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PARLIAMENTARY DEBATES
(HANSARD)

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

Thursday 1 December 2016

11 am

Prayers—read by the Lord Bishop of Chester.

HIV Diagnosis: Clinical Guidance Question

11.06 am

Asked by **Baroness Gould of Potternewton**

To ask Her Majesty's Government, in the light of the forthcoming review of testing guidelines in 2017, what steps they are taking to ensure new national clinical guidance is adopted by the National Health Service and local authorities to reach people in the United Kingdom still living with undiagnosed HIV.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, we welcome the new HIV testing guidelines from NICE, which are particularly timely on World AIDS Day. Early diagnosis of HIV through increased testing carries huge benefits. Progress is being made and in 2015 the rate of undiagnosed HIV fell to 13% from 25% in 2010. We will keep working with partners to use the guidelines to encourage people to get tested and fight the stigma associated with HIV.

Baroness Gould of Potternewton (Lab): I thank the Minister for his reply. Can he elaborate a little on the Government's plans for promoting the guidelines to raise awareness—which I hope they will do—and monitoring the use of the guidelines to reduce the 17% rate of undiagnosed HIV and the continuing levels of HIV? The responsibility of government is absolute in making sure that the guidelines are adopted. On the same basis, can the Minister indicate what support or otherwise the Government are giving to ensuring that PrEP is made available to all those who might be at risk of HIV transmission?

Lord Prior of Brampton: My Lords, the undiagnosed rate of HIV is not 17%, as the noble Baroness said. That was in 2014. It is 13% now. So there is an improvement here and the trend is in the right direction. We have a whole range of programmes to try to improve the rates of testing, including self-sampling, and 1.1 million people attended GUM clinics last year. There is the HIV Prevention Innovation Fund and all the work being done by the Terrence Higgins Trust. There is a Question on PrEP later. Perhaps I could deal with it then.

Baroness Gould of Potternewton: My Lords, I must declare that I was on the innovation panel for Public Health England.

Lord Black of Brentwood (Con): My Lords, all those living with HIV, particularly those diagnosed late, require significant levels of care for both their physical and mental health. Does my noble friend

agree that specialist doctors and nurses in the NHS provide exceptional care for those living with the virus, and join me in paying particular tribute to the work of pioneering centres, such as the Ian Charleson Day Centre at London's Royal Free Hospital, which have made a real difference to the lives of thousands of patients?

Lord Prior of Brampton: My Lords, I am very happy to do that. It is extraordinary how healthcare has changed a fatal disease into a chronic disease in just 20 years. I have a quote from the PHE report that was produced today, from a white lady who has HIV. She says:

“Just a few words from someone who has been living with HIV for nearly 20 years: it's not that bad and there are times when you forget you have HIV. Eventually, even when you remember you're positive, it's no longer an issue”.

That is an illustration of just how far we have come in 20 years.

Baroness Masham of Ilton (CB): My Lords, does the Minister agree that it is very dangerous to go around without knowing your HIV status? Will he organise some more publicity, particularly for women, because men seem to have more help than women?

Lord Prior of Brampton: The noble Baroness is absolutely right. Early diagnosis is absolutely critical. We have made huge progress. The WHO guidelines aim for 90% of people with HIV to be diagnosed. We are at 87%. Sweden is the only country in the world that has hit the 90% target. I point to the It Starts With Me programme, which is based around individual responsibility and is co-ordinated by the Terrence Higgins Trust, which is making great progress.

Lord Hunt of Kings Heath (Lab): My Lords, I very much welcome the initiatives taken by the Government in this area but does the Minister accept that the NHS itself could do more, particularly in accident and emergency departments and in primary care? Would he be prepared to convene a meeting with NHS England to discuss how the NHS could be persuaded to be much more proactive in relation to testing?

Lord Prior of Brampton: My Lords, I am very happy to arrange a meeting of that kind. We are expecting an announcement very soon on the PrEP issue and it may be worthwhile having that meeting after that announcement.

Baroness Walmsley (LD): My Lords, a high percentage of people living outside London compared to those in it are unaware of their HIV infection. It is 24% compared to 12% in London. Are the Government doing anything in the regions to replicate the good practice that we are beginning to see in London, so that that situation disappears?

Lord Prior of Brampton: My Lords, I think more is done in London simply because there is a greater incidence of HIV there. I was not aware of the difference between those two figures—the 12% and 24% which the noble Baroness referred to. I should like to look into that point and write to her.

Baroness Berridge (Con): My Lords, one of the largest groups within the population who have got this disease through heterosexual transmission is the British black African community—men and women. There are 30,000 cases there. As of last year, estimated undiagnosed cases were increasing within this population. Can my noble friend the Minister please outline what initiatives are specifically aimed at raising awareness and avoiding the late presentation prevalent among that community? In particular, as many in that community are members of faith institutions, what is being done to engage them in raising awareness?

Lord Prior of Brampton: The black African community, male and female, is a group especially vulnerable to HIV, as identified in the work done by NICE. It is a part of the population where special efforts must be made to increase early testing. The work done by the Terrence Higgins Trust in the MARPs programme has also identified that community as extremely important. I think we will see greater targeting of the about 13,000 people in the population who are living with undiagnosed HIV.

Baroness McIntosh of Hudnall (Lab): My Lords, the Minister referred briefly in his opening Answer to the question of stigma. I do not know whether he will have heard some testimony from people living with AIDS on the “Today” programme this morning—probably not, as he may well have been working already. It showed that they were subjected to shocking levels of prejudice, most of which appears to come from ignorance. Can he expand a little on what the Government are doing to encourage the right kind of information, not just for people who have AIDS or might be vulnerable to getting it but to the wider population whose attitudes are, frankly, a little prehistoric in quite a lot of cases?

Lord Prior of Brampton: That is a very insightful question. If we look back over time it is a lot better than it was but, as the noble Baroness says, it is still far from good enough. The education programme needs to go beyond just the people who have AIDS to the wider population, to get a greater degree of understanding. Perhaps I could investigate that issue a little further and write to the noble Baroness.

HIV Global Epidemic: Young People

Question

11.14 am

Asked by **Lord Collins of Highbury**

To ask Her Majesty’s Government how they plan to tackle the global HIV epidemic among adolescents and young people from key populations.

The Minister of State, Department for International Development (Lord Bates) (Con): My Lords, our youth framework puts young people at the centre of international development efforts. Tackling youth HIV, including among key populations, is critical to ending AIDS as a public health threat. Our investments support young people to make safe, healthy and informed choices to protect themselves, and their peers, from HIV and other life-threatening illnesses.

Lord Collins of Highbury (Lab): I thank the Minister for his response. I am also pleased to see so many red ribbons being worn today on World AIDS Day. We know that HIV and AIDS have a disproportionate effect on the most marginalised groups in society, particularly men who have sex with men, drug users, transgender people and sex workers. Such people might not be able to access services which are integrated into our broader health systems for the obvious reason that in some cases they may be in jail. Is the Minister prepared to review DfID’s approach to HIV in both its HIV-specific programmes and in its programmes which address HIV within broader health and development interventions?

Lord Bates: The noble Lord and I had a very interesting afternoon yesterday when we attended the Stop AIDS conference. Some incredible presentations were given, with a lot of information. Given that HIV is such a huge health threat globally as well as in this country, it is essential that we do everything and remain open to new information when it comes. We are the second-largest contributor to the Global Fund, which is doing tremendous work in this area—£1.1 billion was announced in July. But there is more to be done. An international development committee report on this issue is currently with the Secretary of State and I will certainly feed in those views and see what more can be done.

Lord Lexden (Con): My Lords, is it not absolutely essential that this country should use all the means at its disposal to get our Commonwealth partners, in the overwhelming majority of whose countries homosexuality is sadly still a criminal offence, to repeal their cruel and inhumane laws in accordance with the provisions of the Commonwealth charter, to which they have all signed up? Is it not impossible to organise effective health campaigns in countries where being gay is criminalised?

Lord Bates: My noble friend is absolutely right in this respect. You need open societies. Good health promotion initiatives can happen only in open societies where people can talk freely. You would have thought that that message would have got through. Sadly, it has not reached everyone. We need to be sensitive because, at the same time as addressing the issues with our Commonwealth partners, we also need to continue to have access and to work with them to help the people who need that help. My noble friend Lady Verma held a very useful round-table meeting at the Commonwealth Heads of Government meeting in Valletta, Malta, last year. When the Commonwealth Heads of Government come to the UK in 2018, I very much hope that we will follow up on that work.

Baroness Tonge (Non-Aff): My Lords, does the Minister agree that prevention is always better than cure? Does he also agree that the advent of an effective treatment for AIDS has spread the news that it is no longer necessary to practise safe sex? Will he therefore ensure that prevention in the form of barrier methods of contraception that have a double purpose, such as condoms and the diaphragm, are promoted alongside the treatment for AIDS?

Lord Bates: We will certainly do that. In fact, the areas of the world where we are seeing levels of infection increase are often in eastern and central Europe, where the issue is with injecting drugs. Good health promotion initiatives with that key population group are also important and are all part of the effort to eradicate AIDS.

Baroness Hayman (CB): My Lords, the high rates of HIV infection among young women in Africa, in particular, reflect, at least in part, their powerlessness in terms of sexual relationships. Does the Minister agree that this accentuates the need for DfID programmes that focus on the education and empowerment of young women to be continued?

Lord Bates: That is absolutely right and it is what we are focusing on. I think I am right in saying that HIV is still the largest killer of adolescent girls in sub-Saharan Africa. We need to move much further in that area. That is why it is encouraging that the Global Fund is spending a large proportion of its money in low-income countries. At the same time, we need to provide better civil society networks and social networks that can help young people when those tragedies happen so that they can access treatment and antiretrovirals. As my noble friend Lord Prior will be saying, people can have a better quality of life here living with AIDS, and that should be more widely available in southern Africa as well.

Baroness Barker (LD): My Lords, PEPFAR and the Global Fund are of crucial importance across the world. Will the British Government encourage the incoming Administration in the United States to maintain the levels of funding and not diminish them?

Lord Bates: We must give credit to PEPFAR, and to George W Bush, who set it up, for the work it has done around the world in tackling this disease. Certainly, that would be our expectation. We have a very close working relationship with USAID in this area and we fully expect that it will continue, into the future, to tackle and achieve the global goal of eradicating HIV as a public health threat by 2030.

Baroness Manzoor (Con): My Lords, good nutrition is important for all of us, but it is particularly important for those living with HIV or AIDS. Can my noble friend say what is being done to ensure that there are proper trigger points when DfID is providing aid so that nutrition is taken as a key point, particularly when treatments cause wastage, lipid malabsorption and other issues to do with dietary needs?

Lord Bates: My noble friend is right to point to this. When we look at HIV strategies and DfID's work around the world and with our partners in the World Health Organization, it is very dangerous to see them siloed. Strategies must be cross-cutting, across all the interventions and all the humanitarian responses which we have to this disease, to bring hope and prevention in the attempt to eradicate AIDS by 2030.

HIV: Barriers to Treatment *Question*

11.21 am

Asked by Lord Cashman

To ask Her Majesty's Government what assessment they have made of barriers to accessing treatment to prevent the spread of HIV; and what steps they are taking to address those.

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, HIV treatment in itself is preventive. HIV positive people are now being given early access to HIV drugs, resulting in an undetectable viral load, which makes it very unlikely that the virus will be passed on to others. To ensure that we continue to make progress in preventing HIV, NHS England and Public Health England will say more about their further plans for a new programme in the next couple of days.

Lord Cashman (Lab): I thank the Minister for his response and indeed for his commitment on this issue. However, there has been much prevarication and procrastination over who is responsible for providing access to PrEP, a drug that is known to prevent transmission of HIV. More people are at risk than ever before, so will the Government explain how they are working with NHS England and Gilead, the supplier of PrEP, to take the lead on this issue? If the price of PrEP does not decrease, how and when will the Government ensure that those at significant risk from HIV will have access to it?

Lord Prior of Brampton: My Lords, negotiations have been going on between NHS England, Gilead and others, and we expect a positive outcome in the very near future—in the next few days. I cannot comment on the details at this time, but as soon as we have that information, I will ensure that it is placed in the Library of the House of Lords immediately.

Lord Paddick (LD): My Lords, I declare an interest as a former participant in the PROUD project and as someone whose former partner was HIV positive. The reasons why some men do not use condoms are many and complex. Why will the Government not fund PrEP when it has proved so effective in preventing HIV? Would the Minister not agree that having PrEP on the NHS would potentially save the NHS money?

Lord Prior of Brampton: My Lords, one of the purposes of the Act promoted by my noble friend Lord Lansley was to remove the Secretary of State, and indeed politicians, from these very difficult clinical decisions. That decision will be made by NHS England, and we expect a positive decision to be made in the very near future.

