert "the chief constable's fire and rescue functions."

34: Schedule 1, page 180, line 37, leave out from "of" to end of line 38 and insert "the chief constable's fire and rescue functions."

35: Schedule 1, page 181, line 3, leave out from "of" to end of line 4 and insert "the chief constable's fire and rescue functions;"

36: Schedule 1, page 181, line 36, after "section" insert "—

"fire and rescue functions" has the same meaning as in section 4H;"

37: Schedule 1, page 182, line 18, after "delegated" insert "to the chief constable"

Amendments 33 to 37 agreed.

Amendment 38

Moved by ***Baroness Williams of Trafford***

38: Schedule 1, page 183, line 7, at end insert—

"4KA Application of fire and rescue provisions

(1) The Secretary of State may by order—

(a) apply (with or without modifications) any provision of a fire and rescue enactment in relation to a person within subsection (2);

(b) make, in relation to a person within subsection (2), provision corresponding or similar to any provision of a fire and rescue enactment.

(2) Those persons are—

(a) a chief constable of a police force for a police area to whom an order under section 4H applies,

(b) a member of staff transferred to such a chief constable under a scheme under section 4I(1),

(c) a member of staff appointed by such a chief constable under section 4I(4),

(d) a member of such a chief constable's police force to whom functions have been delegated by virtue of section 4H(1)(b), and

(e) a member of the civilian staff of such a police force (as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011) to whom functions have been delegated by virtue of section 4H(1)(b).

(3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made under a fire and rescue enactment or make provision corresponding or similar to any such provision.

(4) The Secretary of State may by order amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).

(5) In this section "fire and rescue enactment" means an enactment relating to a fire and rescue authority (including, in particular, an enactment relating to an employee of such an authority or property of such an authority).

This includes an enactment contained in this Act.

(6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made."

Amendment 38A, as an amendment to Amendment 38, not moved.

Amendment 39, as an amendment to Amendment 38, not moved.

Amendment 38 agreed.

Amendment 40 not moved.

Amendments 41 to 43

Moved by ***Baroness Williams of Trafford***

41: Schedule 1, page 183, line 26, leave out "Act" and insert "enactment"

42: Schedule 1, page 183, line 27, at end insert—

"(6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.""

43: Schedule 1, page 184, line 2, at end insert—

"In section 21 (Fire and Rescue National Framework) after subsection (2) insert—

"(2A) The Framework may contain different provision for different descriptions of fire and rescue authority.""

Amendments 41 to 43 agreed.

Amendment 44 not moved.

Amendment 45

Moved by ***Baroness Hamwee***

45: Schedule 1, page 185, line 22, at end insert—

"(2A) The cost of obtaining the information referred to in sub-paragraph (2) shall be met by the police and crime commissioner."

Baroness Hamwee: My Lords, my noble friend Lady Bakewell of Hardington Mandeville would have moved and spoken to the amendments in this group had she been able to be here. Her experience is very long and very current. That is what has led to these amendments, although she is not alone in wishing to pursue the points. We have Amendments 45, 47, 49, 52, 53, 54 and 55 in this group.

Under new paragraph 2(2) there will be an obligation on a fire and rescue authority to provide information. This is rarely a cost-free exercise, as anyone who has ever observed it or had to take part in it will know. A police and crime commissioner can request information —which is not unreasonable—if he is considering proposing a collaboration arrangement, but should he, perhaps rather casually, put the fire and rescue authority to a cost in providing that information? At the least, we should be assured that he cannot put the authority to a lot of cost simply by requiring information in a particular form. That can be very tedious and absorb many hours of work simply by changing the way information is presented because the person who has asked for it wants it in a particular form. It is not unknown for that sort of thing to happen. There are reasonable requirements, which is a limitation, but they apply only to the information, not to the form it takes.

With regard to Amendment 47, there is a provision in the Bill to seek views. In our view, that is inadequate. Such a significant matter would be expected to require full consultation. "Seeking views" would be understood to mean less than consultation. It suggests something less formal, thorough and precise. Amendment 49 would follow on from Amendment 47: the results of the consultation should be published.

Labour's Amendment 48 raises an important point: new paragraph 3(b) seems to put policing above fire and rescue. However, when you have more than one fire and rescue authority in a police force area, as in the Thames Valley, for instance, only the fire and rescue people would be consulted. Should not everyone affected be consulted?

Amendments 52 and 53 would require all relevant local authorities to agree. There is a very important underlying issue here: the role of local government, which has in many ways been reduced over the years. No doubt I show my age here but it used to be seen as bringing everything together; it was a political expression of local community. Now, as I observe from well outside it, it seems to be expected to pick up what is left from other actors.

Without wishing to detract from the earlier amendments to which I have spoken, why is it necessary to allow, under Amendment 54, for modification, and what might require modifying? If you look at new Section 4A, you begin to wonder what might come within "modifications". It does not seem to refer to a corporation sole, nor to the point about a police and crime commissioner for a different area being the fire and rescue authority. I cannot quite follow it.

Amendment 55 addresses which local authorities are relevant for the purposes of the schedule. It suggests that neighbouring authorities outside the area of the fire and rescue authority might well be affected and should come within the definition so as to enjoy the rights of relevant local authorities. Given the references made this afternoon to the innovations and co-operation between services that have already taken place, this is a further argument that neighbouring authorities ought to fall within the scope of the exercise. I beg to move Amendment 45.

7.15 pm

Lord Rosser: We have a number of amendments in this group. The first, Amendment 46, provides that, before a police and crime commissioner submits a proposal to take over a fire and rescue authority, the commissioner must consult each relevant fire and rescue authority and any local authority or part thereof whose area forms part of the fire and rescue authority area, in addition to seeking the views of people in the commissioner's police area about the proposal. This is a particularly relevant and apposite amendment, with

the requirement to consult widely. That requirement applies to the other amendments that we have tabled, since the Minister has already confirmed that, when it comes to a PCC making a proposal to take over a fire and rescue authority, there will be no requirement to look at alternative options that might be better, such as collaboration agreements involving a wider range of emergency services and other relevant organisations. There is hence a need to make sure that there is very thorough and effective consultation on the PCC proposal and that every effort is made to ensure that such proposals have full support and meet the wishes of those most affected.

Amendment 48, provides that police and crime commissioners seek the views of people in the fire and rescue authority area before submitting a proposal. I note the comment made about the amendment by the noble Baroness, Lady Hamwee, but since it is the fire and rescue service that is to be taken over, those people who will be most affected are those within the fire and rescue authority area. It is their fire and rescue service that is likely to be considerably affected by the proposed takeover.

Amendment 50 provides that a Section 4A proposal, whether modified or not, may be made only with the consent of all relevant local authorities and fire and rescue authorities or, if that is not achieved, by a majority vote in support of the proposal in a referendum of the local population. The purpose of this amendment is to explore the extent to which the Government intend to make sure that there is genuine, majority consent to what the PCC is proposing among those affected. Under the terms of the Bill, it is clear that a proposal to take over a fire and rescue authority by a police and crime commissioner could be driven through irrespective of the views expressed, including those expressed by other elected representatives.

Amendment 51, the final amendment that we tabled in the group, provides that the Secretary of State must obtain an independent assessment of the police and crime commissioner's proposals. There is, of course, provision already in the Bill for the Secretary of State to obtain an independent assessment, but apparently that assessment need not be by somebody with some expertise in looking at the issues involved or in looking at the proposals and the kind of justification for those proposals that would be put forward. Hence the amendment, which would provide that the independent assessment of the proposal will be,

"from an independent panel of experts chosen by the relevant police and crime commissioner and the relevant local authorities".

I hope that the Minister, even if it is not her intention to accept the amendments—I am not anticipating that she is about to do so—will at least be willing and able on behalf of the Government to address the concerns that these amendments represent.

I accept the point that the Minister made earlier, that I was not really raising my point in respect of the appropriate group of amendments. Hence, I willingly agreed to put it back and raise the issue when this group of amendments on consultation was discussed. Although the Bill refers to consultation and seeking the views of certain groups and people, it does not appear to provide any statutory provision for the views to be sought of the employees of the organisations that will be affected, which are the police forces and fire and rescue services concerned, and their representative organisations—that is, the trade unions involved, when there are trade unions representing them. Will the Minister address that point?

Baroness Williams of Trafford: My Lords, these amendments raise a number of important points about the process for bringing forward a proposal for a police and crime commissioner to take on the governance of the fire and rescue service. I shall take each of the amendments tabled in turn.

Amendment 45 would require a police and crime commissioner to meet the costs incurred by a fire and rescue authority in providing information requested by the PCC for the purposes of the preparation of his or her proposals. To produce a comprehensive business case, police and crime commissioners will have to work with the fire and rescue authorities in their police area. This will obviously require a degree of information-sharing, which is why the Bill places a duty on fire and rescue authorities to co-operate with police and crime commissioners in the development of their proposals.

Requiring police and crime commissioners to meet the costs incurred would be contrary to the principle of local collaboration—we talked about common costs—and could introduce barriers to effective co-operation between police and crime commissioners and fire and rescue authorities. I want to be clear that, under the duty, fire and rescue authorities are required to provide only such information as the police and crime commissioner might reasonably require. Therefore, fire and rescue authorities would already have grounds to refuse a request if they considered it to be unreasonable. That strikes the right balance between ensuring that police and crime commissioners are able to prepare a robust business case, while safeguarding fire and rescue authorities from being subjected to unreasonable and burdensome requests.

Amendments 45 to 49 and Amendment 55 all deal, in one way or another, with the issue of consultation. Amendment 47 requires a PCC to consult fully with people in their local police area before submitting their proposal to the Home Secretary. The Bill already requires a PCC to seek the views of people in their police area, but provides flexibility over how this is done. That is important to enable PCCs to reflect the different local arrangements that exist in different areas.

I note that the noble Baroness, Lady Hamwee, expressed some scepticism about the requirement to seek local views, and whether it was robust enough. Just to speak from my own experiences in Greater Manchester, given how the PCC—we have an interim mayor who is also an interim PCC—and all the various authorities and agencies interact with each other, it is no environment for an autocrat to ignore the feelings of local authorities or other agencies with which he or she works. It would make for a very unsatisfactory outcome if he or she ploughed ahead regardless, without considering the concerns of other bodies. The noble Lord, Lord Rosser, mentioned trade unions, which in some places are crucial in the determination of these things; local authorities most certainly are, in Greater

[Baroness Williams of Trafford]
Manchester. The way it operates is collegiate, and always has been, for some 30 years. I give noble Lords the comfort from my own experiences. As a lone Conservative in a group of 10 local authorities, of which one other was Lib Dem, I know that to work in that collegiate way is crucial to the fortunes of the combined authority and the PCC. I contend that, in practice, what the noble Baroness suggests might happen is very unlikely to happen.

Amendment 48 seeks to replace the reference to the police area with one to the fire and rescue authority area. Such a change would, however, have no material effect. Any proposal put forward by a PCC, or two PCCs acting jointly, must maintain co-terminous police and fire and rescue authority areas, as we have said. For example, any proposal put forward by the Sussex PCC must relate to taking on the governance of both East and West Sussex fire and rescue authorities. It follows that, in seeking the views of people in the Sussex police area, the PCC would also seek the views of people in the two affected fire and rescue authority areas.

The noble Lord talked about referenda. Those are not just expensive undertakings—we estimate the average cost in respect of an average-sized police force would be £1.6 million—but lengthy. We are talking about individuals who are directly elected by the people; making them additionally go through a referendum when they are already mandated by the people would probably not be wise. There is a remedy to PCCs not entirely doing what is in the best interests of local people: voting them out at the next election.

Amendment 49 makes provision for a PCC to publish the outcome of the consultation on their local business case. I recognise the important principle behind this amendment and am sympathetic to it. It is generally considered good practice for public bodies to be clear and transparent about the outcome of any public consultation, and we would not expect a PCC to behave any differently in this instance. Accordingly, I would be content to consider this amendment further in advance of Report.

Amendment 55 seeks to extend the duty on a PCC to consult relevant local authorities on a local business case to encompass any local authority which might be affected by the proposed transfer. I hope the noble Baroness will agree that, in the example I have given, it would almost be a given that local authorities would be involved in the process.

A police and crime commissioner's proposals will need to set out clearly the benefits that a transfer of governance will bring. It is only right that a local authority that shares its boundaries with the fire and rescue authority or whose boundaries fall within the fire and rescue authority should definitely have its say, but I do not agree that it is necessary to extend this duty any further. While it is true that decisions on the deployment of resources have the potential to impact on neighbouring local authority areas, or authorities with which the fire and rescue authority collaborates, I want to be clear that these are operational issues and, as such, would be a matter for the chief fire officer, rather than for the PCC's business case. Furthermore, where a police and crime commissioner intends to submit a local business case, the Bill does not prohibit consulting with additional local authorities, should they wish to do so.

7.30 pm

Amendment 46 covers similar ground, but would add the relevant fire and rescue authority to the list of consultees. The Bill confers a duty on the PCC to consult each relevant authority on their proposal. This ensures that the consultation requirement captures all local authorities that operate fire and rescue committees or nominate members to a combined or metropolitan fire and rescue authority. We therefore do not agree that it is necessary separately to provide for consultation with fire and rescue authorities.

Amendments 50 and 53, when taken together, seek to introduce a requirement for there to be local agreement—either by all relevant local authorities or signified through a local referendum—to any proposal by a PCC to take on the governance of fire and rescue in their local area. I must reiterate yet again that the Government are not mandating the transfer of fire and rescue authorities to police and crime commissioners. These provisions are locally enabling and acknowledge that local leaders are best placed to assess what would work best in their areas. That is why a PCC wishing to take on responsibility for fire and rescue will have to work with the relevant fire and rescue authority, or authorities, to prepare a business case, setting out their assessment of the benefits and any costs of a transfer. The business case will, in particular, need to show how their proposals would be in the interests of either economy, efficiency and effectiveness on one hand, or public safety on the other. Only where the Home Secretary is satisfied that there is a strong case demonstrating that one or both these tests have been met, will she make an order for the transfer of governance. Furthermore, the PCC will be required to consult locally on their proposals, which will give affected parties the chance to have their say.

It would not be appropriate for fire and rescue authorities to have to agree to their own abolition in order for a transfer of governance to go ahead. Where a PCC does not have local agreement but still considers that there is a strong local case, he or she may submit the business case to the Home Secretary but must additionally provide information on the objections raised and their response to them. In such cases, the Home Secretary will be required to give consideration to those objections and to secure an independent assessment of the PCC's business case before she takes a view on whether to give effect to the transfer. I assure the Committee that this is not simply a case of the Home Secretary rubber-stamping a PCC's proposal. It will be a robust, independent process that allows those with the appropriate experience and expertise—for example, Her Majesty's Chief Inspector of Constabulary or the Chief Fire and Rescue Adviser—to scrutinise the case made by the PCC and to verify whether or not there is a valid case for a transfer to take place. Where there is clear merit in a transfer taking place that could benefit local communities, it would be wrong to allow vested local interests to stand in the way. Alternatively, if there is validity in the local opposition, the independent review process will substantiate it.

We believe that the existing provisions in the Bill are more than adequate to ensure that a robust assessment is made, local views are taken into account and the business case is properly scrutinised. I am concerned that these amendments would introduce unnecessary and unjustifiable barriers that serve to inhibit positive collaboration taking place at a local level. Permitting local authorities a right of veto could delay or prevent the implementation of important reforms that would be in the best interests of local communities. I have spoken about the costs of a referendum and the length of time that it would take.

I just go back to the point on trade unions: further to what I said to noble Lords, we would expect a PCC bringing forward a proposal to inform and consult trade union representatives on the implications of the proposal for staff. The Home Secretary would expect details of this consultation with staff representatives to be included in the business case. I said that I would expect it; I am now making it clear that the Government would expect that.

Amendment 51 relates to the process to be applied where there is no local agreement to a PCC's proposal. In such cases, the Bill requires the Home Secretary to seek an independent assessment and she must also take into account the results from the PCC's local consultation. The independent assessment commissioned could be from the Chief Fire and Rescue Adviser, HM Inspectorate of Constabulary, or an otherwise independent person with appropriate expertise. The Home Secretary would then decide whether or not to approve the transfer to the PCC based on the findings of that independent assessment. The Government are confident that the provisions in the Bill requiring the independent assessment of a business case where local agreement cannot be reached are suitably robust and will help the Home Secretary to make an impartial determination. I am not persuaded that a requirement on the Home Secretary to seek advice from a panel of experts selected by the PCC and relevant local authorities would lead to any greater independence. Indeed, I fear the reverse: that such an arrangement would be less independent, as the PCC and relevant local authorities may be tempted to nominate people sympathetic to their views.

Finally, Amendments 52 and 54 seek to remove the Home Secretary's ability to approve a police and crime commissioner's proposal to take on the governance of the fire and rescue service with modifications. The idea behind the amendments is that, in practice, such modifications, where required, would usually be minimal to ensure a PCC is able fully to discharge their fire and rescue functions. In such cases, it would not be proportionate or practical to require a PCC to carry out a further consultation on their local business case and to resubmit it to the Home Secretary. I reassure the noble Baroness, Lady Hamwee, that the Home Secretary would be unable to act unilaterally to make any changes to a police and crime commissioner's proposal. She would be under a clear duty to consult the relevant PCC and fire and rescue authorities and to take their views into consideration before taking action.

I apologise for my lengthy response but this is an important set of amendments. I will certainly take away Amendment 49 and give it further sympathetic consideration, but I hope that the Committee will understand why we believe that the procedures for making a Section 4A order, as currently provided for in Schedule 1 to the Bill, are robust. I invite the noble Baroness to withdraw her amendment.

Baroness Hamwee: I am glad to hear that the Government will consider Amendment 49, and I thank the Minister for that. I am not surprised to hear that Mancunians behave well; I know that they would have the sense to ensure that Councillor Williams was on side with proposals. Of course, I agree about the bad climate that could be created if people behaved with a lack of sense, but that does not answer at all my point on the legislative provision. I have not yet seen what harm there might be in my amendment, which, as we hear from the noble Baroness, expresses what might happen in practice.

As the Minister said, and as I anticipated in my opening remarks, we are talking about information that a PCC may reasonably require from the fire and rescue authority, and there might be an issue in asking it to provide that information in a particular form. We have all come across having to fill in boxes while thinking, "If I actually gave you this document, it would give you the answers to all my points". That is one of the things which is in my mind; I am not sure whether it was in the mind of my noble friend Lady Bakewell. However, I must make it clear that we in no way resist co-operation in this situation. I will, of course, want to talk to my noble friend and, indeed, to the Local Government Association, which has been much concerned with this whole area of the Bill. I beg leave to withdraw the amendment.

Amendment 45 withdrawn.

Amendments 46 to 55 not moved.

Amendments 56 to 70

Moved by ***Baroness Williams of Trafford***

56: Schedule 1, page 190, leave out lines 4 to 6 and insert—

"(b) references to the chief officer's functions were to the relevant chief constable's fire and rescue functions."

57: Schedule 1, page 191, line 7, leave out "to (4), (6), (7)"

58: Schedule 1, page 191, line 19, at end insert—

"(ca) the references in subsections (5) and (6) to Schedules 1 and 5 were to those Schedules as applied by this Schedule,"

59: Schedule 1, page 191, line 20, leave out "subsection (6) to Schedules 1 and" and insert "those subsections to Schedule"

60: Schedule 1, page 191, line 36, at end insert—

"Conduct of fire and rescue authority

9A_ Section 31 of the Police Reform and Social Responsibility Act 2011 (conduct of police and crime commissioner etc) applies in relation to a holder of the office of relevant fire and rescue authority as it applies in relation to a holder of the office of police and crime commissioner."

61: Schedule 1, page 192, line 36, at end insert—

"Regulations about complaints and conduct matters

12_(1) Schedule 7 to the Police Reform and Social Responsibility Act 2011 (regulations about complaints and conduct matters) applies in relation to a holder of the office of relevant fire and rescue authority as it applies in relation to a holder of the office of police and crime commissioner, subject to sub-paragraph (2).

_(2) As applied by sub-paragraph (1), that Schedule has effect as if references to police and crime panels were to relevant police and crime panels."""

62: Schedule 1, page 193, line 7, at end insert—

"Landlord and Tenant Act 1954 (c. 56)

In section 69(1) of the Landlord and Tenant Act 1954 (interpretation) in the definition of "local authority" for "or a combined authority established under section 103 of that Act" substitute ", a combined authority established under section 103 of that Act or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004"."

63: Schedule 1, page 194, line 2, at end insert—

" In section 120 (acquisition of land by agreement) after subsection (3A) insert—

"(3B) A fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 is to be treated as a principal council for the purposes of this section (apart from subsection (1)(b))."""

64: Schedule 1, page 194, line 15, at end insert—

"_ In section 229 (photographic copies of documents) in subsection (8) (meaning of "local authority") after "a combined authority," insert "a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,".

In section 231 (service of notices on local authorities, etc) in subsection (4) (meaning of "local authority") after "a combined authority," insert "a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,".

In section 232 (public notices) in subsection (1A) (meaning of "local authority") after "a combined authority," insert "a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,".

In section 233 (service of notices by local authorities) in subsection (11) (meaning of "local authority") after "a combined authority," insert "a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,".

In section 234 (authentication of documents) in subsection (4) (meaning of "local authority") after "a combined authority," insert "a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,"."

65: Schedule 1, page 198, line 24, after "(8)" insert "—

(a) in the definition of "chief finance officer" after "Schedule 1 to the Police Reform and Social Responsibility Act 2011" insert ", section 4D(4) of the Fire and Rescue Services Act 2004", and

(b) "

66: Schedule 1, page 198, line 29, leave out "the following provisions of this Part" and insert "section 7"

67: Schedule 1, page 198, leave out lines 32 to 35

68: Schedule 1, page 199, line 11, at end insert—

"_ The Town and Country Planning Act 1990 is amended as follows."

69: Schedule 1, page 199, line 12, leave out "of the Town and Country Planning Act 1990"

70: Schedule 1, page 199, line 16, at end insert—

" In Schedule 14 (procedure for footpaths and bridleway orders) in paragraph 1(3) (meaning of "council") for "or a combined authority established under section 103 of that Act" substitute ", a combined authority established under section 103 of that Act or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004"."

Amendments 56 to 70 agreed.

House resumed. Committee to begin again not before 8.41 pm.

Smoking-Related Diseases

Question for Short Debate

7.41 pm

Asked by ***Lord Faulkner of Worcester***

To ask Her Majesty's Government what further action they are taking to reduce the incidence of smoking-related diseases.

Lord Faulkner of Worcester (Lab): My Lords, by way of prologue, I should explain that this debate was originally initiated not by me but by the noble Lord, Lord Young of Cookham. His new ministerial responsibilities—I warmly congratulate him on his appointment—preclude him from speaking this evening, but I am delighted to see him in his place on the Government Front Bench, and I know that his lifetime commitment to the cause of tobacco control is undimmed. When he asked me to take on the debate in his place, I was, of course, very happy to agree.

Underlying what we are discussing this evening is the inequality which continues to blight our society. In her initial speech as Prime Minister, Mrs May committed her Government to,

"fighting against the burning injustice that, if you're born poor, you will die on average 9 years earlier than others".

Half of this difference in life expectancy is due solely to higher rates of smoking among the least affluent. This is an injustice that we cannot allow to continue.

Throughout my time in this House, I have spoken on tobacco control many times, as, indeed, have many of the other noble Lords contributing to this debate. We started with the Private Member's Bill to abolish tobacco advertising and sponsorship, and the adoption of a smoke-free environment on the parliamentary estate. The UK has emerged as a world leader in tobacco control, with successive tobacco control plans, starting with *Smoking Kills* in 1999. Since then, the rate of smoking in England has declined by more than a quarter, to only 16.9% of the adult population in 2015.

Is there anybody, except possibly Mr Farage, who wants to go back to smoke-filled pubs and restaurants, and to coming home stinking of tobacco smoke after a night out? I think not. This fall in prevalence, which has already and will continue to save many thousands of lives year on year, could not have been achieved without commitment from successive Governments to comprehensive tobacco control strategies, which have ensured that we live up to our obligations as a party to

the WHO Framework Convention on Tobacco Control. This includes comprehensive smoke-free laws, putting tobacco out of sight in shops, banning smoking in cars carrying children and the passage of standardised packaging legislation, which in Britain came into effect in May and which this House supported overwhelmingly.

I do not intend to say much about the tobacco industry this evening, but I remind your Lordships that the tobacco companies and their apologists opposed every piece of legislation that affected them over the last two decades, using spurious arguments about commercial and individual freedom, and claiming that the measures proposed would not work. Well, as the smoking prevalence figures demonstrate, they could not have been more wrong.

Having said that, there are still 7 million smokers in England, and nearly 80,000 die from diseases caused by smoking each year. That is why we need a new tobacco control plan for England. The last one expired at the end of 2015, and in December the Government committed themselves in the other place to publishing a new tobacco control plan this summer. We have now been without a tobacco control plan for nine months. It is essential that the Government do not delay any further in bringing forward the next tobacco strategy. I hope that the Minister may be able to say something about this when he replies to the debate.

We cannot afford to be complacent. The decline in smoking rates in England has been similar to the decline in Australia or Canada—countries that have comprehensive tobacco control strategies. By contrast, smoking prevalence in France or Germany—countries without such strategies—has barely shifted over the last 20 years. Without sustained action, the decline in smoking rates could plateau or, as has happened in France, start to rise again. Further progress requires further action, and, as the Prime Minister has identified, action to tackle health inequalities.

The new plan needs to set out clear ambitions, recommendations for action and provisions to ensure sustained funding for tobacco control. The ambitions contained in the previous plan, concerning smoking in pregnancy, smoking and young people and adult smoking prevalence, have all been met. Stretching new ambitions are essential to build on this success and highlight areas, especially health inequalities, where more needs to be done. International evidence tells us that cutting funding limits the effectiveness of tobacco control measures; sustained funding will be vital to achieve continued reductions in smoking rates.

The new plan also needs to set clear targets for reducing health inequalities. Smoking rates among people in the routine and manual socioeconomic group are more than double the rates among those in the professional and managerial group. Smoking prevalence is even higher among those who are unemployed, in prison, have a mental illness or are experiencing homelessness. This means that the most disadvantaged members of our society suffer disproportionately from smoking-related diseases. Not only do individuals in disadvantaged communities suffer from a greater burden of smoking-related disease, but children growing up in those communities share that burden through greater exposure to second-hand smoke. Those children are also more likely to try smoking. Those who grow up in a household where their parents or siblings smoke are far more likely to become smokers themselves. Children may experience considerable peer pressure to start smoking, and tobacco is often more accessible in both the community and at home. This creates a cycle of inequality where smoking and smoking-related disease is passed down through generations, resulting in an appalling gap in life expectancy between rich and poor in our country.