Lord Hunt of Kings Heath (Lab): My Lords, Ministers cannot evade their responsibility for the NHS in the end. NHS England is not a clinical body; it is a quango wholly owned by and wholly responsible to government. The decisions it has made have been purely about money, and it is continually endorsing

[LORD HUNT OF KINGS HEATH]

crude rationing of services and the restriction of drugs. In the current agreement with the drug companies, the Minister's Government have received nearly £2.5 billion back in rebates from those companies. Why on earth has his department allowed the Treasury effectively to ambush that money, instead of it being spent, as it should have been, on innovative new drugs for NHS patients?

Lord Prior of Brampton: My Lords, I think the noble Lord will agree that there is a clinically driven process, through the specialised commissioning groups and the clinical priorities group within NHS England, that attempts to look at all these drugs in an objective, clinical way. Surely it is better that these decisions on priorities should be made by clinicians acting in that way than by politicians, who are subject to all the pressures of which we are all only too well aware. Of course affordability is an issue in assessing whether a new drug should be commissioned; it always has been and always will be. The £2 billion, which the noble Lord has mentioned before and which I think comes from the PPRS, is taken into account when setting the overall budget for NHS England.

Lord Black of Brentwood (Con): My Lords, one of the significant barriers to effective HIV treatment is that it is often present with a co-infection such as hepatitis. What steps are the Government taking to identify, diagnose and treat people who are co-infected with HIV and hepatitis C, the most deadly form of the infection?

Lord Prior of Brampton: My Lords, I am afraid I cannot answer that question, or at least I could answer it in only a very inadequate way. I would like to reflect on it and write to my noble friend as soon as I can.

Baroness Tonge (Non-Affl): My Lords, what progress is being made in the development of a vaccine against AIDS?

Lord Prior of Brampton: I do not like to have two questions on the trot that I cannot answer, but I do not know the answer to the noble Baroness's question. I shall have to research it and write to her.

Baroness Hussein-Ece (LD): My Lords, what steps are being taken to ensure that prisoners have access to treatment, testing and care while in prison? They are more likely to be drug users, more susceptible and more likely to be from communities that do not get themselves tested, even when they are in good health. Could the Minister say something about prison health?

Lord Prior of Brampton: There is a particular problem in prisons, as the noble Baroness refers to. There is a higher incidence of HIV in prisons, for all the reasons that she has alluded to. The NICE guidance and the PHE resources report that came out today echo her point. We have to reinforce and redouble our efforts in prisons to identify HIV earlier through better testing.

Baroness Masham of Ilton (CB): My Lords, does the Minister agree that the HIV virus is a very difficult virus, and that this is one of the problems of getting a vaccine?

Lord Prior of Brampton: I thank the noble Baroness for coming to my rescue on that. It is very difficult, as she knows, because the HIV virus is complex. What is remarkable is the extraordinary advances that have been made in treating HIV over the last 20 years; that has been a real triumph of the pharmaceutical industry. I will still write to the noble Baroness, Lady Tonge, about vaccines.

Baroness Gould of Potternewton (Lab): My Lords, I was not going to refer to vaccines but to something else, but a report on the radio this morning said that South Africa believes it has developed a vaccine that will prevent HIV. Maybe we could find out more about that in due course.

I wanted to ask the Minister about barriers, of which there seem to be two. My noble friend has raised one—stigma—and I got the impression that the Minister felt it was perhaps not as serious as it used to be. It is very serious; there are still many examples, particularly of women, who will not go to a clinic, thus creating a barrier, because of the stigma that is attached. The other barrier that is equally important is that local authorities that fund testing are having huge difficulty in raising the funds to do so. Maybe we should be looking at whether there is a positive way in which the Government can help with resources to local government.

Lord Prior of Brampton: Frankly, this is an area where government can never do enough. We should take some comfort from the fact that the level of undiagnosed HIV is consistently coming down; it is now down to 13%, and we are within touching distance of the WHO's 90% level. So we are making progress, but I accept what the noble Baroness says. On stigma, I am sure there is much more that we can do.

Flood Defences

Question

11.29 am

Asked by **Baroness McIntosh of Pickering**

To ask Her Majesty's Government, further to the announcement in the Autumn Statement of £170 million to be invested in flood defence and resilience measures, and in the light of damage to farmland and property caused by the recent floods, whether they intend to extend the provisions of the Flood Re scheme to farms and small businesses.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble): My Lords, I declare my farming interests as set out in the register. There are no plans to extend Flood Re, because it is based on council tax bands and was specifically designed by the insurance industry for households at the highest flood risk. This would include farm-houses under a domestic policy. We are, however, working with the British Insurance Brokers' Association, BIBA, which is launching a commercial product very shortly that provides flood insurance to businesses.

Baroness McIntosh of Pickering (Con): I thank my noble friend for his Answer and refer to my interests in the register. Does my noble friend agree that this insurance must be affordable? Does he further agree that it is particular rural areas that have suffered extensive damage from recent and historic flooding? Will the Government agree that the 2% increase in the insurance premium tax will be spent on flood defence measures to make sure that flood damage will be less pervasive in future?

Lord Gardiner of Kimble: My Lords, it would be fair to explain that £2.5 billion—a six-year capital flood programme allocated to DEFRA to 2021—is the route to protect more than 300,000 homes, 205 miles of railway and 340 miles of roads. This is the way that we will overwhelmingly ensure that more of not only our urban but our rural areas are better protected. Included in that programme will be £1.5 billion of benefits for agriculture. However, I will bear in mind what my noble friend said and will write to her.

Lord Watts (Lab): My Lords, will the Minister resist any suggestion that the insurance companies should make a contribution for flooding, bearing in mind that any contribution made would lead to higher premiums in areas that already have higher premiums than those affected by flooding?

Lord Gardiner of Kimble: My Lords, I understand what the Lord said. The whole purpose of Flood Re is precisely to give householders—53,000 home insurance policies are now backed by Flood Re—the benefit of affordable insurance, but I am grateful to the noble Lord for his comments.

Lord Spicer (Con): My Lords—

The Earl of Kinnoull (CB): My Lords—

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

The Earl of Kinnoull: My Lords, I am grateful. I declare my insurance and farming interests as set out in the register of the House. Does the Minister agree with me on two points? First, Flood Re is very much in its start-up phase—it began trading only in April this year, and 53,000 policies is, in insurance terms, not very many—and the concept will really be proven when the first claims are successfully settled and paid. Secondly, once that is done, however, it would be sensible for the Government to engage the relevant parties in conversation about extending the concept of Flood Re—which is different from Flood Re itself—to small businesses, which I think would be greatly to the benefit of this country.

Lord Gardiner of Kimble: My Lords, I am conscious of the noble Earl's experience in the insurance industry, but it is fair to say that Flood Re is financed to cover up to £2.1 billion in claims. To give a sense of scale, that is seven times worse than the flooding in 2007. I hope that the BIBA product will advance further understanding of how best businesses, and small businesses in particular, can avail themselves of what the noble Earl described: a Flood Re-concept policy.

Lord Spicer: My Lords, is it possible that we waste a lot of money on flood defence systems? Especially around rivers, you do not abolish flood-water by spending money on defences but simply push it on elsewhere. In my former constituency, I did wonders for Upton upon Severn and ruined the lives of people in Tewkesbury.

Lord Gardiner of Kimble: My Lords, the whole of the taxpayer's financing of this is predicated on receiving the best value we possibly can. Perhaps under the natural capital programme, with the further £15 million following on for schemes such as those in Pickering, Holnicote and Upper Derwent, we can have whole catchment systems on rivers such as those my noble friend mentioned, whereby we engineer the use of natural capital.

Baroness Jones of Whitchurch (Lab): My Lords, the scheme ought to be extended to the poorest and most vulnerable individuals caught up in the floods—that is, people such as the tenants and the farm workers who do not meet the rather restricting qualifying criteria that currently exist.

Lord Gardiner of Kimble: My Lords, perhaps I should say to the noble Baroness that, in fact, Flood Re does include leaseholders for up to three flats and contents insurance, but above three flats it becomes a commercial policy. So in point of fact there are permutations to the scheme. I want to emphasise that Flood Re is an industry-owned and managed not-for-profit reinsurer; it pools the risk of flood claims and is targeted, with a subsidy, to lower-income households.

Lord Greaves (LD): My Lords—

Lord Campbell-Savours (Lab): My Lords—

Baroness Evans of Bowes Park: My Lords, it is the turn of the Liberal Democrat Benches.

Lord Greaves: I am grateful. Last February, £450,000 was allocated to a vital scheme to improve a culvert, called Victoria Clough, in the small town of Earby on the boundaries of Lancashire and Yorkshire, but nothing has yet happened. Is there a problem of capacity or resource constraints in getting the schemes going in Defra, the Environment Agency or anywhere else? If there is, would it not be sensible to let a competent local authority take it over?

Lord Gardiner of Kimble: I think that I had better look into the individual case that the noble Lord has referred to and come back to him. Generally speaking, we are confident that this £2.5 billion allocated to Defra over six years is going to make a very substantial difference, but we need continually to review the situation.

Business of the House

Timing of Debates

11.36 am

Moved by *The Lord Privy Seal*

That the debate on the Motion in the name of Lord Liddle set down for today shall be limited to 3 hours and that in the name of Baroness Pitkeathley to 2 hours.

Baroness Smith of Basildon (Lab): My Lords, I apologise for detaining the House as we have some important debates but I wish to raise an issue that has come to my attention this morning and which I think should be brought to the attention of this House.

Noble Lords will recall that, when the noble Baroness the Leader of the House made her Statement on the Government's intentions regarding the Strathclyde report, it was warmly welcomed by this House; we were grateful for her comments and tone and the way that she has handled this issue. My understanding from that Statement and the debate was that we should abide by all conventions of this House and recognise our role as a second Chamber.

However, this morning—literally five minutes before I came to the Chamber—I found on my desk a report from David Lidington, the Leader of the House of Commons, on Strathclyde. The foreword of that report says:

“Whilst recognising the valuable role of the House of Lords in scrutinising SIs, the Government remains concerned that there is no mechanism for the elected chamber to overturn a decision by the unelected chamber on SIs. We do not believe that it is something that can remain unchanged if the House of Lords seeks to vote against SIs approved by the House of Commons when there is no mechanism for the will of the elected House to prevail. We must, therefore, keep the situation under review and remain prepared to act if the primacy of the Commons is further threatened”.

This is, again, a basic misunderstanding of how statutory instruments operate. This has never been an issue about the primacy of the House of Commons, but the primacy of the Government regarding secondary legislation. SIs come not from the House of Commons to this House, but from the Government to both Houses. They do not have to be considered by the House of Commons first—there is no mechanism to ensure they are considered first by that House. The conventions of this House are clear that, in exceptional circumstances—which I think has been five times since the Second World War—this House may reject a secondary instrument.

I appreciate that there is some difference between the Government's understanding of SIs and ours, but I did really believe that the Government understood the conventions of this House as enshrined and accepted in the report of my noble friend Lord Cunningham, which was accepted by both Houses unanimously. When the noble Baroness the Leader reported to this House, we welcomed the content and her tone. She said—in an entirely reasonable comment—that,

“The Government are therefore reliant on the discipline and self-regulation that this House imposes upon itself. Should that break down, we would have to reflect on this decision”.—[*Official Report*, 17/11/16; col. 1539.]

I think that is entirely reasonable. Should the conventions break down, it is entirely reasonable that the Government should look at those conventions and perhaps revert to the Strathclyde review. However, that is a long way from what David Lidington says in his report. I have two questions for the noble Baroness. Do the Government still accept the Cunningham report and the conventions of this House as being the guidance underpinning our work, and to which we should adhere as a self-regulating House? The noble Baroness said in her Statement that, having considered the matter carefully, legislation would

not be introduced. As I say, I have not had time to read the report published today in its entirety as I received it literally only five minutes before today's proceedings in the House commenced. However, it says:

“We must ... keep the situation under review and remain prepared to act if the primacy of the Commons is further threatened”. David Lidington refers to that as being just the Lords seeking to vote against an SI. Does that mean that if somebody tables a fatal Motion, the Government will review the Strathclyde report and will be prepared to act? Or does it mean that if this House ever votes against an SI, legislation will be brought forward under the terms of the Strathclyde report?

I have enormous respect for the tone of the noble Baroness's Statement and its understanding of this House. My criticism is directed not at all at her or at the Statement; it is directed entirely at what the Government now appear to be saying in David Lidington's report. I would be very grateful to her if she could answer my questions but the Government need to reflect further on the Lidington report, and whether it should be withdrawn in the light of my comments today.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, I thank the noble Baroness for her comments. I am sorry that she takes the view that she does. All I can say is that the Government of course recognise the conventions of this House. I reiterate what I said last week:

“We recognise the valuable role of the House of Lords in scrutinising SIs, but there is no mechanism for the will of the elected House to prevail when they are considered, as is the case for primary legislation”—

as the noble Baroness said, and I said—

“The Government are therefore reliant on the discipline and self-regulation that this House imposes upon itself ... This House has an important role to play in scrutinising and revising legislation, and the Government recognise this”.—[*Official Report*, 17/11/16; col. 1539.]