This cycle of inequality is reinforced by lower rates of quitting among disadvantaged smokers. Poorer smokers are usually more heavily addicted and, while on average all smokers make a similar number of attempts to quit each year, well-off smokers are more likely to succeed. To reduce inequalities and the impact of smoking-related disease, support for quitting must be tailored to the needs of smokers in the lower socioeconomic groups. This requires mass media campaigns targeted at poorer communities, designed to motivate quitting and discourage uptake. Such campaigns are effective and cost-effective and an essential underpinning of a strategy to reduce smoking prevalence.

In addition, funding for stop smoking services needs to be secured. They are one of the most cost-effective healthcare interventions and smokers are four times more likely to quit successfully with the combination of behavioural support and medication provided by these services compared with unsupported quit attempts. This is particularly relevant for poorer smokers, who are more likely to be successful with this specialist support.

A new tobacco control plan is needed to set out the future of these services and to ensure that local authorities have the resources necessary to pursue targeted smoking cessation work with pregnant women and disadvantaged populations. This is vital to helping vulnerable people to give up tobacco and protect themselves from smoking-related diseases, and we need a clear strategy to help local services deliver on those aims.

Reducing smoking rates among poorer smokers will further support other government health aims, including reducing stillbirths and neonatal deaths. Women in routine and manual jobs are almost three times as likely to smoke during pregnancy as those in professional and managerial roles. The Government have committed themselves to reducing the rate of stillbirths, neonatal and maternal deaths in England by 50% by 2030. Cutting rates of maternal smoking will significantly advance this agenda, and this means cutting smoking rates among mothers from disadvantaged communities.

My Question asks the Government what action they are taking to reduce the incidence of smoking-related disease. As I have explained, the action needed is the publication of a new tobacco control plan for England without delay, with renewed and enhanced ambitions. Under the last plan we achieved a great deal and made large steps towards improving public health and we must not allow these achievements to go to waste. A new plan must build on the progress that has been made, continue to drive down smoking rates and protect our most disadvantaged from the burden of entirely preventable death and disease caused by tobacco.

Lord Young of Cookham (Con): My Lords, I remind the House that this is a popular time-limited debate in which speeches should conclude as three minutes appears on the clock.

7.51 pm

Lord Ribeiro (Con): My Lords, I thank the noble Lord, Lord Faulkner, for taking on this debate from my noble friend Lord Young of Cookham.

The Wanless report in 2011 warned of a sharp rise in avoidable deaths if we did not take prevention seriously. The *NHS Five Year Forward View* identified the future health of millions of children, the sustainability of the NHS and the economic prosperity of Britain as dependent on a radical upgrade in prevention and public health. The Government are to be congratulated on achieving their targets under the old plan. Targets for adult smoking rates down to 18.5%, smoking rates among 15 year-olds down to 12% and smoking rates in pregnancy down to 11% have all been met. It is an excellent record but more is needed to achieve the Prime Minister's stated aim to reduce inequalities in health and the gap between rich and poor.

Smoking prevention can also be achieved in acute settings. *Anesthesiology* noted in 2011 that smokers were 38% more likely to die after surgery than non-smokers. In my own specialty of colon and rectal surgery, smoking was a predictive factor in causing anastomotic breakdown and poor wound healing. I was accused of being draconian for advising my patients to stop smoking before surgery. However, we have evidence to show that stopping smoking two months before surgery provides the most benefit for patients and reduces complications. It strikes me that this would be a good time to offer a smoker an e-cigarette—preferably on prescription. This approach was endorsed by the Royal College of Physicians and the Royal College of Surgeons and others in a joint briefing in April 2016, which encouraged healthcare providers to be proactive in supporting those who want to use e-cigarettes. We must of course be careful not to encourage young people to try them. We must use every means, including mass media, as the noble Lord, Lord Faulkner, mentioned, and social media to change public attitudes to tobacco smoking. A campaign to stop smoking in cars with children present was a case in point. Can the Minister say what plans he has to consult the public on a new tobacco control strategy?

7.54 pm

Lord Rennard (LD): My Lords, smoking-related diseases create a huge burden on British society, both in human and financial terms. Smokers know how dangerous it is, but quitting is not easy. My noble friend Lord Ashdown of Norton-sub-Hamdon reminded me earlier today that he used to quit smoking three times a day.

To reduce the burden of smoking-related disease, we must continue to apply downward pressure on smoking rates. The Government must publish a new, comprehensive, properly funded tobacco control plan without further delay. We know that smokers are four times more likely to quit smoking with the combination of behavioural support and the medication offered by local stop-smoking services. These services are among the most effective healthcare interventions, quadrupling the success rate of quitting, and are therefore very good value. However, in 2014-15 around 40% of local authorities in England cut budgets for these services.

Media campaigns are also highly cost-effective, because they are highly effective in encouraging smokers to quit and preventing young people starting to smoke in the first place. Mass media should also be utilised to deliver better information on e-cigarettes, which many smokers do not realise are much less harmful than smoking tobacco. In the debate before the Summer Recess the Minister said that Public Health England would be getting this message across in its quit smoking campaigns. But we are not spending enough on such campaigns. In 2015, we spent less than a quarter of the amount that we spent on them in 2009, and we know that if they are not properly funded they cannot be effective. I would therefore be grateful if the Minister would confirm what funding will be committed to mass media for this year.

There is also a threat to the successful work undertaken with our European partners in fighting the illicit tobacco trade—a threat caused by Brexit. We know that the tobacco trade has promoted smuggling and tax evasion by dumping large quantities of cigarettes in countries where there are low rates of tobacco taxation in order for them to be smuggled illegally into countries with higher rates of tobacco taxation such as the UK. EU-wide co-operation has meant that, while tobacco taxation has risen sharply in the UK since the start of the century, the number of illicit cigarettes in our markets has halved. So I was not surprised to see support for Brexit from some of those who lobby to promote the cause of the tobacco industry. We must not let them succeed.

7.57 pm

Lord Crisp (CB): My Lords, I, too, congratulate the noble Lord, Lord Faulkner, on his comprehensive and clear introduction to this important debate. I also acknowledge and congratulate everyone, including the Government, on the progress that has been made over recent years. But we must keep the pressure on. It is easy to think that smoking is beaten as it is relatively rare in public, but it is still very common in some parts of the country.

Most key points have been made. I will bring in only one additional point, but I will first reiterate three fundamental aspects that have already been mentioned. The first is the importance of having a tobacco control plan. The evidence is there that those countries that have one, such as Australia and Canada, do much better in controlling smoking than those such as France and Germany that do not have a strategy. Of course, a strategy is only as good as its contents, and a good strategy and a good plan are needed. The important point here is that there is evidence: local smoking cessation works, properly constructed mass media campaigns work, and the use of vaping or e-cigarettes is also important. So when will we see this strategy and plan, and will it be built properly on the evidence?

The second point, simply put, is that smoking hits poorest people hardest. As the Prime Minister said, if you are born poor you are likely to die earlier. There is evidence that 50% of that impact is due to smoking-related diseases.

The third point I will reiterate is that this is of course not an isolated subject and that stopping smoking has an impact on other diseases and on the health of people in so many different ways, including reducing stillbirths, as has already been said. The key point here is that smoking should not be treated in isolation—although smoking cessation clinics are important—but should be part of a properly integrated health promotion policy.

My single additional point is on overseas development. I was interested to see that the Public Health Minister said in December 2015 that the Department of Health had received a grant to help other countries with their tobacco control strategies and was setting up a dedicated team. This is a global problem that is still growing in many low and middle-income countries. I would be interested if the Minister were able to give us an update on this work by the Department of Health and perhaps by other parts of the UK Government.

7.59 pm

Lord Borwick (Con): My Lords, I thank the noble Lord for raising this important Question for debate at the behest of my noble friend, and I declare my interests as a long-standing trustee of the British Lung Foundation. I know from its extensive work that the health of lungs is strongly correlated with wealth. Smoking prevalence is higher among those on lower incomes. That of course means that those people are more likely to get lung problems, and to be crippled by chronic obstructive pulmonary disease and lung cancer—on top of all the other pressures faced by those on the lowest incomes. There are social stigmas, too. Guilt associated with smoking-related diseases means that diagnoses are made much later, reducing the effectiveness of treatment. To top it all off, poorer people also tend to live nearer to roads and traffic, which further increases the likelihood of developing some kind of lung disease.

All that makes the objectives of public health initiatives laudable. Having seen the shocking human impact of smoking-related diseases, I think that it is good that people want to do something about it. Research published today in the *BMJ* found that e-cigarettes helped about 18,000 extra people in England give up smoking in 2015. Public Health England also found last year that e-cigarettes are 95% less harmful than regular cigarettes. Surely that is a welcome shift in the fight to reduce and prevent smoking-related diseases. After all, it is not nicotine that kills people or causes lung diseases—it is the tar and other chemicals found in cigarettes. While I would absolutely like more research to be done on the long-term impact and potential harms of e-cigarettes, it is important that they are not overregulated or treated in the same way as other tobacco products.

Evidence suggests that marijuana is more harmful than an ordinary cigarette. That may be because smokers inhale it more deeply and hold it in their lungs. It may be more to do with the illegality of marijuana than its inherent carcinogenic nature—although I have no doubt that that exists, too.

We also have a continuing problem with emissions from vehicles. PM 2.5s are particles that come from diesel engines that cause damage similar to that caused by cigarette smoke. Which is worse for our lungs? How do they interact and does one make the other worse? The truth is that we do not really know—but we should, and we would if we were able to spend larger sums on research.

We will need to ensure that the forthcoming tobacco control plan is robust and ambitious enough to lead to reductions in smoking-related illnesses. It should target those most in need of smoking cessation—those who already have a lung disease. This plan should be helped with a cross-departmental government strategy on improving air quality. Together, such actions will help better progress in ensuring that people breathe clean air, and in tackling smoking-related diseases.

8.03 pm

Baroness Gale (Lab): My Lords, I thank my noble friend Lord Faulkner for bringing this important debate before us tonight. Action by successive Governments to reduce the harm caused by tobacco has been highly effective, but much remains to be done. The timely publication of a new comprehensive plan is of vital importance.

I will focus my comments on the need for the plan to contain specific recommendations to further reduce the harm that tobacco causes to children and young people. For many, particularly in deprived communities, the harm of tobacco begins before birth. The ambitions set out in the previous tobacco control plan, including driving down smoking rates among young people and pregnant women, were achieved. However, one in 10 pregnant women still smokes at the time their baby is born, and smoking remains the single biggest modifiable risk factor for poor birth outcomes. Children born to mothers who smoke, and children who live with smokers, are also far more likely to become smokers themselves than those from non-smoking households. Smoking and smoking-related disease is passed down through generations.

The Public Health Minister has recently written to the Smoking in Pregnancy Challenge Group—a partnership of charities, royal colleges and academics—confirming that ambitions on smoking in pregnancy will be renewed in the new tobacco plan. I am delighted by that news and hope that the Minister can confirm today that all the ambitions will be reviewed and renewed in the new plan when it is published.

We have a duty to our children to protect them from an addiction that takes hold of most smokers when they are young. Each day, hundreds of children take up smoking, starting out on a path that will lead to smoking-related disease and premature death. I echo the call from other noble Lords for the Government to publish a new tobacco control plan without delay.

8.05 pm

Baroness Northover (LD): My Lords, I too thank the noble Lord, Lord Young, for securing—and whipping—this debate, and the noble Lord, Lord Faulkner, with his outstanding record on this subject, for taking it over. I wish to focus on the international dimension.

We know how challenging it was and still is in the UK, and in the West, to counter the tobacco industry. It was only through the remarkable work of Sir Richard

[Baroness Northover]
Doll, based on the metadata that he had available to him through the NHS and cancer registries—something not as comprehensively available in the US—that the correlation of smoking with cancer and other diseases was decisively demonstrated. We know what measures the tobacco industry took to undermine that research and its conclusions.

How vulnerable are those in developing countries, where the tobacco industry is now looking to replace its western markets, and where corruption, poverty and lack of transparency undermine good governance? The WHO has sought to address this with the Framework Convention on Tobacco Control, the world's first treaty on public health. One hundred and seventy-nine countries and the EU are parties to this treaty, but signing up is one thing and implementing is another. I know of so many instances where the industry has run rings around those provisions in developing countries.

Last year, the world signed up to the sustainable development goals. Ending poverty, ending hunger, ensuring healthy lives and so many of the other goals are undermined by smoking and the tobacco industry. The SDGs call specifically to strengthen the implementation of the WHO framework. The United Kingdom is rightly committed to spending 0.7% of GNI on aid. The noble Lord, Lord Crisp, said that, as part of that commitment, in December 2015 Jane Ellison—then Public Health Minister—announced that the DH had been awarded an ODA fund to assist countries to develop their tobacco control policies. She said that she would update Parliament in due course. I seek that update. Given our expertise in the field, it is vital that we play our full part internationally to stem so far as we can the terrible suffering which otherwise the tobacco industry will inflict on those least able to bear it round the world.

8.09 pm

Baroness Masham of Ilton (CB): My Lords, since I was a young child I have been passionate about the dangers of smoking and the unpleasantness that it causes to non-smokers. Someone left a medical book in our nursery and, as I was looking through it, I saw pictures of lungs that had been blackened and damaged by smoking. So much more should be done to show children and young people the dangers of smoking. The pictures that I saw did impress.

Two weeks ago, on 28 August, my daily's husband—a smoker—died of lung cancer. He had undergone chemotherapy and radiotherapy, which he found very difficult. After treatment, he went downhill very quickly. His funeral was this afternoon.

Our National Health Service is struggling to survive. There are so many added worries and insecurities, and pressures and demands on the service. Will the Minister do all he can to stop it going downhill? If the Government are to achieve their targets, they will have to address smoking as part of an overall picture of public health. Smoking is one of the dangers of addiction. The cuts to the NHS and public health are savage when there are so many people needing treatment. We need more research. One question is: why do some people respond well to treatment and others fail?

At the age of 18, I watched my father die of coronary heart disease. He had been a smoker. The doctor who came out thought he had a chest infection. My father died an hour later. Smoking increases the risk of developing more than 50 serious health conditions; for example, many cancers, stroke, heart and vascular diseases, many respiratory conditions including asthma, and damage to unborn and born babies.

There are also the effects of passive smoking on so many people. I used to spend my time at meetings and social gatherings dodging the smokers, but it was so often impossible. It is a great relief that so much has been done to stop smoking in public places. The UK should be congratulated on the improvements so far, but it must not stop now. Much more needs to be done. We need a new tobacco strategy now. I hope the Minister will give your Lordships a positive response tonight.

8.12 pm

Baroness Janke (LD): My Lords, I rise to draw attention to Public Health and its contribution to the success of cutting smoking. I speak as someone who comes from Bristol, where the legacy of the tobacco industry has left generations suffering following the free cigarettes that were provided to workers as a matter of course. As has already been said, the estates in south Bristol, which were built to provide workers for the tobacco industry, are still among the most deprived in the country. Life expectancy there and in other parts of the city differs by 10 years and sometimes more. It is not just about death. It is about the quality of life for very many people in those communities.

When I was leader of the city council, I took a very active part in the Smoke Free Bristol campaign. The campaign was very successful because it captured the imagination of local people. The owners of clubs, bars and pubs were not all as enthusiastic, but very many of them could see the arguments, and we supported them and worked with them to bring the campaign in.

Equally, in the Public Health self-help groups, the fact that local people were trained to support each other —the health trainers and assistants were all local people —led to a much greater awareness of health within these communities. There was a wide range of projects, tackling not just smoking but such things as obesity, alcohol, depression and diabetes. I was very impressed with the progress that was made. However, the Public Health budget is being cut by 9.6% from 2015-16 to 2020. That is on top of the dramatic local authority cuts.

I would like the Minister to consider making this a priority. The emphasis on health that we have through Public Health, rather than on illness, has had a huge impact in these poorer communities. Public Health has enabled people-led schemes rather than professional-led schemes. I agree with others who have said that sustained investment and funding is absolutely vital if we are to do the things that are needed in these communities and to help people take responsibility for their own health.

8.15 pm

Baroness Walmsley (LD): My Lords, last year, the Minister Jane Ellison confirmed that the Government were working on a new anti-smoking plan to be published

this summer. I too hope that we are going to hear news about that from the Minister today. Jane Ellison stated that the Government would seek to,

"further empower local areas and support action within them, particularly where tobacco control strategies can be tailored to the unique needs of local populations".—[*Official Report*, Commons, 17/12/15; col. 636WH.]

The Government, she said, would also seek to tackle the "stark differences" in health outcomes among smokers from different parts of the country. I strongly support those ambitions but fear that those words have not yet been translated into enough action. Indeed, the Government's action in making cuts to public health funding for local authorities has flown in the face of those objectives.

The BMJ says that prescription medication and personal support are the best routes to quitting smoking. The Government agree, and yet up and down the country local authorities have reluctantly had to cut these services. The Government, therefore, are relying on the commercial supply of expensive aids to quit smoking, such as patches and electronic cigarettes, in order to achieve further reductions in smoking. I would like to know whether the Government support prescribing more of those aids to the people who really need them but cannot afford to buy them.

The Government have also said that although they believe that e-cigarettes can help smokers quit smoking, they are,

"not harmless and there is a lack of evidence on their effects in long term use".

I would certainly agree with that. There is massive evidence that e-cigarettes are much safer than smoking, but there is also some evidence that they may have undesirable short and long-term effects, particularly on the heart. It was irresponsible for a national newspaper to claim that vaping is just as dangerous as smoking. There is no evidence for that claim. However, there is still a lot that we do not know. Therefore, I now repeat the call I made during the recent debate on the EU tobacco directive: we need more research. After all, we now have many thousands of users, and I am sure many would be happy to co-operate with research.

It is estimated that over 200,000 children take up smoking every year. I call on the Government to ensure that every child has good-quality PSHE lessons in which the dangers of smoking are emphasised. I welcome the proposed removal of packets of less than 20 cigarettes, which used to be so popular with children, and also the plain packaging and larger pictorial health warnings. I hope that Brexit does not get in the way of all that.

The BMA calls for more measures to protect others from second-hand smoke. This is particularly important for children. Since we cannot ban smoking in people's own homes, it is really important to help all smokers voluntarily give up smoking or never to smoke when children are present. Those on these Benches fought for the legislation that banned smoking in cars with children present, but the ban is not being properly enforced. Will the Government carry out a public information campaign about this and encourage the police to enforce the law?

8.19 pm

Lord Hunt of Kings Heath (Lab): My Lords, I first declare an interest as a president of the Royal Society of Public Health. Principally, I would like to reinforce the argument made by my noble friend Lord Faulkner about the need to tackle health inequalities, in which smoking clearly plays a key part. He said smoking was responsible for half the variation in life expectancy. My noble friend Lady Gale also spoke eloquently about the impact of smoking on mothers during pregnancy and after the birth of their children.

The principal question I would like to put to the Minister focuses on the tobacco control plan. It is generally agreed that the last tobacco control plan produced a huge number of positive outcomes. Clearly, it is vehicle by which further improvements can be made. However, despite the UK's leadership and the advances that we see, there is no room for complacency. Will the Minister tell the House exactly when we can expect to see the plan published?

Secondly, may I raise with the Minister the problem of local authorities reducing funding for stop-smoking services? He will know that, with the transfer of budgetary responsibility to local government, there were great hopes that local government would use its position to enhance public health programmes. I am afraid that so far the opposite has been the case. How much is his department monitoring what is happening with local authorities and smoking cessation services? Can he make it clear to Public Health England that it is empowered to make interventions when it feels that local authorities are not doing the right thing? I have a great deal of time for Public Health England but it feels inhibited in challenging local authorities where they are not investing sufficiently in these kinds of services. It would be good if the Minister was prepared to say that it can do that.

Will the Minister also help us on mass media campaigns? They have proved very effective. Will he assure us that in the plan there will be sufficient investment in those campaigns in the future? On the question of electronic cigarettes, I agree with the noble Lord and the noble Baroness that they ought to be part of the smoking cessation programmes. Equally, some research would also be welcome to pick up some of the issues that have come to the fore recently. On the general principle, I have no doubt that for adult smokers who find it difficult to give up smoking, e-cigarettes definitely have their part to play. It is important that the Government continue to signal their support for that.

8.21 pm

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, I thank the noble Lord, Lord Faulkner, and my noble friend Lord Young of Cookham for enabling us to have this debate today. The fact that there are so many speakers, with only three minutes each, shows how important this subject is to many noble Lords in this House.

I was particularly taken by how many noble Lords addressed the issue of smoking within the context of health inequalities. I had not appreciated that it accounts

[Lord Prior of Brampton]
for maybe 50% of the difference in life expectancy between people from poorer backgrounds who smoke and those who do not. It is one indication of just how serious smoking is. Linking it to Theresa May's first speech when she became Prime Minister was a clever move. I hope she will read this debate with interest during the Recess.

The noble Lord, Lord Faulkner, said that he has spoken on this issue many times over many years in this House and elsewhere. It was actually back in 1604 that King James wrote a treatise called *A Counterblaste to Tobacco,* describing smoking as:

"A custom loathsome to the eye, hateful to the nose, harmful to the brain, dangerous to the lungs, and in the black, stinking fume thereof, nearest resembling the horrible Stygian smoke of the pit that is bottomless".

He did not mince his words. Slightly depressingly, however, that was in 1604 and here we are over 400 years later, still struggling. Although we have made great progress, 7 million people are still smoking in this country and, as we will discuss later on, I saw a frightening statistic recently showing that by 2030 it is estimated that nearly 500 million people in Africa might be smoking. This is a global problem and it is not going away.

Of course, we have taken action. Many noble Lords pointed out the success that we have had in this country. Over the last 25 years the number of people smoking in England has fallen from just over 28% in 1992 to just under 17% at the end of 2015. Despite this progress, in England smoking still kills around 200 people a day. The noble Baroness, Lady Masham, gave us a moving story of a friend of hers who recently died from lung cancer. I remember when I was chairman of a hospital watching an operation and seeing the inside of a patient's lung. I am sure that my noble friend Lord Ribeiro has seen similar things. The colour of a heavy smoker's lungs is absolutely vile. They are blackened.

I want to reassure noble Lords that this Government have always and will continue to take very seriously tackling the great harm caused by tobacco. In the last year, we have introduced a number of important measures to achieve this. First, we introduced a tranche of legislation that has greatly strengthened tobacco control and reduced even further children's exposure to tobacco branding and second-hand smoke. This included the introduction of standardised packaging, which I am pleased to say is already in shops across England. I am sure that noble Lords have seen the standardised packaging. It represents a big step forward. This measure aims to motivate more people to quit while also deterring greater numbers of young people from ever taking up smoking in the first place. This is a fantastic achievement.

Secondly, we have delivered a range of impactful mass media campaigns which promote quitting. In just two weeks from now, we will launch a fifth 'Stoptober' campaign. This campaign has proven extremely successful. In 2015, more than 130,000 people successfully quit for 28 days for Stoptober. That is an impressive figure. Looking ahead, a number of noble Lords raised the issue of a new tobacco control plan. I am unable to commit to a publication date, but I can confirm that a new plan will set out renewed national ambitions to reduce prevalence even further and build on the success of the previous tobacco control plan. I was very struck by noble Lords' comparison of countries with a tobacco control plan such as Australia and Sweden—

Lord Faulkner of Worcester: Canada.

Lord Prior of Brampton: I apologise, it was Canada. We can contrast that with the experience in countries such as France and Germany, where there is no control plan. The Government fully support renewing the tobacco control plan. During the last five-year plan, the proportion of smokers in England reduced by more than 10%.

Addressing the inequalities caused by smoking will be a central component of this plan. As has been highlighted in this debate, there remains significant geographical and demographic variation. The noble Baroness, Lady Janke, mentioned the situation in Bristol, for example. Staggeringly, smoking prevalence today in Sevenoaks is 6% and in Corby it is 29.8%, which demonstrates the variation around the country. Reducing smoking rates in populations with comparatively high prevalence will be a priority in reducing this variation and the health inequalities caused by tobacco.

In particular, we are considering what more can and will be done to support those with mental health conditions in quitting smoking. In developing this aspect of the plan, the recommendations set out in *The Five Year Forward View for Mental Health,* authored by Paul Farmer, are being taken into consideration. The noble Baroness, Lady Gale, mentioned the importance of improving maternity outcomes, and giving children the best start in life is an important priority for this Government. We have already set out an ambition of achieving a 50% reduction in stillbirths and neonatal deaths by 2030.

Supporting pregnant women in quitting smoking will be an important factor in working towards that. This was a priority in the previous tobacco control plan, during which prevalence for this group fell by 3 percentage points. I can confirm that it will remain a priority. Exposure to smoke during and after pregnancy can have devastating health consequences for babies. As well as these immediate health risks, evidence also shows that children who have a parent who smokes are two to three times more likely to be smokers themselves. Supporting adults to quit is therefore vital to ending the cycle of children who take up smoking, in order to cut off the pipeline of new smokers at risk of smoking-related disease. This is a battle we are winning. The proportion of young people smoking continues to fall, as my noble friend Lord Ribeiro pointed out, with prevalence amongst 15 year-olds more than halving in the last decade.

I will touch on a couple of other important elements of tobacco control. First, my noble friend Lord Borwick and the noble Baroness, Lady Walmsley, commented on e-cigarettes. I am well aware of the report by the Royal College of Physicians, which said that vaping was 95% better than smoking. I saw the recent reports in the paper, and I have read the *BMJ* article that supported them, saying that 18,000 people gave up smoking last year because of vaping.

Clearly, e-cigarettes have an important role to play, but they are not risk free. We do not want to encourage young people to take up vaping. In the UK we are adopting the right approach, which reduces the risks of harm to children and provides assurance on safety for users. In the UK, our e-cigarette policy has been successful, with minimal long-term take-up by children and non-smokers. This is not the case everywhere. In the US, for example, there is an upward trend of children who have never smoked cigarettes using e-cigarettes. This is why the Government have taken a precautionary approach to any possible risk of renormalising smoking behaviours that we have fought long and hard to denormalise. If any noble Lord has seen some of the advertising around vaping, they can see the potential dangers of attracting children who would never have smoked to the habit of smoking.

The UK's approach to the regulation of e-cigarettes has and will remain pragmatic and evidence-based. The Government will continue to monitor and develop this evidence base, adapting policy accordingly, to ensure that policy on e-cigarettes best supports the protection and improvement of public health.