Because of the constructive way this House works, we do not believe that we need to introduce primary legislation at this time. What I said last week remains the position of the Government. The tone I used and the constructive debate that we had is exactly what we need to see in this House. I reassure the noble Baroness that my Statement last week stands, as do the thought and intention behind it.

Motion agreed.

Brexit: UK-EU Relationship

Motion to Take Note

11.42 am

Moved by Lord Liddle

That this House takes note of the best options for the United Kingdom's future relationship with the European Union following the referendum vote to leave.

Lord Liddle (Lab): My Lords, I declare my interests as co-chair of Policy Network, a member of Cumbria County Council and Pro Chancellor of Lancaster University, all of which stand to lose as a result of Brexit.

In opening this debate, I am aware that in your Lordships' House I have somewhat predictable form on Europe. I do not resile from the judgment I made earlier that Brexit will be the worst disaster for the United Kingdom since appeasement. But my focus for today's debate is forward looking: given where we are, what would be Britain's best possible relationship with the EU in future?

It is a particular pleasure to have the benefit of the advice of the noble Lord, Lord Ricketts, today. When I was in No. 10, it was a great privilege to work with Foreign Office officials of Peter Ricketts' calibre. He joins a long and distinguished line of former diplomats who in their candour make a remarkable contribution to the work of this House. I look forward to his maiden speech today.

On the substance, I hope the House will allow me to be specific, clear and at times blunt. For the economy, there is no better solution in the national interest than Britain's continued full participation in the single market. With Brexit we can no longer be members with voting rights—but forget the vague waffle about access. What matters is: first, that we stick to the EU rules and standards and update them as new rules are made; secondly, that we continue to make payments to the EU budget—forget that £350 million a week for the NHS; if Brexit goes bad, we will be cutting the NHS—and thirdly, that we accept directly, or, if the Prime Minister insists, indirectly, the jurisdiction of the European Court of Justice as EFTA members largely do through their separate EFTA court.

Such a course is overwhelmingly in the interests of jobs and living standards in the UK. Remaining a member of the customs union would be very much second best. While the customs union secures tariff-free access for manufacturing and food exports and avoids the complex bureaucracy of rules of origin, it leaves out services. In other words, it secures free trade in goods, where we have the largest balance of payments deficit, and fails in that objective in services, where we have our largest surplus. The future of the services sector would then depend on negotiating a comprehensive free trade deal with the EU, which would have to be far broader in scope than either Canada or Switzerland have been able to achieve.

I say to my Labour friends: when talking about services, do not imagine that this is just about protecting the interests of bankers—and when you talk about bankers, remember that they produce a lot of tax revenues that go towards the NHS and the welfare state. Services, where we excel, are much bigger than the City. Brexit threatens our position as a centre of TV and film distribution, our lawyers' rights to represent clients in European courts, and the commercial strength of a whole range of services where free movement and the mutual recognition of qualifications are huge benefits to Britain—especially the ability to send highly qualified people on client assignments anywhere in the EU.

Free movement may be politically poisonous within the UK but it is the rock on which the business models of many of our most successful and advanced companies in digital, creative and professional services are built. Ending up as a member of the customs union would therefore be very much second best. Yet even that is threatened by the vanities of Dr Liam Fox, because

being members of the customs union would greatly restrict our ability to cut new trade deals with the rest of the world. Dr Fox has convinced himself of this strange logic: it is in the national interest to forgo membership of the single market, which secures free trade for nearly half our exports, in return for the highly uncertain prospect of negotiating new British trade deals with the rest of the world, with all the complexities and political constraints that come with them. In my view, the so-called opportunities of Brexit are largely delusional vistas.

Similarly, we must stop talking nonsense about becoming an offshore Singapore, or a haven of social dumping, as many on the continent believe that the Government plan. Full participation in the single market on fair rules should be the aim. Corporate tax policy will be the big test. There is no way the EU will agree to our full participation in the single market if Great Britain, the second-largest market presently in the EU, sees itself as a Cyprus, an Ireland or a Luxembourg. Rather, we should be offering full co-operation with the EU to fight corporate tax avoidance.

People did not vote for these outcomes on 23 June. There is no mandate for making these choices. The leavers say that in the referendum they always made clear that Britain would be leaving the single market. Yes, they did say that—but at the same time they assured voters that Britain could have its cake and eat it and enjoy unrestricted free trade with the rest of Europe. The reason leave won on 23 June was that not enough people were convinced that there would be a real economic downside to leaving the EU. Therefore, they voted to “take back control” because they believed that it would be largely cost free.

However, we can see the downsides emerging already: a sharp sterling devaluation that will cut living standards in every year of this Parliament; widespread investment uncertainty; and a grave loss of tax revenues forecast by the OBR. For all those reasons, full participation in the single market must be the top national priority, and it is the job of the Prime Minister to show leadership in the national interest and spell out the realities to the Redwoods and Foxes on her own side. That message would echo positively around Europe and completely change the atmosphere for the Brexit negotiations, which I fear on the continent is rapidly becoming poisonous.

Many people on our Benches, here and in the other place, will say, “What about free movement? What about immigration? Haven't the British people given a clear instruction to the political class—most of all to the Labour Party, with its claim to represent working people—that something must be done?”. I take that point with two crucial qualifications. First, any new policy must be based on clear evidence, not simple prejudice. As Hugh Gaitskell once famously wrote of Evan Durbin, the nature of social democratic politics is, “the pursuit of truth to the bitter end”.

Secondly, we must never ever stigmatise migrants in the way that some leavers did. The rise in hate crime and social media abuse and the fact that many people feel they are no longer welcome in our country since 23 June is appalling and offends our basic values of equality and humanity. This is the slippery slope that

[LORD LITTLE]

leads to the end of tolerance and the end of an open society. But, yes, migration, both internal and external in the EU, must be better managed.

Free movement is not a uniquely British problem. Several member states accept the need for reform, including eastern Europeans, as long as we are prepared to continue to assist them financially with their economic development. Britain should have taken a lead on these questions in 2012, but that would have involved as a *quid pro quo* a greater willingness than the present Government were prepared to show to share the burdens of the refugee crisis. Regrettably, we did not take that lead and it may now be too late. However, the UK should still put its weight behind arguing for a Europe-wide rethink, not just British exceptionalism—although the EU's current negotiations with the Swiss on free movement may give us a peg on which to hang our coat.

Nationally, we could do much more to manage migration better. Our national approach to it has fallen victim to the besetting British preference for *laissez-faire*. So let us have a bigger migration impact fund that acts quickly, and let us bring in proper enforcement of minimum wages and labour standards. However, I believe that the core of the problem in Britain lies in our highly flexible labour market, with too many businesses locked into a dependence on low-skilled migrant labour. Let us explore how we might reregulate our labour market, particularly where the problems are worst—in agriculture, food processing, hospitality and social care. We should consider setting up statutory tripartite bodies, on the models of the wages councils and training boards, with responsibility for raising skills, productivity and wages in those sectors. And why not give such bodies a mandate to recruit young trainees from parts of our country where decent training places and job opportunities are in short supply? Employer reliance on migrant low-skilled labour needs to be cut—but, in my view, it will take a dose of market interventionism to achieve it.

Finally, we must present ourselves as sincere, committed partners of our friends and allies across the Channel. Britain has so much to give on security and defence. I accept that the Government stress their commitment to NATO, and NATO remains crucial—but NATO is not enough. In today's circumstances, of all circumstances, we cannot give the impression that we will prioritise the United States over our allies and friends in Europe. I want to believe President Obama's assurances about President-elect Trump, but I fear that, for once, Obama's fundamental decency and respect for the office he holds are obscuring his real fears. I really want to be proved wrong—but to be seen to kow-tow to a maverick Trump will only isolate Britain further in Europe.

The common security challenges that Britain and Europe face are broader than defence in the classic NATO sense: failed states, religious extremism, terrorism, climate change, the social and economic consequences of desertification in Africa, and structural pressures from tens of millions of young unemployed people in the emerging world searching for a better life in Europe. We need a common partnership with our European friends to address these questions. Outside the EU, that will be far more difficult.

Does Brexit then require a fundamental rethinking of the European security architecture? Perhaps it does. How about a revival of a western European union, with decision-making executives consisting of Britain, the big EU member states and the highest-level representation of NATO and the EU institutions? I do not have a clear answer—but, my goodness, I wish we had an Ernie Bevin at the Foreign Office and not a Boris Johnson.

We have to ask ourselves where we want to end up as a result of Brexit. Today, Britain is a European power with some considerable global reach. By all means, let us be global, but let us not delude ourselves. This nation has never for long been able to cut itself off from the continent—and when it has tried, the results have been disastrous, as with the two world wars in the last century. The best option for Brexit Britain is that we remain a European nation with the closest possible economic and security ties with our European friends and neighbours. That is the reality of Britain's position in the world. With Brexit—and despite Brexit—let it remain our patriotic destiny as well.

11.58 am

Lord Howell of Guildford (Con): My Lords, like the noble Lord, Lord Liddle, I greatly look forward to the comments of the noble Lord, Lord Ricketts, who has been at the centre of these matters for many years. We will learn a lot from him. I do not disagree with all that the noble Lord, Lord Liddle, said, although I must say I thought that the reference to Hugh Gaitskell was quite amusing—I do not remember that Hugh Gaitskell was a particularly strong fan of the European Community, as it was then.

In the very brief time available to me, I want to make three quick observations. First, like many others, I was appalled, frankly, at the weak government defence of our judges against the Stalin-like denunciations that we saw in the press. They were a chilling reminder of the past, and perhaps the journalists who wrote the articles are too young to remember what went on in Europe in the middle of the 20th century. Nevertheless, I do not think that the judges' decision, whichever way the appeal goes, made very much difference. Either way, it is absurd to try to keep Parliament out of the process of Brexit, just as it would certainly be very unwise for Parliament to attempt to block or delay the triggering of Article 50. A much better approach by the Government would have been and still would be to flood both Houses of Parliament with a really deep analysis of what is actually going on in this area. So many generalities seem to skate over the actual processes of reforms and changes that are going on in the European Union and indeed in the world at this time, so instead of giving Parliament too little information my recommendation would be for the opposite. Give us too much. Let us debate it at enormous length and then approve going forward with Article 50.

If a really deep analysis were put before Parliament, it would show straightaway that the binary arguments between soft and hard Brexit are pretty good nonsense. I know they are beloved of columnists—one in the *Times* is at it again today—and a number of colleagues

in the other place and even members of the Cabinet still seem to think that there is some hard and fast division. The reality is quite different. In fact, on the control of our borders, there are dozens of ways of controlling immigration and tightening present processes. Some are already in use by the European Union. We are told that the free movement of labour is a fundamental principle, but the world has moved on. Those fundamental principles are no longer fundamental, nor are they a great freeing and liberating force for Europe.

Secondly, on the question of whether we can possibly be in the single market or not, I beg noble Lords opposite to understand that the single market is a totally transformed creature today, perforated by new supply chains in this digital age and by interglobalisation not only of products but of processes. There are a lot of practical sector arrangements to be set up, and they are complex. Indeed, informal discussions are going on now with many new markets outside the European Union—the place where 60% of our exports go. These so-called fundamental principles that are said to present such dilemmas are not fundamental at all. There never has been much freedom of services; it has only partially existed.

A new path is opening out for both the UK and the rest of Europe—a new common partnership to quote the noble Lord, Lord Liddle. It is a new relationship with an open Union. The peoples of Europe are becoming increasingly and restively aware that this new path is opening out and I hope that our leaders have the wisdom to see it, understand it and now follow it.

12.02 pm

Lord Rooker (Lab): My Lords, the hand dealt to the Prime Minister is not of her choice. The nation is split. The vote of 52% to 48% was not overwhelming and 63% of the electorate did not vote to leave. The referendum was a simple question, leave or remain, but one lesson learnt from the poll tax is that simplicity can lead to gross unfairness.

We have been in a legal framework which, after over 40 years, is complex to say the least. It is therefore not simple to exit and those who imply that it is are misleading the public of the UK. The vote was to leave, not how to leave, nor was it a future roadmap after leave. Can exit be cost-free? No is the honest answer, and I for one will not support the economy taking a hit as a price.

The coalition Government commissioned 32 reports on what membership of the EU meant for the UK's national interest. These balance of competences reports showed that the UK benefited from membership of the EU, which is why we hear so little about those reports. I had first-hand experience of one related to food safety and animal health and it was clear that membership produced,

“real benefits for the UK”.

What on earth does “taking back control” mean in this area? We are not going to leave the United Nations, the World Trade Organization or the Codex Alimentarius Commission. We will not leave the World Organisation for Animal Health, the OIE, we will not tear up treaties on the law of the sea or climate change. Our rules relating to food production, food safety, animal

health in food production animals, food import and export rules and labelling are all set by those other organisations and will not change, so we are not in control. We have to co-operate with others to function as an island nation and the world's fifth largest economy. Keeping it simple and quick is dangerous and will ruin our country.

At this point I still support and trust the Prime Minister on this issue. The plans must remain within government because the negotiations will be very public—the 27 will see to that. However, the Government must involve Parliament to which they are accountable.

Given the narrowness of the vote on 23 June I would have supported the Prime Minister reaching out in the national interest beyond her tribe, but when she looks across the Dispatch Box, I can see why she did not choose that path. As a nation we are in enormous uncertainty and that is affecting our economy and social cohesion, and all because her predecessor gambled the nation for peace in his party and lost. She must not do that. Those at the centre of the 27 will not want other members to see a large exiting member succeed in being better off out than in. It is crystal clear that that will not be allowed to happen. But so much needs changing in the EU that change while the UK exits is inevitable. Exiting cannot be done in two years. We will waste six months at the start after March and we will need six months at the other end to finish off the European Parliament, so as I say, it cannot be done in two years. The change will have to be agreed and paid for with transitional arrangements so as not to damage the 27 or the United Kingdom. Calamity for the UK will result unless this is agreed and therefore there comes a time when the outline for the future is clear or clearer for the UK outside the EU. We will then have two marked routes that were not available on 23 June.

How can anyone claim that the final decision was made in a 15-hour slot on 23 June 2016? That was the start decision and no mandates flowed from it. It is perfectly reasonable, responsible and indeed democratic to consider how, at some time in the future, the final decision should be made. Another referendum could well be needed and justified, so it must include the future of the UK by including 16 and 17 year-olds in the decision. Yes, I was a remainder in 2016 but I was a non-joiner in 1975. I am a Delors convert from the 1980s and I am also a free man. I am not a prisoner of the Brexiteers, the Government or the Opposition, and I will not vote to invoke Article 50 unless the points I have made are accepted.

12.07 pm

Lord Shipley (LD): My Lords, I agree with the noble Lord, Lord Rooker, in a number of respects. This referendum was a decision to leave the EU but it was not a decision to leave the single market or the customs union. I accept that many people who voted to leave wanted it to be but, as a substantial number of subsequent polls have shown, the thinking is in terms of a future relationship that gives access to the single market outside full EU membership. Membership of the single market is essential for investment, jobs and future growth, as the noble Lord, Lord Liddle, explained so fully.

[LORD SHIPLEY]

It is now more than five months since the referendum and there is still no clarity on the Government's strategy. Instead we seem to have a confusion of strategy with objectives. The Government have said on several occasions that they want the "best possible deal" with the EU. However, that is an objective, not a strategy. I am beginning to wonder whether the Government have a strategy at all because different Ministers say different things. The Government have a duty to tell Parliament what they want our relationship with the EU to be and for Parliament then to examine that proposed relationship. It cannot be kept secret. It would be far better to have a Green Paper with options to consider before Article 50 is triggered, and perhaps it is still not too late.

Nevertheless, we need first to secure an outcome that enables us to stay in the single market and the customs union and avoids non-tariff barriers. Secondly, we need an agreement that continues inward investment into the UK from those seeking access in turn to the EU. Thirdly, we need to acknowledge that immigration is important to drive enterprise, growth and productivity while at the same time committing more resources to the training of UK employees, along with an EU-wide review of migration policy, as the noble Lord, Lord Liddle, has just suggested. Fourthly, we need to enable UK citizens to live, work and learn securely elsewhere in the EU, with similar rights for EU citizens. Finally, we have to maintain the integrity of the United Kingdom. If there is a final decision to leave, it should be with a transitional period of, at the very least, two years to permit some negotiation of individual trade agreements.

I have never understood why the Government chose March 2017 to trigger Article 50. Currently, EU leaders seem to be aiming at a hard Brexit, but it is just possible that that position could change once the French and German elections have been held and the policy of those countries has become clearer. We need to maintain flexibility, but the timing is now not on our side. We should remember that this is not just a trade issue. There is a huge number of issues relating to EU law, justice, agriculture, fisheries, defence, home affairs and the environment among many. Two years' negotiation will not be enough.

It is vital that we do not end up out of the EU on World Trade Organization rules. The World Trade Organization will require detail of our tariffs and quotas. That process could take several years. Outside the customs union, business and our wealth creators would be bogged down in red tape, coping with the rules of origin and non-tariff barriers. We do not want that.

I have concluded that whenever the Government conclude their negotiations they should give the British people the right to decide in a referendum whether they wish to leave the EU on the terms negotiated. Parliament must have a role during those negotiations, but the British people must be empowered to make the final decision.

12.11 pm

Lord Green of Deddington (CB): My Lords, I declare a non-financial interest as chairman of Migration Watch. This is a massive topic, but I will stick to that part of it I know about. It is quite clear that immigration

was a major factor in the outcome of the referendum. Some would say it was the major factor, but it is clear that a satisfactory outcome on immigration is essential if we are to have a good future relationship with the European Union. This needs a calm approach. We should try not to attack the motives of people who disagree with this.

What might be an outline? I mentioned to your Lordships yesterday that Migration Watch has recently published a clear and simple proposal. I will set that out, because so much of the debate on immigration is generalities. There are some specific things we can easily achieve, and other things that will be at the heart of the negotiation and intersect with the trade matters that the noble Lord, Lord Liddle, raised.

We believe we should continue to have free movement for all EU citizens, unless they wish to work. That would mean that tourists, students, business visitors and the financially self-sufficient, such as pensioners, would continue to have visa-free access. The same would apply to senior staff transferred between international companies. There would be no need for restrictions on marriage, provided that all this was reciprocal. There is no reason why our fellow members of the EU should not agree to that. The overarching purpose is that we should retain to the maximum possible all the social and historical links we have with Europe, which we greatly value and I am sure they do, too.

The crunch comes to the question of workers. That is what lies behind the problems we have had in the UK. Happily, the facts are rather helpful. If noble Lords look at the numbers, 70% of migrants from the EU—people coming for more than a year—are coming to work or to seek work. Secondly, 80% of those are in low-paid work.

We therefore propose that anyone from the European Union who wants to come here to work should first be required to get a work permit on terms similar to those that now apply to non-EU migrants. There are plenty of things around the edges: do you have a quota—probably not—and do you have the same conditions? We can talk about that. Essentially, we suggest that we let them all come, but if they want to work they will need a work permit. The effect of that would be remarkable. It would reduce net migration from the European Union by something of the order of 100,000 a year. That is a big advance in terms of what the public want to see in our immigration policy.

Of course, there is a lot of detail in this that I will not go into. I look forward to giving evidence to the EU Sub-Committee on Home Affairs next week. For today, I just suggest that we have a guiding principle: namely, that we are leaving the EU but we are not leaving Europe. That is so obvious that one should hardly need to say it. It is surely fundamental to how we approach our continued relationship in terms of the movement of people. By achieving some substantial reduction in the numbers, we will be able to reduce the strain on our society that we have been feeling in recent years. Indeed, today's immigration figures are a reminder of how much more needs to be done.

The public clearly want this dealt with. It is now for the Government and Parliament to get it done.

12.15 pm

The Lord Bishop of Chester: My Lords, the Motion before us is not limited to economic issues, although the debate so far has understandably concentrated on them. I would like to take a slightly broader look at our future relationship with the EU. Of course, the social and economic issues associated with the four freedoms will inevitably take centre stage over the next few years, and it will be an anxious time for many. I hope it will also be a time of opportunity for at least some, perhaps many; we will see. The as-ever excellent Library Note for this debate usefully sets out the options as they might be understood on the economic front. Inasmuch as I have any confidence as to what will emerge after the present cat-and-mouse phase unfolds, I suspect it will be nearer to the Singapore, Turkey or Canada end of the spectrum, as opposed to what is hoped for—perfectly properly and rightly—by the noble Lord, Lord Liddle. We do not know; I claim no divine insight into this. But amid the uncertain labyrinth of discussions and negotiations that will have to take place, I hope that our sights can be raised above the purely economic horizon.

The original concept of “Europe” was never primarily economic or, for that matter, geographical. Geographically, there is not really a continent of Europe; it is simply a peninsula at one end of the great Asian landmass. We speak of Europe because a great civilisation developed there, shaped by Christianity and other forces ancient and modern—a civilisation that gave birth to modern science, in any serious sense of that word. While the original founders of the EU in the immediate post-war years had a certain economic view, they were also concerned to lay down foundations to avoid future conflict and were influenced by Catholic social teaching at the time. More recently, a more secular spirit has been to the fore that has left Europe rather ill equipped to deal with the new religious presence in its midst, and the growing presence of Islam in particular.

My plea is simply that, alongside the inevitable concentration on what promises to be a difficult economic negotiation and transition, we should especially promote the continuation and deepening of the educational, artistic, scientific and—yes—religious ties that over the decades and centuries have made European civilisation what it is today. Whatever we mean by “soft Brexit”, that would precisely promote a soft Brexit beyond the mere economic understanding of the term. The riches of our cultural destiny will continue to be European, whatever our precise future economic relationship with the EU proves to be.

12.19 pm

Lord Blencathra (Con): My Lords, it is a pleasure to follow the right reverend Prelate and I look forward tomorrow, in the debate led by the most reverend Primate, to discuss in more detail the cultural aspects of our European heritage. I will stick to the economic arguments today. The options for the UK’s future relationship with the EU are straightforward. As an independent country in Europe, the fifth largest economy in the world and the second largest contributor to NATO, we will be indispensable to European security and prosperity, as Mark Carney pointed out yesterday.

We are a powerful country and getting more powerful as the discredited EU empire stagnates and begins to crumble.

This week the OECD, which has consistently got every forecast wrong, now agrees with the Bank of England, the Office for Budget Responsibility and the IMF, which also has an appalling track record of forecasting, that we will be the fastest-growing economy in the western world this year. So why do some embittered remoaners suggest that we do not have a strong hand to play against EU countries whose economies are suffering? I think their objective is clear—they want to stay in the EU and ignore the referendum result. They have largely given up on the ploy of a second referendum, except for some noble Lords, and will now try to make the case that the single market is essential to our future and that the people did not vote to leave the single market, just the EU. It is not so. People voted to take back control of our money, our borders and our laws and staying in the single market completely thwarts those aims. If we stay in the single market, the ECJ decides our law, we will have to pay in to the budget and accept freedom of movement. That is not taking back control.

Since the referendum, we have had nothing but good economic news. Countless businesses have voiced confidence in a UK free of the dead hand of Brussels. Nissan and Aston Martin have announced massive new investment. Jaguar Land Rover has just announced that it wants to double UK car production and make the UK the centre for electric vehicle technology. I hope that the Government will find the £400 million infrastructure investment needed for the Midlands to make that happen. Facebook, Apple and Google are expanding their UK operations. Massive new office blocks are going ahead in the City. Employment is at a record high, retail sales have rocketed and exports are surging, thanks to a lower pound. The pound needs to fall a bit more, in my opinion, if we are to boost our manufacturing industry.

Therefore, as a pre-eminent economic power in Europe we need not fear the end deal. We are in a position of strength. I hope that our opening bid to the EU will be, “We will not put tariffs on you if you do not put tariffs on us or try to freeze out the City of London”. We want a free-trade deal between us and the EU. If they do not accept that view then we should move quickly to World Trade Organization rules, since that is the only alternative. As my right honourable friend Peter Lilley said at the weekend,

“it is better to end uncertainty by reaching a second-best outcome speedily than haggle endlessly over a better deal that may never materialise”.

So we either have tariff-free trade or WTO rules—rules which benefit us.

The EU exports about £80 billion more to us than we do to them. Yes, that includes German cars, French cheese and Italian Prosecco, as Boris pointed out recently, perhaps not in the most diplomatic way. If they impose tariffs on us then we can reciprocate and we will make a huge profit out of it, but we do not need to go down that route. Of course, the EU is desperate to save this failed project at empire building. It has to keep the political project together even if that

[LORD BLENCATHRA]

means accepting huge economic losses to make a political point. However, it could be a very different EU we face in 12 months' time, and it may be one which is in no position to punish the United Kingdom.

We are a great country and we should have confidence in our ability to go from strength to strength, working economically and militarily with all our friends in the whole world who share our value systems, our culture and our belief in freedom. That is what the British people voted for, and the Government must deliver full and fair Brexit.

I conclude with this point. I am a passionate defender of this House and the role we perform. However, the *Daily Mail*, which may not be favoured reading among noble Lords, put it in its own unique way last week:

"If the Lords tries to sabotage such a move, that house of washed-up cronies and dodgy donors will be signing its own death warrant".

I am one of those, too. The people have spoken and we should know our place.

12.24 pm

Baroness Royall of Blaisdon (Lab): My Lords, I fundamentally disagree with every word that the noble Lord spoke, apart from the fact that we are a great country. I disagree not as an embittered remainer but as someone who cares passionately about the future of my children and my country. My sense is that we still have absolutely no idea of our destination, let alone how to navigate the journey towards Brexit, and it is clear that whatever the result of the negotiations, it is simply not possible to have a better deal with the EU than we have now.