Secondly, through PHE we will maintain a programme of evidence-based mass-marketing campaigns to encourage more people to quit smoking, and raise awareness about products and services that can help. The noble Lord, Lord Rennard, in particular raised this issue. I can tell him that £4 million has been allocated for tobacco-specific marketing activities, £1 million of which is for the Stoptober campaign launching next month. On top of this there is further funding for multiple-issue campaigns, such as the One You and Be Clear on Cancer campaigns, which also contain messages about smoking. We also need to consider Heat Not Burn and other novel tobacco-containing products that are starting to emerge.

Difficult decisions have had to be made across government to reduce the deficit and ensure the sustainability of public services, as the noble Lord, Lord Hunt, has drawn to my attention on a number of occasions. However, councils will still receive £16 billion over the next five years for public health, on top of what the NHS will spend on vaccines, screening and other public health measures. The noble Lord asked whether I can draw to PHE's attention its powers in this area to make sure action is taken locally. I certainly will draw that to the attention of my colleague in the other House, Nicola Blackwood, the Minister for Public Health, to ensure that happens.

Tobacco use is, as the noble Lord, Lord Crisp, and the noble Baroness, Lady Northover, pointed out, very much a global issue and an international priority. Tobacco companies are becoming increasingly active in the developing world. By 2030, more than 80% of the world's tobacco-related mortality will be in low and middle-income countries. The uptake of cigarette smoking in Africa is pretty alarming. The UK will continue to work collaboratively with other countries to reduce the burden that smoking places on individuals, families and economies across the globe.

The Government intend to invest part of the development assistance funds to strengthen the implementation of the WHO's Framework Convention on Tobacco Control—known as the FCTC. This project will be delivered by the WHO. For a number of years the UK has been rated the best country in Europe for tobacco control policy. Through this project we will share the UK's experience to support low and middle-income countries in saving lives by putting effective measures in place to stop people using tobacco. This project will involve assistance to implement the "time-bound" measures of the FCTC: to ban tobacco advertising and to require health warnings on tobacco packs. We will also support countries to strengthen tobacco taxation to improve public health and raise new revenues for governments.

In conclusion, I am very pleased that we have had the opportunity to have this debate. It is probably disappointing to some noble Lords that I cannot give a specific date for the new tobacco control plan, but I can assure them that it is coming, that there will be one and that it will build on the success of the previous tobacco plan. The noble Lord, Lord Crisp, and the noble Baroness, Lady Northover, asked a particular question about a new initiative for which we were being given funds by the WHO to deliver. I will have to write to them on that matter if that is acceptable. Obviously, we will reflect on all the points that have been raised this evening. I am sure they will add to the new tobacco control plan.

8.35 pm

Sitting suspended.

Policing and Crime Bill

Committee (1st Day) (Continued)

8.41 pm

Schedule 1: Provision for police and crime commissioner to be fire and rescue authority

Amendment 71

Moved by ***Baroness Williams of Trafford***

71: Schedule 1, page 201, line 33, at end insert—

"_(1) Section 1 (police and crime commissioners) is amended as follows.

(2) In subsection (3) for "The" substitute "Unless subsection (3B) applies, the".

(3) After subsection (3) insert—

"(3A) Subsection (3B) applies if the person who is the police and crime commissioner for a police area is also the fire and rescue authority for the area which corresponds to, or an area which falls within, the police area.

(3B) In that case the name of the police and crime commissioner is "the Police, Fire and Crime Commissioner for" with the addition of the name of the police area.""

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, these government amendments respond to one tabled on Report in the Commons by Amanda Milling. It is important that the public know that, where a police and crime commissioner is also the fire and rescue authority for

[Baroness Williams of Trafford]
an area, they are electing someone to both roles and are able to hold them to account for the delivery of both services. We therefore propose changing the legal title of a PCC to "police, fire and crime commissioner" where they additionally have fire and rescue responsibilities to ensure absolute clarity on this point.

Further, to ensure consistency, we similarly propose to amend the legal title of a police and crime panel for the area in which the PCC is also the fire and rescue authority to "police, fire and crime panel". Again, this will provide greater transparency to the public as the new title reflects the additional scrutiny responsibilities of the panels in these areas. The Government consulted both police and fire partners on these amendments and it is clear that there is broad support for the new titles. They will preserve the identity of the fire and rescue service, which we have been clear will remain a distinct and equal partner to the police. I beg to move.

Lord Rosser (Lab): I will make just a few brief comments on these government amendments. I suppose we have achieved a great deal if we have managed to get away without endless discussion of what the new title of a police and crime commissioner who takes over responsibility for the fire and rescue service should be. That is the kind of issue on which there are usually interminable discussions.

Looking at the proposal that the individual who takes over responsibility for a fire and rescue service should be renamed the police, fire and crime commissioner, that title does not include reference to the rescue function. It is a fire and rescue service but the title simply refers to a police, fire and crime commissioner. I note that the Minister said that there had been consultation and discussion on this and that the proposed name change seems to have found general favour. I simply ask: why was it decided to exclude the reference to the rescue activity of the fire and rescue service from the renamed PCC where that PCC takes over responsibility for a fire and rescue service?

The other point I would raise refers to Amendment 72, which deals with the change of title to the police and crime panel. I do not intend to repeat the point I made about the new title of the police and crime commissioner in relation to these panels. However, have the Government carried out or do they intend to carry out any assessment of the effectiveness of these panels, bearing in mind that greater responsibility will be placed on them where the police and crime commissioner takes over responsibility for a fire and rescue service?

8.45 pm

I ask that in the context of the findings of a recently published book on police and crime commissioners, which contains some observations about police and crime panels. It says that it is,

"unfortunate that Police and Crime Panels have to date proved less effective than hoped in modifying the actions of a PCC or in calling him or her to account".

It goes on to refer to the views of a number of police and crime commissioners, who the authors of the book say have told them that police and crime panels seem,

"to be largely ineffectual and largely irrelevant to what the Commissioner does or decides".

In a summary of a later chapter in the book, the authors state that they have to,

"conclude that the role of the Police and Crime Panel was ill-defined at the outset (of a piece with the vagueness of the PCC's remit) and it is likely that at some point to come there will be tinkering with the legislation and some imposition of mechanisms to hold the PCC more firmly to account, outside the four-yearly process of election".

Since the role of the panel is to be expanded in a situation where the PCC takes over responsibility for a fire and rescue service, it seems that there is a need for an assessment of how effective and relevant these bodies are in holding the PCC to account in any meaningful way, and to look at their relevance in relation to the activities of the PCC and the kind of decisions that a PCC has to take in the course of their duties. I would be grateful if the Minister could address the points that I have raised about the reasons for excluding the reference to "rescue" in the renamed PCC and, perhaps rather more significantly, whether there is to be any examination of the effectiveness of police and crime panels, particularly bearing in mind that they are to take over more responsibility in relation to the expanded role of the PCC.

Lord Harris of Haringey (Lab): My Lords, no doubt there was extensive consultation about the name that the new commissioners should have. No doubt, in typical fashion, that was conducted over the summer months when there was perhaps not a huge response. It more or less must have been then because this amendment was brought in at a late stage, at the tail end of the Commons consideration. I would be interested to know exactly how many responses there were and the substance of those responses.

Lumbering the commissioners, who I suppose we will have to get used to calling PFAC commissioners, is not necessarily the most helpful of things. My noble friend Lord Rosser has pointed out the omission of "rescue".

Look at the order of the words: police, fire and crime. One might have thought that crime sat more comfortably near police than with fire, and while the Government are about it, they are compounding the problem that the original Act created of having somebody whose responsibility is to commission crime. They are making it worse because now this person commissions fire. If they said that this person was the police and rescue commissioner, it would make sense. It would be their job to commission people to do policing and rescue, but at the moment there is this strange amalgam which loses half the role of fire and rescue and at the same time manages to imply that the commissioner is responsible for all fires and crimes in their area. This is frankly not sensible. Rather than embark on another intensive consultation that perhaps nobody knows about, perhaps the Home Office might want to think again.

While it is thinking again, perhaps the Minister could give us a little more explanation about the proposals to have a police, fire and crime panel. Noble Lords will be pleased to know that I shall not rehearse the same set of arguments about why the various things should be bundled together and in what order the words should be, but my noble friend Lord Rosser

raised an extremely important and pertinent point. Police and crime panels were bolted on to the legislation that created police and crime commissioners, I think probably because of some rumblings on the Liberal Democrats Benches at the time. It was a half-hearted gesture in the direction of creating an accountability mechanism, but it is a gesture that does not work. The panels have created a mechanism whereby people are brought together from different local authorities, perhaps three or four times a year, to carry out the statutory functions. It is not a cohesive team. The budget available for servicing them is microscopic, which means that there is no staff work which supports that work. It is not surprising that the learned study which my noble friend referred to is quite so scathing about them. I also wonder why it has been decided that this scrutiny function is best located in a single body. Why would you not have a body which focused on policing matters and one which focused on the fire matters, given that the Government keep telling us that these will continue to be separate functions with separate streams of funding? Perhaps the Minister can enlighten us.

Baroness Williams of Trafford: I thank noble Lords for the points they have made. On using the word "rescue" in the title, apart from the fact that it is a bit of a mouthful, chief fire officers in the Chief Fire Officers Association do not have the word "rescue" in their title. I think that is the reason. I take the noble Lord's point, but too many words can be a bit cumbersome. We consulted police and fire stakeholders between the amendment being made in the Commons and our suggestion to change the name.

On whether the panels are effective, I was on the police authority for a year. At that time there was a lot of criticism of police authorities being remote from people and questions about whether they were fulfilling their function of bringing police authority to account. The police and crime panels under the Bill have clear powers to scrutinise the actions and decisions of each PCC and to make sure the information is available to the public. The meetings are held in public, so not only is the information available to the electorate but they can watch these meetings, which are often recorded. For example, the meeting of Sussex PCP is broadcast, and members of the public can submit questions to the panel for the commissioner ahead of the regular scrutiny meetings. I will not disavow what the noble Lord said—I have not read the book—but their powers are clear, and the decision-making and the scrutiny process is transparent. The scrutiny meetings are often available for broadcast, and members of the public can ask questions ahead of them.

Lord Rosser: Does the Minister not agree that if the Government are satisfied that the police and crime commissioners have been in existence for long enough to form a view that they would be competent and suitable to take over responsibility for a fire and rescue service, the police and crime panels have also been in existence for sufficient time for the Government to properly evaluate their effectiveness and the extent to which they have or have not achieved the objectives that were laid down? The Minister acknowledged that the points I was making were not my personal views—they came from the study that had been undertaken—and I would have thought that there was an argument, now that their powers and responsibilities are to be extended, to at least have a look at the extent to which they are delivering on the objectives to which the Minister has just referred.

Baroness Williams of Trafford: My Lords, I undertake to ask, between now and Report, whether any reviews have been undertaken on the effectiveness of police and crime panels and to get back to the noble Lord. I will write to noble Lords on that point and, if that is not the case, say whether the Government intend to review the process in light of the previous criticism of police authorities.

Amendment 71 agreed.

Amendments 72 to 76

Moved by ***Baroness Williams of Trafford***

72: Schedule 1, page 202, line 5, at end insert—

" In section 28 (police and crime panels outside London) after subsection (1) insert—

"(1A) Subsection (1B) applies if the person who is the police and crime commissioner for a police area is also the fire and rescue authority for the area which corresponds to, or an area which falls within, the police area.

(1B) The police and crime panel for the police area is to be known as "the Police, Fire and Crime Panel"."

73: Schedule 1, page 204, line 9, at end insert—

" (1) The Localism Act 2011 is amended as follows.

(2) In section 41(3) (power of fire and rescue authority to appoint officers and employees to be subject to pay policy statement) after "43(1)(i)" insert "or (j)"."

74: Schedule 1, page 204, line 10, leave out "of the Localism Act 2011"

75: Schedule 1, page 204, line 14, at beginning insert "in relation only to sections 38, 40 and 41 and this section,"

76: Schedule 1, page 204, line 26, at end insert—

"Energy Act 2013 (c. 32)

In Part 3 of Schedule 9 to the Energy Act 2013 (protected information: permitted disclosures and restrictions on use) in paragraph 14(3) (local authorities and water authorities: interpretation) in the definition of "local authority" after paragraph (d) insert—

"(da) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;"."

Amendments 72 to 76 agreed.

Schedule 1, as amended, agreed.

Clause 7: Involvement of police and crime commissioner in fire and rescue authority

Amendment 77

Moved by ***Baroness Hamwee***

77: Clause 7, page 6, leave out lines 10 to 30

Baroness Hamwee (LD): My Lords, Amendment 77 is in my name and that of my noble friend Lord Paddick. We also have Amendments 78 to 80 and

[Baroness Hamwee]
Amendments 82 to 86 in this group. Taken together, our amendments—with the caveat that they are subject to drafting errors—would allow the police and crime commissioner to speak at meetings but not to vote: in other words, to make his voice heard and to put arguments but not to actually be part of the decision-making process.