I did not want Brexit but I respect the result of the referendum, which was clearly not a mandate for a hard Brexit. However, like John Major, I feel that we, the 48%, are subject to the tyranny of the majority. I reflect that Mr Farage and Mr Nuttall would not have exercised the same restraint had they lost by the same margin. This is the most profound change for our country since the war and it is imperative that the Government's plan should be presented transparently and be subject to proper scrutiny. I trust that at the very least the Minister will be able to tell us when we can expect a Green Paper.

The negotiations will be extraordinarily complex and the timescale uncomfortably tight. The EU is not a monolithic block and once Article 50 has been triggered the leaders of the other 27 member states will have to agree a position at various points in the process, from the initial guidelines through to ratification. They will all have their specific views, as well as a common view about the need to retain the integrity of the EU, and throughout this time many will be preoccupied with national elections. The timing is excruciating, all the more so because it is determined by party politics rather than pragmatism.

The actual period of negotiation will be an absolute maximum of 18 months and, if there were no agreement, falling over the cliff edge would be a disaster. In the debate on Article 50 last week, there was general agreement about the need for a transitional bridge, as long as we know the destination, but I am unclear

about the Government's position so I would be grateful for clarification from the Minister. Transition also relates to funding. In August the Chancellor said that British businesses and universities would have certainty over future funding and that the current level of agricultural funding would be guaranteed until 2020. What would happen if there were a lengthy period of transition? What would the funding settlement be then?

There has been speculation over the past few days about whether or not it would be possible for us to remain a member of the EEA and therefore the single market during a transitional period, which would provide stability, although I am advised by experts that sectoral agreements, mentioned by the noble Lord, Lord Howell, will not work. Like my noble friend Lord Liddle, I believe that to secure our future prosperity we should remain in the single market, full stop, but until all the negotiations are properly concluded it is an absolute necessity and I wonder if this is the Government's plan.

The negotiations will determine the future of our country and our position in Europe and in the world. Our relationship with other member states is of the utmost importance and to get the best possible outcome, good relationships and good will are imperative, but they are currently in short supply. Everything that leading members of the Government do or say seems to exacerbate the tensions. The views of our partners are hardening, including, sadly, over the status of EU nationals living in the UK and vice versa. No doubt the most fervent Brexiteers will say that this demonstrates how right we were to leave but I believe that this could have been very different if Mrs May, back in July, had made a unilateral gesture in enabling all EU nationals living here before the referendum to remain. This would have set the tone for the whole of the negotiations, rather than seeking to use human beings as cards to be traded. I am glad that my friend Keir Starmer is still urging unilateral action, which would stand us in very good stead in the negotiations.

Our politics, policies and the economy will be dominated by Brexit for years but it is also a critical issue for the whole of the EU and the deal that is ultimately concluded will have a far-reaching effect on defence and security—especially crucial in the light of the US election. These are areas where we bring much to the table and it is necessary for the peace and stability of our continent that close security co-operation with our partners continues, including enhanced intelligence-sharing. What role do the Government envisage for the UK in the EU's common security and defence policy? It is crucial for the UK but also for the EU that we get these things right. Our fragile world needs a strong EU and confident member states in which democracy is underpinned by liberal values. We must not forget our history.

12.29 pm

Lord Ricketts (CB) (Maiden Speech): My Lords, I am delighted and honoured to join your Lordships' House. I am grateful for the overgenerous comments made in my direction this morning and not a little daunted to be speaking after such experienced parliamentarians as the noble Baroness, Lady Royall of Blaisdon.

I will start with a word of sincere thanks to the staff of the House for their professionalism and thoughtfulness at every stage, and to my sponsors. I have known the noble Lord, Lord Patten of Barnes, since he was appointed Governor of Hong Kong. In fact, I was the official who met him on the steps of the FCO on his first day. He bounded up to me and said, “Peter, I am not going to wear that hat”—and indeed he did not. The noble Lord, Lord Jay of Ewelme, has had to play the role of sponsor and mentor before, since I succeeded him in the Foreign Office as Permanent Under-Secretary. I am thinking of wearing a label around my neck saying, “If found wandering, please return to Lord Jay, thank you”—like Paddington Bear.

My career in the FCO began in the year after we joined the European Economic Community and it ended in the year that we voted to leave. I have to confess to the House that I am left deeply worried about the longer-term damage that that decision will do to this country. The mood I find in Europe is not one of wanting to punish the UK but of great sadness that a country that has done so much for peace and prosperity on the continent should be turning its back on this project, at a time of such turbulence and danger in the world. The European countries see the European project as still being a great deal better than the alternatives of narrow nationalism on the continent.

I was keen to make my maiden speech in this debate because the noble Lord, Lord Liddle, is absolutely right to put the focus on the key issue: the future relationship of this country with the EU. The Brexit negotiations and the transitional arrangements, which I personally am sure will be necessary, are means to an end. The end will be the future enduring relationship that we have with our neighbours on the continent. In last week’s excellent debate on the EU Select Committee report I heard the noble Lord, Lord Kerr of Kinlochard, quote Article 50, which refers to the need for a future framework for the relationship. I found that an important insight. I am sure that Parliament should be consulted over the terms of our proposition to our other EU partners, to muster as much national support for that as possible—but, along with the noble Lord, Lord Liddle, and other noble Lords I think it is now urgent to begin to assemble the building blocks of what that future relationship will look like.

The most important element is the one where there is still the least clarity—and other noble Lords have already referred to it. It is where we are going to strike the balance in our proposal between the freest possible access for goods and services to the European market and whatever controls on immigration are judged to be necessary. Those shark-infested waters are probably not ones for a maiden speech, but I will make one observation: while you can, in the excellent catering outlets of your Lordships’ House, have your cake and eat it—provided you pay for it—I am not sure that that is a sufficient basis for our policy towards future relations with the European Union.

Without going into the detail of trade, I will take up what other noble Lords have said about the scale of our trade with our EU partners. I will take France, the country I know best, as an example. We export £32 billion-worth of goods and services a year to France. That is twice our total exports to China and five times

our total exports to India—and that is to France alone. So, although it is clearly vital to have “new and dynamic trading agreements” with parts of the world beyond the EU, as the Prime Minister put it, surely it is a top priority to ensure that those arrangements apply to our trade with the European Union.

I will touch briefly on four other building blocks of our future relationship, all of which I think have already come up in the debate. First, there is the importance of close co-operation on fighting terrorism and organised crime. As ambassador to France, I was there at the time of the appalling terrorist attacks this time last year and I know from experience the importance of our co-operation on these matters, not least for the security of British citizens in Europe. I know that the intelligence, security and law enforcement communities in Europe respect the professionalism and capacities of our own security and intelligence agencies. It seems vital that we maintain the operational co-operation with our European partners, which means being part of the information exchange networks, and instruments such as the European arrest warrant.

Secondly on foreign policy, my personal judgment is that we will want to continue to co-operate with European neighbours in a whole range of foreign policy areas. I note, for example, that the UK votes more often with France in the UN Security Council than it does with the United States—so I hope we can have a continuing forum for active co-operation on foreign policy, not just a place where we passively align ourselves with EU decisions.

Thirdly, on defence, which is a complex subject that I shall not go into in detail today, I believe that our know-how and the professionalism of our Armed Forces are greatly respected around Europe, as other noble Lords have said. I believe that the European Union does some useful work in its relatively modest missions around the world, civilian and military, and that we ought to have the opportunity to continue to be part of that. It will be positive if the EU finally decides to invest more in defence research and equipment, as recent reports have suggested. I think we can be completely relaxed about the prospect of a European army; it is never going to happen. Nations with serious military forces, such as France, will never agree to put them under supranational European control. The noble Lord, Lord Liddle, posed an interesting question about future European security arrangements, and I am sure that the House will come back to debate them.

Finally, and following the noble Lord, Lord Green of Deddington, there is the position of EU migrants in this country and of British citizens in EU countries. It is clearly vital. There is obviously an ongoing argument about how quickly an agreement can be made, but I do not think that there is opposition to the principle.

Establishing a list like this seems to be a useful part of building a consensus around what our offer should be.

I shall say a brief word in conclusion on bilateral relationships with our European neighbours. Although they cannot replace formal co-operation, as ambassador in Paris, I was constantly struck by the depth and breadth of the web of relationships between our countries. Of course, there is a relationship between the two Governments—defence is an example—but the web goes but far beyond that. There is the sheer movement

[LORD RICKETTS]

of people. We counted 12 million British visits a year to France and a similar scale of visits to other European countries. Within that are exchanges: parliamentary, educational at all levels, cultural, artistic and sporting. All areas seem to contribute greatly to the strength of the relationships across the channel, and history is never far behind. During my four years as ambassador in France, we commemorated the 70th anniversary of D-Day, the 100th anniversary of the start of the First World War, the 200th anniversary of Waterloo—that was a tricky one—and the 600th anniversary of Agincourt. So history is always there.

I believe passionately that the future of this country will remain inextricably linked to our neighbours across the channel and will continue to be influenced by what happens there, and I look forward to continuing to contribute to debate in your Lordships' House on those issues.

12.38 pm

Lord Monks (Lab): My Lords, I think I speak for all noble Lords when I say that the House very much appreciates the benefit of speeches and advice from distinguished former diplomats. The speech of the noble Lord, Lord Ricketts, shows that he will be a worthy addition to the ex-diplomats Bench and to the House more generally. He has, as he hinted, filled most of the top jobs in the FCO. His last three jobs have been Permanent Secretary, National Security Adviser and our man in Paris, making for an enviable and attractive CV and a stellar record of achievement. Originally from the West Midlands, he now sits as Lord Ricketts, of Shortlands, which is in Bromley, for those who do not know. Coincidentally, that is just up the road from where I live, so we are not far off being neighbours. His speech today will have whetted your Lordships' appetite for more, much more, and his advice will be invaluable as we go into the difficult waters we are debating today: our relationship in future with the European Union.

That is what I turn to now. I want to deal briefly with two things. First, I shall take on some fantasies which are around in the current debates and secondly I shall talk a little about the responsibility of the Government to combat them. First, the cake-and-eat-it approach still seems to be alive, judging by the photograph in the press this week. Of course, it is ridiculous. This is a divorce. We are divorcing the rest of the European Union. I know there can be amicable divorces, but from my experience with friends, acquaintances and family, there are not many, and most have a considerable degree of bitterness. As the noble Lord, Lord Ricketts, said, the sense among the Governments in the rest of the European Union is that we are inflicting damage on a great and noble project which they have invested a tremendous amount of their lives in. That feeling is very powerful, and they are not going to roll over easily and give us the deal we would like. This is a two-way process, and what exactly do we have to offer? What exactly are we saying that we will do for them when we are asking them to do things for us?

That brings me to the next fantasy: that we have a choice between a hard and a soft Brexit, and that somehow it is in our gift which particular route we

take. In fact, we are unlikely to obtain a soft Brexit, which I very much regret. Unless we are prepared to succumb to the jurisdiction of the European Court of Justice and to accept free movement of labour, I do not believe that we will get it. The stance of some of the Ministers concerned on this side of the Channel is not conducive to building the kind of sensitive, close relationships that would be needed to get a deal like that. By the way, it will be very difficult to get a transitional deal, too, unless you are clear what you want to transition to and people can see the steps on the way. Unless you have the end destination clear, you are not going to get the transition very clear either.

The other fantasy I want to touch on, which I think has been mentioned by others, is that somehow, if we are out of the European Union, we are free and will trade with the rest of the world. There is nothing in the European Union holding us back from trading with the rest of the world. Belgium does more trade with India than we do, last time I looked. Nobody in Germany is complaining about being held back from being one of the world's premier exporters. Our problems are self-inflicted, and if our balance of trade is not good, it is down to us to fix it rather than blaming others for it.

My final remark is that as the options of what is open to Britain post-Brexit become apparent, the Prime Minister should keep open the option of changing course. There is a chance that when all the other things have proven too difficult, too expensive and too complicated, we will find that this is not a good thing and that the best deal we can get is membership of the European Union. Perhaps the Minister might comment on whether we will keep that option open as well as the others that are on the table.

12.43 pm

Baroness Valentine (CB): I will limit my remarks today to the impact of our relationship with continental Europe on London's talent mix. London is possibly the most successful and concentrated service-sector economy in the world, and given that it contributes nearly a third of the nation's tax take, it is important that it continues to flourish.

There are roughly 1 million mainland Europeans in London, but only 19% of them would have the right to stay under existing visa rules without their EU rights. Two things worry me: first, our moral duty to these people, and secondly, the impossibility of running the economy in the absence of willing and able workers such as these. The official Vote Leave campaign proposed that there should be,

"no change for EU citizens already lawfully resident in the UK. These EU citizens will automatically be granted indefinite leave to remain in the UK".

Polling from ICM for British Future found that 84% of the British public supports letting EU migrants stay, including three-quarters of leave voters.

I am concerned about the impact on the economy of removing European workers both now and post-Brexit. In some of London's high-growth small businesses, particularly in technology, often one-third to one-half of staff come from all over Europe. Research from Oxford University's Migration Observatory found that

around two-thirds of European workers in the financial and professional services sector across the UK would not have the right to stay under existing visa rules.

My contention is that not only do we need to continue to welcome the global talent, including students, that supports London's position as the most highly skilled city in the world, we also need for the foreseeable future to attract those with medium-level skills in cyclical industries such as construction, and in sectors where the majority of the labour force is currently foreign-born. Today we do not have enough people to build the houses we need, even with European workers. Furthermore, London attracts more international visitors than any other city, and global tourism is growing. However, EU citizens make up half the labour force.

In the long term, there is no doubt that we can train more locals—for example, now that we have the somewhat overdue but welcome decision on airport capacity, the noble Lord, Lord Blunkett, is leading a taskforce to develop talent from all around the country, and HS2 has its training college at Doncaster—but none of this can happen overnight. Business needs time to plan, invest and resolve challenges, and the education system needs to do better at providing people with the right skills. In the meantime we need transitional arrangements with Europe that recognise that there will be a continuing need for overseas workers with a range of skills while we seek to train sufficient willing and able people to meet our economic needs, and we urgently need to clarify the status of those continental Europeans already here.

12.46 pm

Lord Livermore (Lab): My Lords, I congratulate my noble friend Lord Liddle on his excellent opening speech. I agreed with every word. I also join others in congratulating the noble Lord, Lord Ricketts, on his maiden speech.

I believe that Britain's membership of the European Union is firmly in our national interest, extending both our power and our prosperity. So while I respect the verdict that was delivered by the British people in the referendum, I genuinely fear that leaving will have disastrous consequences for both our economy and our international standing. Last week's Autumn Statement gave us the first glimpse of the scale of the economic impact when the Chancellor unveiled an economy that as a direct result of Brexit is worse off in every respect: growth and productivity will be lower, borrowing and inflation will be higher, wages will stagnate and living standards will fall.

It is therefore vital that in the forthcoming negotiations we achieve an outcome that minimises any further harm to growth, jobs, or living standards. As my noble friend said, this surely means that the Government should make a firm commitment to remaining a member of the single market. Ensuring that businesses are able to trade on the same terms as they do now has consistently been shown to be the least damaging future arrangement, offering the greatest opportunities for future growth. Yet the Government are signalling instead that they favour an extreme hard Brexit, taking us out of the single market and the customs union, apparently regardless of the economic cost.

For Britain to achieve an outcome that minimises the harm to our economy and puts growth, jobs and living standards first would require a marked change in the Government's position, but it would also require a marked change in the nature of the debate in this country. It requires a far greater level of honesty about what it is possible to achieve in the negotiations and about the trade-offs that will be involved. The debate we are currently having in this country is instead a harmful mixture of dishonesty and delusion. Some senior Ministers, maintaining a pattern established in the referendum campaign, continue to pretend that they see no possible downside to Brexit and that the entire economics profession is mistaken. In reality they are ideologically committed to a hard Brexit and would be very happy to sacrifice the living standards of working people to achieve that goal.

Other members of the Government seem to have adopted a more sincere delusion about what the outcome of the negotiations will bring. Holed up in Whitehall, prevented from meaningful engagement with their EU counterparts until Article 50 is triggered, they have convinced themselves that a terrific new deal will be on offer, giving Britain all the things we like about the single market while we give up virtually nothing in return. I am sorry to say that all too often leading members of my own party seem willing to collude in this fantasy, complicit in creating the fiction that our economy can be protected within the single market while at the same time confident that we can achieve some as yet unspecified reforms to freedom of movement.

This is an extremely dangerous fiction to collude in, and at some point in the next two years, this collective denial will collide with reality. As every European leader has made clear, this is not a deal that will ever be on offer. There will be no UK membership of the single market without retaining freedom of movement, so as a nation we will at some point have to confront a stark choice: do we end freedom of movement, or do we stay in the single market?

If the promises made on immigration turn out to be undeliverable, the backlash will be catastrophic for our democracy. Yet how could a democratic Government knowingly and deliberately pursue a policy of leaving the single market that would cause such economic self-harm to our nation? Unfortunately, it is a choice for which the British public have in no way been prepared. Although the referendum was decided by a narrow margin, the Government have sought to govern only for the 52%.

As other noble Lords have said, leaving the single market was not on the ballot paper on 23 June, and those who voted to leave the European Union will have undoubtedly included both opponents and supporters of the single market. Yet the Government have made no attempt to create a national consensus, or to discuss the difficult choices and inevitable compromises we face. When we eventually have to face up to reality, the only way to avoid a political crisis will be with a political solution. Decisions of this magnitude cannot be taken by the Government or even Parliament alone; they require far greater democratic legitimacy. As the details of the choice become clear, the British people must be involved again in helping to make this vital decision.

12.51 pm

The Earl of Caithness (Con): My Lords, I was fortunate, when a Minister in the Home Office, to benefit from the clear thought and wise words of the noble Lord, Lord Ricketts, who was my right-hand man for much of my work. Today, your Lordships have benefited from those same clear thoughts and wise words. I was delighted to hear from the noble Lord—he is not my noble friend, but he is my friend—and we welcome him here.

Much has been said about the involvement of Parliament in the whole of this process. This is the 15th debate on the EU since we had the referendum result. It rather reminds me of the Maastricht treaty debates. This country spent three times as long debating Maastricht as any other country in the EU. I hope that we will allow our Ministers to get on with their jobs at their desks and get us the best deal, rather than constantly bringing them to Parliament.

The four freedoms of Europe have been mentioned. Of course it is right that our friends in Europe have been promoting the idea of freedom of movement as being absolutely sacrosanct, but I hope my noble friend will remind them that they did not think that the free movement of capital and services were equally sacrosanct, as my noble friend Lord Howell said. They dragged their feet and prevaricated, however much we tried to push them. It has been a long and painful process to bring the EU forward on that front.

I am an inherent free trader. Some have said that when we leave the EU, we will be the beacon of free trade for the world. I am not so sure about that. Bilateral trade does not equal free trade. I would like it to, but it does not. Let us look at what is happening in the USA. President Obama is a protectionist. He raised tariffs with China. Mr Trump is going to take that further. Some in the press today say that that will be good because we can do a bilateral deal with the USA more quickly. The USA is protectionist and, as the noble Baroness, Lady Royall, said, we will never get a better deal with the EU than the one we have at the moment. That is a sadness for those of us who believe in free trade. We will all be the poorer for future President Trump ripping up the TPP. It affects us as well: without free trade we will be poorer throughout the world.

I echo what the noble Baroness, Lady Valentine, said about the importance of London. It is incumbent on us all to stress to our European friends that London is the financial centre of Europe—not just the EU, but the whole of Europe. Indeed, in some respects—look at the London Metal Exchange—it is the financial centre of the world. It is hugely important that that continues for the trade of metals throughout the world.

I ask my noble friend the same question that I have asked before. Is she confident that we have the right quality of negotiators? We have not negotiated a free trade deal for more than 40 years. What is she doing to bring in expertise from the private sector and, indeed, perhaps to use the experience of the noble Lord, Lord Ricketts? It would be helpful to know.

I would like to question just one point made by the noble Lord, Lord Liddle, in his Motion. He refers to the EU; I am not certain that we can look at the EU as

a single entity anymore. I can see quite massive changes in the EU. Let us just take the example of Ireland—we are going to have a different relationship with Ireland than with the rest of the EU.

So my closing words to my noble friend are: let us be innovative and let us be flexible. I hope that the Government will take that approach, because that is what will get us the best deal with all the other countries.

12.55 pm

Baroness Crawley (Lab): My Lords, it is indeed a delight to hear from the noble Lord, Lord Ricketts. He is most welcome to your Lordships' House. While thanking my noble friend Lord Liddle for the opportunity that he has given the House today, I am tempted to respond to the Motion by simply saying that the best option for the UK's future relationship with the EU is to revisit the whole decision, either through a second referendum or as a manifesto pledge at the next general election.

When the leave campaign beckoned a small majority of the British people to vote with them in the referendum, they were effectively organising Royal Assent for the law of unintended consequences. For instance, only this week, it was revealed that leaving the EU means leaving Euratom, the body that regulates the nuclear industry and the safe disposal of nuclear waste across the continent. This might not seem a big story in itself, until one wonders—as the *Financial Times* did this week—what is to happen to the 3,000 cubic metres of radioactive waste to be left in the European Torus project in Oxfordshire? I declare an interest: I live near there. I must admit that I had not realised that there was going to be a problem with nuclear waste if we left the European Union. Euratom is a perfect example of how Europe shares risks, skills and costs and it is now yet another asset to be thrown on to the Article 50 bonfire.

Brexit is indeed becoming a learning curve—a curve of the vertical take-off variety. Every day brings a new Brexit-based challenge to our national interest that simply was not foreseen. I can understand why the Prime Minister is having sleepless nights about Brexit right now. The trouble is, British businesses and British workers will be having sleepless nights about Brexit for the next decade, in all probability. To carry on from my noble friend Lord Liddle, the only person who will never have sleepless nights is President Putin. For him, the possibilities are Shakespearean: “Brexit, pursued by a bear”, a Russian bear.

The complexity mounts. From this side of the House we can see the astonishing sight of our British Government having their policy on the verge of being completely paralysed by a Brexit process that no one can fully understand, no one can perfectly define and no one can realistically manage. Even some leading leave voices must now at least privately acknowledge that they never understood just how many concentric circles of complexity would ripple out from a national decision to leave the European Union, but too many of those voices are what I will call Brexit Bennites—noble friends on our Benches will know what I am talking about. They are acting as if cancelling our membership of the EU is simply a matter of political

will. There is no point in anyone any longer saying that “Brexit is Brexit”. It is not and never has been as simple as that.

There is no such thing as a clean Brexit break. There are always going to be unexpected items in the Brexit bagging area. Transition is essential. The Labour Party is quite rightly resisting the hard and fast Brexit and has called for full, tariff-free access to the single market. The democrat in all of us will, of course, say that the referendum result must stand. But I, for one, do not know what that really means anymore. The events of the last six months have shown that there are as many forms of Brexit as there are shades of grey.

Let me be clear: I believe that all parties, including my own, must keep the option on the table of the British people changing their mind and thinking again about the decision of 23 June. It may be an unpalatable call but I believe that it is emphatically where we are.

1 pm

Lord Maclellan of Rogart (LD): My Lords, I welcome this debate initiated by the noble Lord, Lord Liddle, who spoke for many in this Chamber when he talked of his respect for the European Union’s contribution to peace. We have had 70 years of peace in western Europe and I believe that the European Economic Community very much contributed to that.

I congratulate the noble Lord, Lord Ricketts, on his forceful maiden speech, in which he made powerful points in respect of security, foreign policy and defence. We must remain in a relationship with our European neighbours. We must feel that we can get together with the 27 other countries to formulate policies in these areas.

The debate has focused to some extent on the single market in recognition of the fact that nearly half our exports go to the European Union, and a substantial amount of goods comes from the EU. The free trade negotiations will be a strong part of the Government’s policy, but unfortunately we have had no indication from them of their objectives. They speak in general terms. I support the concept of a Green Paper spelled out by the noble Baroness, Lady Royall. Setting out the Government’s objectives in a Green Paper would not undermine the negotiating procedures. If Parliament is to play a significant part in this, as the High Court has suggested—and we will hear from the Supreme Court fairly soon—it must be given information on what the objectives are.

The consequences for European security initiatives are significant. Europol, the European arrest warrant and Prüm are very valuable in our battle against invasions of our security, and particularly against terrorism. We must recognise that terrorism is a plain fact with which we have to deal at this time. ISIS is not the only object of this.

The European Union has made a considerable contribution to our research. Nuclear fusion might be a casualty if we do not get significant funds from the European Union towards this research. The process of transition over several years ought to be spelled out. I think that we can adapt our objectives over that period.

1.05 pm

Lord Judd (Lab): My Lords, I thank my noble friend Lord Liddle for giving us the opportunity to have this debate. I thank him most warmly for the passionate conviction and hard-headed analysis with which he introduced it.

I think that all of us, if we are honest, know that one of the problems with the referendum was that it was not about the European Union but about a lot of alienated and disenchanted people who are bewildered and frightened by the challenges of globalisation and do not see how they fit into the pattern. We shall have to go on working very hard indeed at tackling that perception in this country because we failed as a political community to bring home the reality that we are inescapably locked into an international community in terms of climate change, terrorism, crime, trade and culture. Those issues are all interdependent across the world. History will judge us by our success in mastering the governance of those realities. But at the same time people feel personally less and less significant and they feel left out. If we are really to learn lessons from the predicament we are in, the challenge we all face is how we enable people to rediscover a sense of identity and significance within our society, and lead them in that context to an understanding of the realities of an international community. For example, we will not be able to solve the problems of climate change on our own. We shall, of course, have to continue to co-operate with the Germans, the French and the Americans—that is absolutely clear. The same goes for terrorism and international crime. As has been well argued, the same also goes for the economy.