Earlier today, the noble Lord, Lord Bach, in the debate on various earlier clauses standing part of the Bill, said—I cannot recall whether of himself or generally—"We were not elected as a fire and rescue authority". That is what underlies this group of amendments. Clause 7 has an innocent heading about the "involvement" of the PCC in the FRA, but gives the PCC a vote. Admittedly it is limited to fire and rescue authority functions, but quite how one identifies those and limits this—even with monitoring-officer involvement, as proposed by the noble Lord, Lord Rosser, in his amendment in this group—I am really not sure. When it comes to budgetary issues, for instance, in the real world a decision over here affects a decision over there. One always has to have regard to the knock-on effects and to the whole package. Whether it is possible to split out the issues in the way that the Bill proposes, I am unconvinced.

9 pm

I also wonder, although this may be a secondary issue, whether a police and crime commissioner might be conflicted. In the role of voting at a meeting he would have to focus on fire and rescue considerations—indeed, he would be confined to them—but of course he has his other role.

In our view, there are some fundamental issues of governance and democracy here. Country fire and rescue authorities are elected as local authorities. A police and crime commissioner is elected perhaps at a different time, and perhaps in a different political climate, on the basis of different political and other considerations. I am distinctly queasy at the notion of giving the PCC a vote as the Bill provides. I beg to move.

Lord Rosser: We have Amendment 81 in this group. Clause 7, to which our amendment refers, inserts a provision into the Local Government Act 1972 to the effect that:

"A relevant police and crime commissioner may attend, speak at and vote at a meeting of a principal council in England which is a fire and rescue authority".

A sub-paragraph then sets out the circumstances in which that applies, and one of those is,

"only if and to the extent that the business of the meeting relates to the functions of the principal council as a fire and rescue authority".

Our amendment seeks to address what happens if there is a dispute as to whether or not council business is fire-related, and whether the relevant police and crime commissioner is able to exercise their power to attend, speak at and vote at the meeting. The amendment says that if there is a dispute on this point, the decision of the monitoring officer in that authority should be final—in other words, the monitoring officer will adjudicate if there is a difference of view regarding the extent to which the business of the meetings relates to the functions of the council as a fire and rescue authority. Naturally, one would hope that such a situation would not be a common occurrence, to say the least; indeed, one might hope that it would never be an occurrence, but clearly there has to be some effective means of resolving the matter if there is a dispute.

I suggest only one particular circumstance in which problems of this kind might arise: if a police and crime commissioner wanted to take over a fire and rescue service against the wishes of the local authority concerned. The local authority concerned might then seek to look very closely at the extent to which the business at the meeting related to its functions as a fire and rescue authority and therefore perhaps seek to preclude the police and crime commissioner from attending, speaking or voting at it.

Baroness Williams of Trafford: My Lords, Clause 7 provides for PCCs to request to be represented on fire and rescue authorities within their police areas where they do not take responsibility for the governance of the fire and rescue service. This is what we have described as the representation model. When an FRA accepts such a request, we have set out that PCCs will be treated as if they were a member for the purposes of bringing agenda items, receiving papers and so on, and have full voting rights to ensure that they can take part in the business of the fire and rescue authority in a meaningful and effective way.

The amendments of the noble Baroness, Lady Hamwee, would remove those voting rights, which would be a great shame, as the PCC would not have real influence behind their contribution. Again going back to my experience, it would set an incredibly negative tone to the whole environment. In fact, it would make me wonder how they managed to get that far in the first place. We want PCCs and FRAs to consider the representation model as a viable option for promoting greater collaboration between the two services. To limit the PCC's involvement would weaken representation as a serious model for collaboration; it would be quite anti-collaboration. The amendments also remove the necessity for a fire and rescue authority to publish its decision and reasoning in considering PCC membership. I would be concerned that to do so would remove transparency and accountability from the process, because these provisions enable PCCs to seek representation where they wish to while respecting local fire governance arrangements.

The final decision on representation rests with the fire and rescue authority, although we would fully expect that in most instances the FRA would accept the PCC's request and if it does not, their reasons should be made clear to both the PCC and the public. This ensures that the process is fully transparent and open to effective scrutiny.

Amendment 81, tabled by the noble Lord, Lord Rosser, would make the monitoring officer the final arbitrator of disputes about whether business is fire-related. We do not consider this to be an appropriate role for the monitoring officer. Where a county or unitary FRA does not have a dedicated committee for fire, the Bill

provides that the PCC's ability to attend, speak and vote will be restricted to matters relating to the functions of the fire and rescue authority. It will be for local appointing committees to consider how these arrangements work in practice.

As the noble Lord knows, monitoring officers have existing duties under Section 5 of the Local Government and Housing Act 1989 to report to the local authority if, at any time, it appears to them that any actions of the authority are or would be in contravention of legal provisions. It would therefore be a conflict of interest for them also to take a role in arbitrating on decisions.

As a further safeguard, PCCs will be subject to the local authority's code of conduct for the purposes of their representation on the FRA. Were they to act outside of the code, the monitoring officer must refer the matter to the relevant police and crime panel, which will make a report or recommendations to the PCC.

I believe that the Bill as drafted allows for the representation model to be considered as a serious alternative to other governance models, and I hope that I have been able to persuade the Committee of the merits of the approach taken in the Bill and that consequently the noble Baroness will be content to withdraw her amendment.

Lord Rosser: Perhaps I can clarify what the Minister said. I understood the point that she sought to make about the unsuitability of the monitoring officer, in the Government's view. I am still unclear, and she may need to explain to me again, what will be the process to resolve an issue if there is an argument about whether a police and crime commissioner is entitled to attend, speak at or vote at a particular meeting, because that relates to whether business is being discussed which is relevant to the role of a fire and rescue authority. Will a process or procedure exist, will guidelines be issued on it, or do the Government argue that they do not envisage that such a problem will ever arise?

Baroness Williams of Trafford: As I have explained, in most instances, the FRA would accept a request, and it would be in the interests of good working, good faith and collaboration for it to do so. As to the process if it refused such a request, as I understand it—I will write to noble Lords if it is any different—if it refuses it, it refuses it, and there is no recourse thereon in.

Baroness Hamwee: My Lords, perhaps I should make it clear that the deletion in the amendments of the transparency provisions, as the Minister described them, were consequential—or possibly presequential. I am not sure about the point on voting. That was not really the thrust of our amendments. I am not comfortable about this. She described the amendments as being anti-collaboration, but collaboration by its very nature requires two parties—not merging the parties into a single authority. However, we are where we are, certainly for tonight, so I beg leave to withdraw the amendment.

Amendment 77 withdrawn.

Amendment 78 to 86 not moved.

Amendment 87

Moved by ***Baroness Williams of Trafford***

87: Clause 7, page 9, line 40, after "or" insert ", in the case of a combined authority for an area which is wholly within England,"

Amendment 87 agreed.

Clause 7, as amended, agreed.

Clause 8: Combined authority mayors: exercise of fire and rescue functions

Amendments 88 to 92

Moved by ***Baroness Williams of Trafford***

88: Clause 8, page 11, line 19, leave out from "exercise" to end of line 20 and insert "the chief constable's fire and rescue functions."

89: Clause 8, page 11, line 23, leave out from "any" to end of line 24 and insert "functions mentioned in that subsection;"

90: Clause 8, page 11, line 25, leave out from "any" to "other" in line 26 and insert "functions mentioned in that subsection"

91: Clause 8, page 11, line 28, leave out from "of" to "specified" in line 29 and insert "such of the functions mentioned in that subsection as are"

92: Clause 8, page 11, line 45, at end insert—

"( ) In this section "fire and rescue functions", in relation to a chief constable, means—

(a) functions which are exercisable by the chief constable by virtue of provision made under subsection (2)(a), and

(b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment."

Amendments 88 to 92 agreed.

Amendment 93

Moved by ***Baroness Hamwee***

93: Clause 8, page 12, leave out lines 2 to 6 and insert—

"(1) An order under section 107EA may not be made in the absence of—"

Baroness Hamwee: My Lords, my noble friend Lord Paddick and I also have Amendments 94 to 98 in this group. I am aware that if certain of these amendments were accepted consequential amendments would be required.

I want to probe whether it should be a matter for a particular combined authority mayor to initiate the procedure with which Clause 8 deals. Should this depend on an individual? Having started on that thought, I realise that if we are to have these arrangements, somebody has to start them off, but one is well aware of how a long-lasting arrangement can come about as a result of an individual seeing a short-term advantage. In any event, should there be public consultation, not the discretion which is implicit in the wording in new subsection (2)(b), which refers to,

"a description of any public consultation which the mayor has carried out"?

Surely it should be "the" consultation.

[Baroness Hamwee]

The second subject of this group of amendments is the majority provided by what will be new subsection (3), requiring that two-thirds of the,

"members of the combined authority have indicated that they disagree with the proposal",

to block it. Come the happy day of proportional representation for local government, it will probably be quite difficult to get two-thirds to disagree. The noble Lord, Lord Harris of Haringey, will have recollections from a different perspective of getting a two-thirds majority in the Greater London Authority, where the mayor's budget could be blocked only by a two-thirds majority. I am proposing 51%, which I suppose should be "more than 50%" if expressed properly, as that is what a majority is.

This also raises the question of why any opposition should be required to trigger what would be new subsections (4) and (5)—perhaps a more arguable point in the case of the latter—because opposition to the mayor's proposal merely makes the Secretary of State investigate the situation fully. It does not actually block the proposal. There is a question here before one even gets to looking at the size of the majority. I beg to move.

9.15 pm

Baroness Williams of Trafford: My Lords, as the noble Baroness, Lady Hamwee, has explained, these amendments relate to the process for adopting the single employer model by a combined authority mayor. I will take each amendment in turn.

Amendment 93 removes the requirement for a mayor to request that the Home Secretary approves an order implementing the single employer model. In effect, it enables any person to make such a request of the Home Secretary. As I explained during our consideration of the Cities and Local Government Devolution Bill, we considered that directly elected combined authority mayors provided that strong, clear accountability necessary to exercise the wide-ranging powers that were devolved to an area. The processes in the Bill reflect this, giving the mayor the discretions and powers to be exercised locally that it is right for the mayor to have, given their own local mandate and direct accountability locally through the ballot box. Mayors should be able to take the big decisions that they are elected to make, with appropriate safeguards. Where a mayor is responsible for police and fire functions, we believe that the mayor should be the person to make such proposals to the Home Secretary about how these functions are run. Adopting this amendment would be counter to this devolutionary approach, whereby powers and duties usually exercised by Whitehall have been devolved to the mayor.

Amendments 94, 95 and 98 require a mayor seeking to put in place the single employer model to carry out a public consultation on the proposal. The Bill already requires the Home Secretary to consider whether a proposal for the mayor to put in place the single employer model is in the interests of economy, effectiveness and efficiency or public safety before approving it. These provisions do not prohibit a mayor from consulting locally on a proposal. Should the mayor wish to do so, the Home Secretary would be required to have regard to any responses to the consultation when considering whether to give effect to the proposal. Where powers have been devolved to an area, it is for the directly elected mayor to decide how particular proposals, be they for creating a single employer model or any other exercise of powers, should be taken forward. It is important that any proposals brought forward by a mayor are properly scrutinised. Noble Lords will have the opportunity to debate them, as orders to implement the single employer model under a mayor will be subject to the affirmative procedure.

Amendment 97 seeks to lower the threshold for triggering an independent assessment of a proposal to implement the single employer model under a mayor, while Amendment 96 takes the further step of requiring the Home Secretary to order an independent assessment of a proposal, regardless of whether there is local agreement. The amendment would also require a mayor to submit to the Home Secretary any representations made by elected members of the combined authority about the proposal and the mayor's response to those representations.

It would not be proportionate to lower the threshold or strike out the limiting provisions for ordering an independent assessment of a proposal. The approach we have taken mirrors that of devolution deals agreed to date, whereby members are able to reject specific proposals brought forward by the mayor where there is agreement from at least two-thirds of members of the combined authority. Given that the combined authority mayor will have been directly elected with a strong democratic mandate, we consider that two-thirds threshold entirely appropriate. Not to bore noble Lords too much about Greater Manchester but, as I explained, my position was as one of 10—the only Conservative—and that was the situation that faced me year on year, quite often frustratingly. But the two-thirds majority worked. Lowering the threshold would give room for more regular mischief-making, should members of local authorities see fit. In my experience—noble Lords may disagree—it is an entirely appropriate threshold, and I hope the noble Baroness will withdraw her amendment.

Baroness Hamwee: My Lords, I am sure the Minister, even as only one of 10, was quite capable of making enough mischief. I was never going to win an argument against the strong mayor model and the implications of that—but I do not think having a strong mayor means that there should not be consultation. I beg leave to withdraw the amendment.

Amendment 93 withdrawn.

Amendments 94 to 100 not moved.

Amendments 101 to 104

Moved by ***Baroness Williams of Trafford***

101: Clause 8, page 13, line 22, leave out from second "of" to end of line 23 and insert "the chief constable's fire and rescue functions."

102: Clause 8, page 13, line 45, leave out from first "of" to end and insert "the chief constable's fire and rescue functions."

103: Clause 8, page 14, line 8, leave out from "of" to end of line 9 and insert "the chief constable's fire and rescue functions;"

104: Clause 8, page 14, line 40, after "section" insert "—

"fire and rescue functions" has the same meaning as in section 107EA;"

Amendments 101 to 104 agreed.

Amendment 105

Moved by ***Baroness Williams of Trafford***

105: Clause 8, page 16, line 10, at end insert—

"107EEA Section 107EA orders: application of fire and rescue provisions

(1) The Secretary of State may by order—

(a) apply (with or without modifications) any provision of a fire and rescue enactment in relation to a person within subsection (2);

(b) make, in relation to a person within subsection (2), provision corresponding or similar to any provision of a fire and rescue enactment.

(2) Those persons are—

(a) a chief constable of a police force for a police area to whom an order under section 107EA(2) applies,

(b) a member of staff transferred to such a chief constable under a scheme made by virtue of section 107EC(1),

(c) a member of staff appointed by such a chief constable under section 107EC(2),

(d) a member of such a chief constable's police force by whom functions are exercisable by virtue of section 107EA(2)(b), and

(e) a member of the civilian staff of such a police force (as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011) by whom functions are exercisable by virtue of section 107EA(2)(b).

(3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made under a fire and rescue enactment or make provision corresponding or similar to any such provision.

(4) The Secretary of State may by order amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).

(5) In this section "fire and rescue enactment" means an enactment relating to a fire and rescue authority (including, in particular, an enactment relating to an employee of such an authority or property of such an authority).

(6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made."

Amendments 106 and 106A, as amendments to Amendment 105, not moved.

Amendment 105 agreed.

Amendment 107 not moved.

Amendments 108 and 109

Moved by ***Baroness Williams of Trafford***

108: Clause 8, page 16, line 30, leave out "Act" and insert "enactment"

109: Clause 8, page 16, line 31, at end insert—

"( ) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.""

Amendments 108 and 109 agreed.

Clause 8, as amended, agreed.

Clause 9 agreed.

Schedule 2: The London Fire Commissioner

Amendments 110 and 111

Moved by ***Baroness Williams of Trafford***

110: Schedule 2, page 205, line 15, leave out paragraph 4 and insert—

"4_(1) Section 45 (the Mayor's periodic report to the Assembly) is amended as follows.

_(2) In subsection (6) omit "except as provided by subsection (7) below."

_(3) Omit subsections (7) and (8)."

111: Schedule 2, page 205, line 36, leave out paragraph 6 and insert—

"6_(1) Section 61 (power to require attendance at Assembly meetings) is amended as follows.

_(2) In subsection (11) omit ", except as provided by subsection (12) below,".

_(3) Omit subsections (12) and (13)."

Amendments 110 and 111 agreed.

Amendment 112

Moved by ***Lord Harris of Haringey***

112: Schedule 2, page 206, line 2, leave out from "not" to end of line 5 and insert "apply to a person appointed as the Deputy Mayor for Policing and Crime or to a person appointed as Deputy Mayor for Fire."

Lord Harris of Haringey: I move on to a series of amendments that relate to London. I remind noble Lords of my interest, in that I am in the process of completing a review for the Mayor of London on London's preparedness. I should make it clear that the amendments in my name are not sanctioned by the Mayor of London or by any of his staff or colleagues—I doubt whether he is aware of them.

The Police Reform and Social Responsibility Act, in its wisdom, created a mechanism whereby there were two routes to people being appointed as deputy mayor for policing and crime in London. One route was that the mayor would appoint a member of the London Assembly. Obviously, if the mayor appoints a member of the London Assembly, who has been elected, that person is clearly a politician. The second route is that the mayor might appoint another person who was not a member of the London Assembly—and, if they did so, there was a confirmation process that the London Assembly had to conduct before that person became the deputy mayor for policing and crime. However, that person was then treated as an employee of the Greater London Authority and therefore was politically restricted, which was, frankly, rubbish and stupid. Here was a deputy mayor, deputising for a

[Lord Harris of Haringey]
political mayor and appointed as such, who was then politically restricted. So far, on the two occasions when successive mayors have appointed deputy mayors for police and crime who were not members of the London Assembly, the two individuals concerned have been London borough councillors, and have had to resign forthwith.

It may well have been sensible for them to resign as London borough councillors if they were taking on the role of deputy mayor for policing and crime. But they were politically restricted, which means that they could not hold office in or speak on behalf of their political party. I am not suggesting that anyone launch an investigation or criminal process or anything, but the last deputy mayor for policing and crime ran for his party's nomination for the mayoralty of London, against Zac Goldsmith. That is a very strange position for somebody who is politically restricted—although I do not think anybody batted an eyelid or was in the least bit concerned.

What we have is legislation that is palpably nonsense. Depending on their route of appointment, the deputy mayor for policing and crime is, in one case, politically restricted but, in the other, if they are a member of the London Assembly, they clearly cannot be politically restricted because they are an elected person. When this legislation, the then Police Reform and Social Responsibility Bill, was going through the House, it was clearly not an issue that anyone either understood or felt was worth resolving. It does not work; it does not make sense. I would be interested to know why it is still well regarded—so much so that we now have legislation creating the new role of deputy mayor for fire, who can also be appointed by two routes. One route is where the mayor appoints a deputy mayor for fire from among the members of the London Assembly; that person is clearly not politically restricted, because they are an elected person in their own right. However, the mayor might appoint a deputy mayor for fire who is not a member of the London Assembly, in which case they would have to go through a confirmation process through the London Assembly, but they would then be politically restricted.

This amendment seeks to remove this nonsense altogether and to state that the deputy mayor for police and crime and the deputy mayor for fire, whatever their route of appointment—and I am not suggesting that it be changed—should not be politically restricted, because they are de facto acting in a political fashion. They are representing and carrying out functions for the Mayor of London and they are doing so in a political way. Why should one, through accident of appointment, be politically restricted when, if the accident of appointment went the other way, they would not be politically restricted? It is a stupid anomaly and I cannot see any conceivable justification for it. I look forward to hearing from the Minister why the Government are going down this route and whether she is prepared to remedy it on this occasion.

While the Minister is waiting, if she is waiting, for guidance to arrive on these matters, I should say that I think—I cannot recall precisely and I have not done my homework at this stage, though I reserve the right to have done it by Report stage—that a similar set of anomalies are created for deputy police and crime commissioners. Again, it is pretty ridiculous. Having allowed for there to be deputy police and crime commissioners, which was a sensible change during the passage of the Police Reform and Social Responsibility Bill through Parliament, why create a situation in which the person whom the police and crime commissioner creates as their deputy is politically restricted? As I say, I have not checked this point; it may turn out that I am wrong about it, but I am pretty certain that I am right that they are politically restricted. This then presents a whole series of issues. There was at least one instance in the recent round of elections of a deputy police and crime commissioner running to be the police and crime commissioner. I do not know whether they had to resign their position as deputy or whether, as in the London case, everybody pretended not to notice.

9.30 pm

Baroness Williams of Trafford: My Lords, in replying to the noble Lord, I hope that I have the right end of the stick as to what he is saying; I will give it a go anyway and I am sure that he will intervene if I am wrong. The amendment relates to the rules on political restriction in Sections 1, 2 and 3A of the Local Government and Housing Act 1989, in so far as they apply to the deputy mayor for fire and the deputy mayor for policing and crime. Those rules do not apply to the deputy mayor for policing and crime. I therefore put it to the noble Lord that they are not applicable or relevant for this amendment.

The provisions for appointing the deputy mayor for policing and crime are set out in the Police Reform and Social Responsibility Act 2011. The Bill does not seek to change those provisions. The 2011 Act does not restrict a member of the Assembly from being appointed as the deputy mayor for policing and crime, and for that member to continue to be a member of the Assembly.

The purpose of paragraph 8 of Schedule 2 to the Bill is to enable a person who is an Assembly member to remain a member of the Assembly or to become one despite having been appointed or designated as the deputy mayor for fire. The amendment would remove the political restriction rules completely for that position, which is perhaps what he was seeking. I did not think that was what the noble Lord intended, but it may be. If I have misunderstood his purpose, I will be very happy to reflect on what he has said and write to him.

Lord Harris of Haringey: I will certainly be grateful to receive a letter from the noble Baroness, Lady Williams. However, I think she has slightly missed the point—namely, that, under the current legislation, if the deputy mayor for policing and crime is not an Assembly member, he or she is politically restricted. It is just conceivable that, because of the convoluted way in which legislation is frequently drafted, the political restriction is derived from something other than those particular clauses in the Local Government Act, but I rather doubt it. Therefore, we are talking about those people who are not already Assembly members who are appointed as either deputy mayor for policing and crime or deputy mayor for fire. The Bill seeks to apply

that provision to the deputy mayor for fire if they are not an Assembly member, so they are politically restricted. As I have said before, I think that is a nonsense. Therefore, I hope that the noble Baroness will check precisely how the legislation applies to them. But it certainly has applied to the last two deputy mayors for policing and crime in London, because both of them have been obliged to resign their council seats as a consequence not of any disqualification laid down other than the fact that they have become politically restricted, so clearly the measure has applied under those circumstances. The noble Baroness, Lady Hamwee, no doubt has encyclopaedic knowledge on this.

Baroness Hamwee: I absolutely do not have any encyclopaedic knowledge. However, I am very glad that the Minister has agreed to look into this in more detail because, as the noble Lord describes the situation, it is a farce. As I recall, there was a sort of evolution of thinking about deputy mayors and the use of the 10-plus-two people in the original Greater London Authority Act, and their position. Originally, they were thought of absolutely as the mayor's creatures. Will this be borne in mind in looking at the position because I think that some of this comes from the original ideas on what the structure would be and how the mayor might structure his or her office? Perhaps things have just moved on a bit from there. I suggest that this is part of a slightly bigger jigsaw.

Lord Harris of Haringey: My Lords, I am grateful to the noble Baroness, Lady Hamwee, for her remarks. I could have included in this the other deputy mayors. I thought that was probably outside the scope of the Bill, but, what the hell, I might have gone for it, because, among the crop of deputy mayors appointed by the current Mayor of London, and, indeed, by his predecessor, were people who were serving borough councillors or, in one case, a borough mayor. They had to resign their offices for those other positions. However, I have confined this amendment to the specific positions of deputy mayor for policing and crime and the deputy mayor for fire, possibly to make it easier for the noble Baroness to look at it. The situation is that, if they are not Assembly members, they are politically restricted. If they are Assembly members, obviously, they cannot be. That is a stupid anomaly which I hope the Government can remedy. Therefore, I beg leave to withdraw the amendment.

Amendment 112 withdrawn.

Amendment 113

Moved by ***Lord Harris of Haringey***

113: Schedule 2, page 210, leave out lines 32 and 33

Lord Harris of Haringey: My Lords, this is a completely different point, which relates to the role of the proposed fire and emergency committee of the London Assembly. I was interested that the noble Baroness, Lady Williams, moved Amendment 72 a few minutes ago, which said that police and crime panels should become the "police, fire and crime panel" outside London. In London, the parallel structure for the police and crime panel is called the Police and Crime Committee. Confusingly, London has a PCC, but it is not a commissioner. The parallel structure which is therefore created is that a committee of the London Assembly meets—unlike police and crime panels elsewhere in the country—on a very regular basis, comprising politicians who know each other from the same authority. That works better than police and crime panels elsewhere.

The parallel structure created in the Bill is that there should be a fire and emergency committee which would be set up by the London Assembly and carry out the functions of scrutiny with regard to the deputy mayor for fire. That is fine—there should be a scrutiny structure. However, the Bill specifically says that the fire and emergency committee cannot carry out any other functions of the authority. It is saying to the Assembly: "You have to create two separate committees: one to look at policing and one to look at fire". I would not suggest merging the two committees, but everywhere else in the country the Government are saying that the same panel must do it, even though it will be much less well resourced and much less able to do an effective job. But in London you have to have two committees.

Why can it not be left, in the spirit of devolution and localism, which the Government so espouse, to the London Assembly to decide how it wants to organise these functions? If it wants to have one, two or even three committees, as long as it carries out the functions set out of scrutiny of the respective deputy mayors, surely it should be allowed to decide how it organises to do that. I beg to move.

Baroness Hamwee: My Lords, I support the noble Lord, Lord Harris, on this. I remember quite clearly, during the passage of the Greater London Authority Act, the then Minister—or the government representative at the Dispatch Box; I think it was a Whip at the time—saying firmly, on the basis of notes coming to her from the Box, that the London Assembly should be allowed to sort out its own procedure. I think we were debating an issue around a quorum. The same applies here, probably in spades. It is also interesting that the Government, who are concerned about efficiency, effectiveness and economy, should insist on procedures that must have the potential to be less efficient and more expensive.

Baroness Williams of Trafford: My Lords, as the noble Lord, Lord Harris, explained, the amendment would delete the provision which prevents the assembly arranging for any of its non-fire and emergency committee functions to be discharged by that committee. The role of the fire and emergency committee will be to review how the London Fire Commissioner exercises his or her functions and to investigate and prepare reports on the commissioner's actions and decisions. The committee will also review draft documents presented to it by the London Fire Commissioner and make a report or recommendations to the mayor. The committee will also undertake confirmation hearings in respect of the appointment of the London Fire Commissioner and the deputy mayor for fire. In addition, it will have the power to require the deputy mayor for fire, the London Fire Commissioner and any officer of the London Fire Commissioner to attend proceedings of the committee to give evidence.

[Baroness Williams of Trafford]

The functions are set out in the Bill so that it is clear that the fire and emergency committee has a specific fire-related purpose. It follows that the committee should not be used for any non-fire-related business of the assembly. This is clearly different from everywhere else in the country, as the noble Lord said—and I am sure that other places in the country will argue for what London has. The position in London is different. There will be two separate functional bodies and no move to a single-employer model, so in that sense it is not the same as elsewhere. I apologise for doing it again, but I compare Greater London to Greater Manchester—it is four times the size.

Lord Harris of Haringey: Four times as good.