There is one other issue which I want to discuss briefly in the time available. At the time of the Maastricht treaty something very significant happened for people living in the European Union—they acquired European citizenship. Going back to my school days, when I studied ancient Rome, I learned that citizenship is a very serious concept. People will in effect be stripped of their citizenship and will wake up to the implications of that only when it has happened. That is why, in my view, it is important to insist that we reach an understanding with others in the European Union on citizenship, and all that flows from that, before we activate Article 50, because after we activate that article this will be just another issue for negotiation. However, it is not just another issue. Thousands of British people across Europe and thousands of people in this country have in good faith built a future for their families and their relatives, their home and their work—everything—on the understanding that they were European citizens who had the rights of European citizenship. That is no small matter—we are taking all that away. We ought to be absolutely clear, before Article 50 is activated, how we will replace what has been taken from the people.

1.09 pm

Lord Craig of Radley (CB): My Lords, one issue, little debated, is a presumption in discussions about Brexit that the EU is a known, unchanging quantity—an edifice of predictable structure. Is that so? Preparing for promotion exams way back in the 1950s, I was

[LORD CRAIG OF RADLEY]

taught to view world affairs through three windows, labelled military, economic and political. Let us glance at the EU thus.

On the military aspect, will the 27 go forward with their European army? That has not found favour with any Administration in this country but it has been discussed, and championed, again recently in Brussels. How might that impact on NATO, our security and our military relations with the EU countries?

Economically—my second window—attractive as the European currency is, there are enormous difficulties with the concept of one size fits all; for example, in Greece. The underlying problems are unresolved and a fix for the resulting strains is a known unknown. Will it impact before Article 50 negotiations end?

On migration, there is less press coverage this year than last, but it—and the root causes of the crisis—are unresolved. Turkey may renege on its undertaking to take back illegal immigrants. Alongside that, high numbers of unemployed youth—for example, in Italy and Spain—also makes for potential unrest. The EU of today will not be the same economically in two or five years' time.

My third window—political—is the most important. At one extreme is the “ever closer union” mantra; will it make progress in the immediate future? More immediate are the possible changes in the faces of the 27 at future EU summits. The known is that national elections in EU countries will bring new faces and maybe changes to the collective view of the 27. An unknown: might it not be 27 any longer if another country were to follow the UK into the “out” lobby?

Therefore is the EU of 27 as solid or predictable as is assumed? All empires throughout history rise, then fall. The European “empire” will one day have to tread a similar path—maybe, but probably not yet. To borrow Zhou Enlai's comment, speaking of events that took place two centuries previously, “It is too early to say”. But will tomorrow's historians be idle for all of two centuries before writing the definitive tale of the European project? I, for one, doubt it. I hope that my glances through these three windows will not mean I totally fluff my EU exam paper. Whatever happens on continental Europe needs greater debate and consideration.

1.13 pm

Lord Selsdon (Con): My Lords, when I first joined your Lordships' House, I think 50 years ago, I was grabbed by the Leader of the House, Lord Jellicoe, who said, “My dear chap, there's going to be a lot of development in Europe and this European lark is going to take a long time to come about. We'd like you to think—would you be willing to serve on the Council of Europe?”. I had a full-time job and I was not highly paid. I assumed that if I went and did this, my pay would be deducted. But then I found myself on the Council of Europe, and everyone was rather kind to me. Shortly after that, Lord Shackleton came up to me and said, “I wonder if you'd join the EETC?”—he was chairman of the East European Trade Council. I said yes, and before long I found that I had been absorbed by other people far more intelligent than me, and that

my job was that of a pen-pusher. When we had the original referendum, I was secretary and treasurer of the Conservative Group for Europe, and we introduced the slogan: “Britain in Europe: it's our business to be there”. We were thinking about trade—exports and imports. Now, suddenly, we find that from a relatively weak economy, we are in a rather strong position globally and able to trade globally. I wonder where we go next.

In simple ways I suffer a bit because, legally, I am a French peasant farmer. I have a vineyard in Provence, where I produce rosé, although the grapes are generally eaten by foreign wild boar—I have a permit to shoot the wild boar but no gun with which to do so—so, with all the local ingredients, I suffer from that. However, I also produce olives. Wild boar will eat the olives when they drop off the trees but have not yet worked out that if they shake the trees hard enough, they will fall down. There is always an element of history in these relationships. In the second century BC the first wines from Provence were shipped to the United Kingdom. They went to Hengistbury Head—I am not quite sure how to spell it—which leads to Stonehenge. You therefore realise that in trade matters there are historic relationships between countries. At the moment we have a good relationship with France—we heard an excellent contribution from my noble friend. We have to decide what we do next, and with whom.

In the whole concept of Europe we obviously have to look at economies, which are in general more privatised than they were before, and at defence. We look here, too, to France, with its ownership of Airbus and the relationships it has. I have a love of the sea, having served in the Navy in the Mediterranean; afterwards I followed in a private boat the travels of St Paul. I nearly drowned everybody, but it must have been the same for him in those early days. That taught me about the business of immigration. I had not realised how many migrants there were—I am going back 10 years or more—moving from one country to the other. I made a point about taking people into slavery. One day a pirate decided that for the slave market in the Mediterranean islands they could do with some white slaves instead of black ones, and then raided one of the churches in Penzance or around there and took away the entire population of the church, which was then pushed into slavery in the Mediterranean. All these are little stories you get told and do not necessarily believe.

We have a close relationship with France, and they are becoming less French and more willing to co-operate internationally. Here, I look at this debate and think: it has come at the right time, but what do we do next? Trade is the key issue, but what do we trade in? When I was secretary of the Conservative Group for Europe we had that phrase, “Britain in Europe: it's our business to be there”—it was meant to be about business. But we trade successfully with most of the countries of the EU and with France in particular. When you look at the co-operation with Airbus, we have some friends and partners. I cannot work out what we do next, but we need to enter into new treaties or alliances with as many people as we possibly can, and we should not try to plough a lonely furrow. When you have the wild boar about, lonely furrows do not work.

1.18 pm

Lord Berkeley (Lab): My Lords, I congratulate my noble friend Lord Liddle on this debate, because it provides opportunities for yet another time when we can discuss the future, or not, of Brexit. I spend a lot of time on the continent talking about railways and transport, particularly in Brussels, and I share the view expressed by my noble friend Lord Monks and the noble Lord, Lord Ricketts—whom I certainly welcome to this House—that they are sad that we are leaving. However, it is not a question of how we leave; it is either hard Brexit or no Brexit. The approach that some of our Ministers and other commentators seem to be taking, which I term arrogant, will not make the negotiations any easier at all. We will not be able to pick and choose what we can have. We have had many discussions today and in previous debates about picking and choosing, and we will probably go on doing that for a long time. We really need to focus on what we want to get out of it.

We read reports daily in the press of UK business and industry sectors expressing concerns and alarm about job losses or economic problems if we have a hard Brexit. To name but a few, they include research, agriculture, the building industry, finance and transport. I suppose one could add to the list regional aid. It is not an industry but it dramatically helps jobs and so on.

I have looked at transport in a certain amount of detail. There could be problems in the air sector over agreements with the EU on designated routes. Will we continue to be part of the EU open skies policies? There could also be problems regarding ownership of some of the airlines. Would UK carriers be excluded from certain routes? Then there are the possible problems concerning extra customs formalities. Some noble Lords may remember the pictures of queues of trucks trying to cross the Iron Curtain. That could happen again.

There is also the issue of Calais. The camp of the potential immigrants has been removed, so the situation at the moment is much better, but if the French Government got a bit angry with us—although not as the noble Lord, Lord Selsdon, suggested—there is no reason why they should not say, “If you’re leaving the EU, you can sort out your own immigration problem. And not only will we not allow the British immigration people to work in Calais any more but we’ll send anybody with a problem across to the UK, where they can claim asylum and it’ll be your problem”. I know that the treaty is not part of the European Union agreements but that could still happen. So my worry is that there will be a risk of a lack of compliance without any ability to make representations and participate if we want to stay in the single market.

I am sure that there is a solution to sorting out the immigration problem—if it is a problem—and it worries me that the Government have already decided what they are going to do. Yesterday, the noble Baroness, Lady Williams of Trafford, said in answer to the first Oral Question:

“The Government have been clear that as we conduct our negotiations it must be a priority to regain more control of the numbers of people who come here from Europe”.—[*Official Report*, 30/11/16; col. 195.]

We are still in Europe—we have been in Europe for 40 years—and if she is assuming that we have already left, that is probably why we are getting into the trouble we are in.

I suspect that over the next few months, when all the job losses have been added up, people will appreciate the threats much more. If there were another referendum, we would probably have at least 52% in favour of staying in rather than 52%—a very small majority—in favour of trying to get out. As other noble Lords have said, the referendum was advisory. I hope that the Government accept that the will of Parliament has to be tested and that Members of Parliament, having taken the views of their constituents, will be able to vote, as will we in this House, on whether they like the terms of the negotiations and, if necessary, reject them.

1.23 pm

Lord Dykes (CB): My Lords, I warmly thank the noble Lord, Lord Liddle, for initiating this debate and for his words. As a previous speaker said, the passion as well as the contents of his remarks make his speech worth reading again in *Hansard*. It set out all the awful implications: not just “A Nightmare on Elm Street”, or on all the Elm Streets in the United Kingdom, but “Nightmare in Downing Street”, “Nightmare in the whole of Whitehall”, “Nightmare around Parliament Square” and all over London, in particular, when this escapade and nonsense gradually unfold. Without being complacent, I like to think that the number of speakers in this debate alone who have argued for and endorsed our continuing membership of the EU reflects—I am optimistic about this—what British public opinion will be in about 18 months’ time when all these nightmare implications are considered.

I also thank my noble friend Lord Ricketts and congratulate him on his outstanding maiden speech. With his distinguished Foreign Office background, we thank him for all he has done for this country. When I was an MP, I became rather unpopular among some colleagues because I defended the Foreign Office in the House of Commons, which is always a tricky thing to do. One reason was that, as the Foreign Office became more successful, it was disliked more and more by Mrs Thatcher. I remember that vividly and, to my mind, it was an important test of what view one ought to take about our most excellent foreign service.

Timothy Garton Ash, a very distinguished historical journalist and historian who worked in Oxford and other places and travelled extensively, said on Friday, 25 November in the press:

“These days, I never travel without my Brexitometer. It measures two things: the time elapsing from the opening of any conversation”,

with anybody,

“to the first mention of Brexit”—

the average so far has been three minutes—

“and the proportion of all those I encounter who think Brexit is a good idea. Over the past two months, I’ve been in America”,

and about half a dozen other important countries,

“and the second metric is currently running at about 1%”—

that is, 1% in favour of Brexit. He continues:

“The other 99% think that we Brits have gone stark staring bonkers”.

[LORD DYKES]

He goes on to say that maybe he was just mixing with the wrong kind of people—the international elite, who naturally like the European Union—but, no, he was talking about a wide cross-section of people.

I commend my noble friend Lord Kerr of Kinlochard as a sober witness to this continuing and unfolding ghastly nightmare, and reiterate his words in the debate on 22 November. He referred to the way in which the Government are busily and clumsily alienating our friends in Europe before the negotiations even begin. My noble friend is not known for his histrionic utterances—far from it—and that is why we respect him so much. He said that,

“the sense that the Government are talking only to themselves, making policy in an echo chamber, the gratuitous insults from the Foreign Secretary, the random pronouncements of various Ministers, usually immediately followed by a slap down from No. 10, leave our friends ... in Brussels close to despairing. They fear that there is no plan, and that when one emerges it may be rather unrealistic. They see a growing risk that the Article 50 negotiation will fail, and we will go over the cliff edge into legal chaos”.—[*Official Report*, 22/11/16; col. 1864.]

This immense damage to this country has been unleashed by former Prime Minister David Cameron. It is far more reckless than anything done in Suez by Anthony Eden and far more dangerous than other hysterical acts of previous Prime Ministers over the long history of unfolding British democracy. When we see David Cameron, we have to ask him again why he tore this country apart so recklessly in favour of keeping his party in order. However, it can be resisted. If, with or without the support of the Supreme Court, this matter eventually goes back to Parliament—mainly to the House of Commons—as it should, then MPs must really face up to resisting the right-wing firestorm that has been unleashed by this nonsensical decision. I quote from an article in the *Guardian* on 29 November. It says that,

“we can’t go on like this. If the courts give MPs the right to vote to stay in the EEA and the single market, they will need nerves of iron, reserves of courage and every possible verbal weapon to confront the right’s angry entitlement, its brutish selfishness, its mean-spirited nativism. It won’t be easy; some won’t have the stomach for it. But they surely have a duty to stand up for the only kind of Brexit that might save us from ruin”.