Baroness Williams of Trafford: I would not agree with that, but with that explanation I hope that the noble Lord will feel happy to withdraw his amendment.

Lord Harris of Haringey: My Lords, to be honest, I do not think that it was really an explanation. The issue is not that London is more complicated even than Greater Manchester, nor that there will be two separate functional bodies headed by the deputy mayor and so on—although I have to ask: if the Government are enthusiastic about such a model everywhere else in the country, why would it not make sense for the two functions to be brought together in London, or for there to be a single employer? I am not advocating that, by the way, because I do not think that it would be a good idea, but I find it inconsistent with everything else in the Bill.

As the noble Baroness says, the Bill specifies in enormous detail exactly how the Assembly will have to organise this:

"The Assembly must arrange for the functions"—

the noble Baroness listed them—

"to be discharged on its behalf by a particular committee of the Assembly … The Assembly may not arrange for the fire and emergency committee functions to be discharged on its behalf otherwise than in accordance with subsection (1)",

which sets up the committee.

"The Assembly may not arrange for any of its other functions to be discharged by the fire and emergency committee".

This is really laying it down—"You have to have a fire and emergency committee. It can do only this, it mustn't do anything else, and nobody else must do it". It really is not very much of a statement in favour of localism. The Bill then goes on to say that:

"The special scrutiny functions may only be exercised at a meeting of the whole panel".

I do not know where "panel" comes from; the rest of the new section talks about a committee; no doubt that is a technical issue that I do not understand, but officials might want to look at whether the Bill should say "panel" or "committee" at that stage.

Had I been really malevolent, I would have taken out all that and just said, "These are the functions that the Assembly must consider how to administer". Laying things down in that detail and limiting the discretion of the Assembly to decide how it wants to organise itself seems a nonsense. Although I am happy not to press the amendment to a vote tonight, I hope that I am getting an assurance from the noble Baroness that she will look at it again and come back on it on Report, otherwise I will.

Baroness Williams of Trafford: By the sounds of it, my Lords, we both will.

Lord Harris of Haringey: On that basis, I beg leave to withdraw the amendment.

Amendment 113 withdrawn.

Amendment 114

Moved by ***Baroness Hamwee***

114: Schedule 2, page 212, line 1, at beginning insert—

"(za) any actions and decisions of the Deputy Mayor for Fire,"

Baroness Hamwee: My Lords, new Section 327I gives the Assembly the power to investigate and prepare reports on certain matters. My amendment would add,

"any actions and decisions of the Deputy Mayor for Fire",

and,

"any other matters which the Assembly considers to be of importance to fire and rescue services in Greater London".

Those are taken directly from the powers of the London Assembly in respect of policing—of its police and crime panel. It is called a panel; it runs as a committee. It has the power to investigate and prepare reports about any actions and decisions of the Mayor's Office for Policing and Crime, and matters which the Assembly considers to be of importance to policing and crime reduction in the Metropolitan Police district. I ask why there is no equivalent for fire.

I note that new subsection (5) will give the Assembly the power to summons the deputy mayor for fire to attend and to produce documents. It seems odd that it should have no power to report and investigate the items and person that it has the power to summons. I beg to move.

9.45 pm

Baroness Williams of Trafford: My Lords, the amendments proposed by the noble Baroness, Lady Hamwee, would extend the powers of the assembly fire and emergency committee to investigate and prepare reports about the deputy mayor for fire and any other matters which the assembly considers to be of importance to fire and rescue services in Greater London.

With regard to Amendment 114, the noble Baroness makes a valid point about the need for scrutiny of the actions and decisions of the deputy mayor for fire. I am happy to consider this amendment further in advance of Report. On Amendment 115, any other matters which the assembly considers to be of importance to fire and rescue services will inevitably have already been considered by the London Fire Commissioner in the exercise of his or her functions, and consequently will be subject to scrutiny by the fire and emergency

committee. We are not therefore persuaded that this catch-all provision is needed. On the basis that I will consider further Amendment 114, I hope that the noble Baroness will be content to withdraw it at this stage.

Baroness Hamwee: My Lords, I am grateful to the Minister for offering to look at Amendment 114. However, I wonder whether before Report she could look also at Amendment 115 in the light of Section 33(3)(f) of the Police Reform and Social Responsibility Act 2011. Section 33(3) of that Act gives powers that cover,

"actions and decisions of the Mayor's Office for Policing and Crime".

That is the equivalent, in policing terms, of the deputy mayor for policing. It also gives powers that cover,

"actions and decisions of the Deputy Mayor for Policing and Crime".

Quite separately, in paragraph (f), are the,

"matters which the Assembly considers to be of importance to policing and crime reduction in the metropolitan police district".

This is the exact equivalent, I would have thought, of my Amendment 115. They really do go together—it is a package of scrutiny.

If there is a difference between the provisions relating to policing and the provisions relating to fire and rescue in terms of the assembly's powers, somebody is going to make the distinction and say, "No, you can't go there"—when actually, they should go there. However, for the moment, I beg leave to withdraw Amendment 114.

Amendment 114 withdrawn.

Amendment 115 not moved.

Amendments 116 to 119

Moved by ***Baroness Williams of Trafford***

116: Schedule 2, page 215, line 2, at end insert "or more"

117: Schedule 2, page 221, line 10, leave out from "audit)" to end of line 12 and insert "in subsection (5) for paragraph (a) substitute—

"(a) the London Fire Commissioner;"."

118: Schedule 2, page 223, leave out lines 34 to 38

119: Schedule 2, page 226, line 40, at beginning insert "in relation only to sections 38, 40 and 41 and this section,"

Amendments 116 to 119 agreed.

Schedule 2, as amended, agreed.

Clause 10 agreed.

Clause 11: Inspection of fire and rescue services

Amendment 120

Moved by ***The Earl of Lindsay***

120: Clause 11, page 19, line 25, at end insert ", who may include appropriately qualified assessors from conformity assessment bodies which have been accredited by the National Accreditation Body as appointed by the Accreditation Regulations 2009 (SI 2009/3155)."

The Earl of Lindsay (Con): My Lords, in moving Amendment 120 and speaking to Amendment 122, I should, at the outset, acknowledge the importance of strengthening the provisions in the Fire and Rescue Services Act 2004 by introducing a robust and independent regime for fire and rescue authorities in England. Equally, I recognise the desire to increase transparency and to ensure that the new inspectors have the powers to exercise their function to monitor and report on the effectiveness and efficiency of our fire and rescue service, and to take action where necessary.

I do however hesitate over the rationale behind the decision to limit the conduct of all inspection activity to public authorities and officers recruited into the Home Office, as the Government are potentially missing an opportunity to utilise the inspection expertise available outside the public sector. I should declare an interest in this matter as the chair of the UK Accreditation Service, which is the sole national body recognised by the Government for accreditation, against nationally or internationally recognised standards of organisations providing inspection services, as well as certification, testing and calibration. UKAS's role and remit as the national accreditation body are enshrined in the Accreditation Regulations 2009 and, in addition, UKAS operates under a memorandum of understanding with the Secretary of State for Business, Energy & Industrial Strategy, on behalf of the Government as a whole. That memorandum of understanding requires UKAS to act in the public interest at all times.

UKAS itself is peer-assessed against strict international standards and we are able to demonstrate and in turn assess impartiality and independence as well as technical competence and consistency as being vital elements of all whom we are assessing. This is why UKAS accreditation is used with confidence across a wide spectrum of policy and regulatory areas.

Extending the clause as currently drafted to enable the chief fire and rescue inspector to utilise inspections by competent, impartial and independent inspectors from conformity assessment bodies, outside public authorities, provided they hold the appropriate accreditation from UKAS, would in no way compromise the effectiveness, transparency or credibility of the new inspectorate. On the contrary, it would help to enhance the inspectorate's reach and impact. It would also help to cement and enhance its position by giving assurance that all inspection and audit activities are conducted by independent, impartial and fully competent personnel as demonstrated by their conformity with UKAS's robust and rigorous requirements as the Government's sole national accreditation body. Such an approach would also support the Government's policy of risk-based regulation, enabling the new inspectorate to use its inevitably finite resources to target its inspection and audit activities to where they are most needed, which would benefit the inspectorate itself, compliant fire and rescue services and of course the public.

For more than a decade, the national accreditation body had a strong record in working with the Government to underpin better regulation, government efficiency and public sector reform. It has helped to reduce the regulatory burden on society and reduce the inspection

[The Earl of Lindsay]
costs incurred by regulators while at the same time ensuring that robust outcomes in terms of compliance and behaviour are in line with required policy or regulatory objectives. There are a number of examples where UKAS accreditation has been successfully used by regulators to support and complement existing regulatory regimes: specifically, accreditation has enabled regulators to use a more risk-based approach, which has resulted in a better targeting of resources by regulators. Where organisations have a UKAS-accredited inspection or certification in place against a recognised national or international standard, this has been recognised as a reliable indication of compliance and so has given regulators the opportunity to focus their efforts on those organisations where the risk of non-compliance is highest.

For example, the Forensic Science Regulator has recognised the importance of UKAS accreditation as a mechanism to ensure that the standards required by the Home Office are met and maintained. The Forensic Science Regulator *Codes of Practice and Conduct for Forensic Science Providers and Practitioners in the Criminal Justice System* require forensic science providers to hold UKAS accreditation in accordance with the statement of requirements contained in the code. The requirement to hold accreditation applies irrespective of whether the forensic science provider is public, police or commercial. I could cite other examples. For instance, the Care Quality Commission uses UKAS's accreditation to increase its regulatory oversight and effectiveness. I should also add in passing that UKAS currently works closely with the Chief Fire Officers Association, the Fire Risk Assessment Competency Council and British Approvals for Fire Equipment on a number of accredited certification schemes.

Using accredited inspection in this way does not remove the requirement for statutory inspections. There is always a need for the possibility of statutory intervention when appropriate. However, supplementing statutory inspection with an accredited alternative can free up valuable additional resources in line with the established better regulation principles without compromising outcomes.

The introduction of the new inspectorate is an important step forward and is to be welcomed. However, I firmly believe that granting the new inspectors the flexibility, if they so wish, to commission inspection activities from, or delegate inspection activities to, organisations in which all parties can have confidence because they have been fully accredited for that specific purpose by the national accreditation body will maximise the benefits, for the new inspectorate, for all who have an interest in the new inspectorate being able to deliver its role, and for public safety. I beg to move.

Lord Rosser: I thank the noble Earl for explaining to me prior to today the purpose of his amendments and the objective they seek to achieve. The noble Earl has made his case in very clear and cogent terms. I, too, would very much like to hear the Government's response.

Baroness Chisholm of Owlpen (Con): My Lords, a key element of the recently announced fire reform agenda is the creation of a new independent inspection regime for fire and rescue. Amendments 120 and 122, tabled by my noble friend Lord Lindsay, relate to persons and bodies appointed by the chief fire and rescue inspector and an English inspector respectively to deliver the inspection function.

The Government do not believe that Amendment 120 is necessary. Clause 11 is modelled on provisions for the inspection of policing and is deliberately broad to provide the chief fire and rescue inspector with flexibility in who they may appoint as an assistant inspector, or other officers, for the purpose of assisting English inspectors. The Government could have listed certain professions or qualifications in the Bill for who could be appointed, but that would be interpreted as an exhaustive list, or would influence the chief inspector on their appointments. Therefore, I assure my noble friend that there is nothing stopping the chief inspector appointing persons covered by his amendment—indeed, there may be some merit in their doing so if needed—but the amendment does nothing to further the Bill as such persons are not precluded.

Turning to Amendment 122, this issue was raised during the Bill's Commons Report stage. My ministerial colleague, the Minister for Policing and the Fire Service, has exchanged letters with Bob Neill MP and Jim Fitzpatrick MP since then. Therefore, my comments will come as no surprise.

Whereas Amendment 120 deals with the appointment of individuals, Amendment 122 to Schedule 3 covers the appointment of bodies as the recipient of delegated functions. Paragraph 2 of Schedule 3 allows for an English inspector to arrange for the inspection function to be exercised by another public authority on their behalf. This provides a degree of operational flexibility, depending on the inspection model chosen, but it is simply not appropriate for government inspection functions—regardless of what or who they are inspecting—to be delivered by a non-public body. Importantly, for an inspectorate to undertake robust inspections they must have access to information, premises and persons—powers granted in statute. I do not doubt the high standards private bodies operate to, but such invasive powers should be delivered only by those holding public office to avoid any conflict of interest and ensure proper accountability for the exercise of such powers.

I recognise the valuable role UKAS provides in giving confidence to both the public and private sectors as to a person's competence, consistency and impartiality. However, we deliberately did not add a prescriptive list to the Bill to avoid any constraint on the chief inspector appointing whoever they consider necessary and appropriate. As I said, there is nothing to stop external experts being sourced, including from the bodies covered by these amendments, but this constraint is important. In view of that, I invite my noble friend to withdraw his amendment.

The Earl of Lindsay: My Lords, I am grateful for my noble friend's response and look forward to reflecting on the detail of what she said in due course. It might be useful if there were some discussion between UKAS and the Home Office to make sure that anything that UKAS's activities can do to support the new inspectorate is developed. I am also mindful that the Home Office

will consult on the proposals for the new inspectorate later in the year. That is another opportunity for useful discussions. On that basis, I beg leave to withdraw my amendment.

Amendment 120 withdrawn.

Clause 11 agreed.

House resumed.

House adjourned at 10.01 pm.