1.28 pm

Lord Desai (Lab): My Lords, this is about the fourth time I have spoken on the result of the referendum and I shall say the same as I did in the first debate: I voted to remain but out means out. I do not think that we do any good by demeaning those who voted for Brexit or describing them as—to use Hillary Clinton’s word—“deplorables”. In England, 28 million people voted out of 34 million, and the margin for Brexit was seven percentage points—53 to 46. The difference in England of two million votes was also the national difference. In all the devolved regions, three million voted for and three million voted against. So this is very much an angry English decision—and we should listen to it carefully.

My noble friend Lord Monks described it as a divorce, and so did I. The point of a divorce is to get it over with quickly. Then, you want to cohabit, but you cannot begin the discussion on cohabitation until

after the divorce. We have walked out of the house; now we have to proceed with the divorce. If we are going to go through with this divorce, it is neither a hard nor soft Brexit but a quick Brexit that is of the essence. Once you get a quick Brexit, then you can have a smart framework agreement for cohabitation. Much more time should be spent on discussing cohabitation than on either delaying the invocation of Article 50 or making it very complicated.

I know that I am in a minority on this side of the House in that respect, but I sincerely think that, to end the uncertainty, we have to have a quick Brexit. It is no good hoping that, somehow, the world is going to change, the British people are going to change, France is going to break down and Germany is going to go up in flames—none of that is going to happen. The 27 other member states are not going to treat us nicely, whether we insult them or not. They have their own interests to protect. We have walked out and so we have to take the consequences.

The important question now is: what role does Parliament play in this, whatever decision the Supreme Court makes? It would be good to have a discussion in Parliament like the ones we have been having more or less continuously since June before Article 50 is invoked—a much more extensive discussion, along the lines of the one we are having today, with different views. However, as I have proposed before, once Article 50 is invoked we should have only a Select Committee of both Houses of Parliament to get detailed information from the Government on a Privy Council basis so there can be interaction between Parliament and the Executive. Finally, when the decision has been made, Parliament can come back into the decision-making process and vote either to approve or not approve the package that has been agreed. If Parliament does not approve it, I do not know where we go from there—but that is the way we should conduct our business.

As I have said, there should be much more interest in what happens after the Brexit negotiations. Everybody else deals with WTO. We can do that as well—it is not a miracle and we should not be frightened of it. That is what others do, so we will do it as well. We have to be prepared for that and not wait for some miracle reversal of our decision.

1.33 pm

Baroness McIntosh of Pickering (Con): My Lords, I am the product of a particular European union, as the daughter of a Scottish father and a Danish mother who met in Hamburg and married in 1948. My mother recalled vividly how she lived in Copenhagen under German occupation, so I have long taken a close personal interest in the European Union—but this is the first occasion on which I have spoken in this place on the subject.

I have always considered Europe to be a continent of opportunities: to study, to trade, to work, to set up business or a profession, and to export. However, as a democrat and a patriot, I accept the result of the referendum. As one chapter ends and another begins, what might the next chapter look like? As recently as yesterday, during Prime Minister’s Questions, Theresa May in the other place said,

“specifically about the single market and trading with the European Union ... we are ambitious in getting the best possible deal for trading with and operating within the single European market”.— [Official Report, Commons, 30/11/16; col. 1511.]

So I congratulate the noble Lord, Lord Liddle, on calling this debate at this time. I also congratulate the noble Lord, Lord Ricketts, for making the first of what I am sure will be many excellent contributions to this House.

I would like to rehearse some of the pitfalls that lie before us on this rocky path ahead. The options appear to be remaining in the single market, remaining part of the customs union, being part of a free trade area and possibly a member of the European Economic Area, or reverting to World Trade Organization rules. I do not think that we begin to understand the complexity of what even the basics of World Trade Organization rules or free trade would be. We forget that we have been part of a single market, which was very much a Conservative concept pressed home by the late former Prime Minister, Margaret Thatcher, and her commissioner at the time, Lord Cockfield. However, we have been part of that only since 1992. As an MEP at the time for parts of Essex and what is now South Suffolk, I remember receiving panicked phone calls from local businesses whose goods were impounded by Customs at the borders asking what on earth I was going to do to release them. It is not just the tariffs but, as I said, the non-tariff barriers, and even trying to agree the nomenclature for every product, whether it is agricultural or non-agricultural.

We also have to have regard to the incoming US President, who, as has been said previously today, has tendencies that are even more protectionist than what we have seen in the past. That may lead to fewer opportunities for free trade for this country and aggravate already slowing free trade in the world economy, hitting the UK economy hardest because we are a more open trading nation than many others.

I would like to say a word of caution about the great repeal Bill. Most EU law has already been transposed into UK law. Environmental directives have been transposed through statutory instruments. It is regulations that are directly applicable that we have yet to identify and decide which we wish to keep. As regards the jurisdiction of the European Court of Justice, there may be some cases on which we would wish to follow its rulings. The early rulings of *Costa v ENEL* or *Cassis de Dijon* related to the free movement of goods and services, meaning that exports from this country would still be freely available in the European Union. No one has yet explained what this concept of equivalence would be. I remind the House that for architects, it took up to 21 years to achieve mutual recognition.

It is also worth remembering that when the former Soviet satellite states threw off the shackles of the iron curtain, they looked to the European Union, and still do, to give a blanket of security. We need an assurance that the European Union initiatives on co-operation in the security field will continue. Hearing that Russia is placing missiles on the borders of Poland and the Baltic states brings with it more than a hint of the pre-war years of the 1930s. Although it is clear that

the UK may be leaving the European Union, we need to send a clear message that we remain within the broader bosom of the European family.

1.38 pm

Lord Soley (Lab): My noble friend Lord Liddle, in his very powerful speech, made the all-important point that our aim now must be to have a very good and close relationship with the European Union, albeit a different one. I start from that point. There is no point, in my view, in trying to negotiate the situation here or decide whether we go back in or stay out. We have simply got to create a relationship between the United Kingdom and the European Union that works for both of us.

The first thing I would like to happen is for Ministers to stop talking slightly negatively about Europe. We should be saying that we want the European Union to succeed and we want the United Kingdom to succeed, and that we want to have a close relationship with it because it is in both our interests to do that—partly because, as the noble Baroness has just said, the relationship with Russia matters here and the future of defence and foreign policy matters. A splintered European Union would be bad news for the United Kingdom. Similarly, if the United Kingdom goes into some sort of economic crisis, that is not in the interests of the European Union—they know that and we know that.

I have a word of caution for some of my honourable friends and other people who think that we can get back into the European Union easily or quickly. That is cloud-cuckoo-land. Those who voted for Brexit did so for many reasons. Migration was a big one, but it was not the only one, as my noble friend Lord Judd said. The feeling of being excluded as a result not just of the global economy but a distancing from political institutions and politicians was also a critical part of that. My fear would be that, if we were to try to go back in any time soon, either by a parliamentary vote or another referendum, we would get a big thumbs down from the British people. It is far better to have a successful economic and political link growing with the European Union because that leaves open the door, as we should do, to going back in if we so wish at some future date. It also enables us to make a success of the present position.

I say again to some people who think that we can easily come out that, by and large, if things go wrong, as many people have been saying, people tend to vote negatively. That would not induce people to say, “We’ve made a mistake; we’ll go back in”. It would induce them to say, “Typical—the foreigners and politicians are all a problem and we do not want it”. By and large, people will vote for a positive change like going back into the European Union if they have a positive relationship and are getting wealthier and stronger. People vote positively when things are going well for them and negatively when they are not. We have had enough lessons of that. We in the Labour Party need to remember that a very large number, possibly a majority of the people who used to vote Labour, voted Brexit. If we do not understand and talk to those people, we will not solve any of the problems that confront us.

[LORD SOLEY]

I have one final point in this very short debate. I was in Brussels on Monday as a member of the EU sub-committee dealing with Europol, policing and security. The work that we are doing there is immensely important. The majority of people running that outfit are British. If you look at aviation, the majority are British. The fascinating thing is that the British have been incredibly successful at managing aspects of the European Union, but the British public have felt totally disconnected from that experience. We need to get the security issue right, which the Minister knows. But we can do that. It is possible to negotiate agreements that are in the European Union's interest and ours. No one has an interest in making life easier for terrorists, criminals or others. The same applies with the rules and regulations in aviation, where Britain also dominates, and in other areas too.

The big difficulty is trade. I have not commented on that because we do not have time, but it is important that we work positively with Europe. It is in Britain's interests and in the European Union's interest for us to have a close and positive relationship. We must start from there and continue. Please can Ministers stop saying negative things about Europe because we should be positive about it? We want them to succeed because we also want to succeed.

1.42 pm

Lord Jay of Ewelme (CB): My Lords, it is a great pleasure to follow the noble Lord, Lord Soley. It was also a great pleasure to hear the maiden speech of my noble friend—in both senses of the word—Lord Ricketts. We look forward to many other contributions to your Lordships' debates in the future.

I voted to remain on 23 June, as I believed that continued British membership of and influence on the European Union was very much in Britain's economic and political interests, and the surest way to exert our influence in the world. But I do not believe that the right course now is to try to go back on the result of the referendum. Nor would I argue for another referendum. The noble Lord, Lord Blencathra, may regard that as a tactical retreat, but the crucial thing now is to start the negotiations as planned in March and get on with them as quickly as we can.

I will focus on three aspects of our longer-term relationship with the European Union—and I congratulate the noble Lord, Lord Liddle, on initiating this debate—regarding trade, security and foreign policy. On trade, I do not for a moment disagree with the substantive arguments put forward by the noble Lord, Lord Liddle, but I am inclined to agree with the right reverend Prelate the Bishop of Chester that the chances of ending these negotiations inside the single market are slight. But that does not mean that we need to leave the customs union. Indeed, staying in the customs union would continue to give us tariff-free access to the single market, which is crucial for investment and for jobs, and enable us to continue to benefit from the free trade agreements between the EU and other countries. I know that there are arguments and interests involved that point in a different direction, but to leave the customs union and seek to negotiate bilateral trade arrangements with our major trading partners at a

time when the principle of free trade is under attack as never before, would be, I must say to the Minister, very courageous.

On security, I very much follow the line taken by the noble Lord, Lord Soley, and agree with what he said. I only stress that the evidence given over the last few weeks to our EU Home Affairs Sub-Committee by, for example, the Director of Public Prosecutions, the police and other experts, has been overwhelmingly in favour of staying in Europol, Eurojust and the European arrest warrant, because they are crucial for our security. I have to conclude that to sever our links with those organisations would be a massive exercise in self-harm. I ask the Minister to assure the House that, in considering our relationship with the EU's police and security institutions, the Government's prime consideration will be the safety and security of the British people.

On foreign policy, outside the European Union NATO will be crucial to our interests, but close and effective co-operation between NATO as it evolves and the EU's common foreign and security policy as it evolves—alas without us—will be crucial, too. I would be grateful if the Minister could assure us that outside the European Union we will work not only to maintain and strengthen NATO, but to work with our erstwhile EU partners to ensure a constant and close co-operation between NATO and the European Union.

I am very glad that my noble friend Lady O'Neill is in the House. Very little has been said in the debate so far about Ireland. But the prospects of Brexit for the north of Ireland, the Republic of Ireland and indeed the peace process, are potentially hugely serious. I would be grateful, finally, if the Minister can make clear to us that during the negotiations the interests of Ireland, north and south, and our relations with Ireland will be at the top of the Government's concerns.

1.48 pm

Viscount Chandos (Lab): My Lords:

“The UK will intensify its relationship with its friends across the channel at an inter-governmental level”.

Those are not the words of a diehard supporter of remain but of the newly appointed Foreign Secretary on 14 July this year, fresh from his leadership of the campaign that secured the referendum vote to leave. What, then, should that relationship be? Five months after the referendum, as other noble Lords have said, the Government have offered no clue as to the nature of the relationship that they would like to achieve. There has been much talk of not compromising our negotiating position by showing our hand but, in reality, the truth is that the Conservative Government were totally unprepared for the outcome of the referendum.

In January 2013, the Conservative Government committed to a referendum on the UK's membership of the EU by the end of 2017 in the event that they won the next general election, and to its inclusion as a condition for any new coalition. They committed to honouring the outcome of the referendum and the then Prime Minister committed to staying on to implement whichever decision the referendum mandated. The Government may ultimately have campaigned for a remain vote, but it was still their responsibility to

prepare for either eventuality. Three and a half years after committing to the referendum—nearly twice the length of the negotiating period provided for under Article 50—the Conservative Government had made no preparations of any sort. This casual and negligent arrogance made the Royal Bank of Scotland look by comparison well prepared for the great financial crisis. This is the vacuum that needs to be filled and in the circumstances the Government should welcome and constructively engage with the ideas of others both within Parliament and elsewhere.

I should like to use my remaining time to draw your Lordships' attention to one such idea—a proposal for a continental partnership put forward by Sir Paul Tucker, the former Deputy Governor of the Bank of England, and his co-authors, under the sponsorship of the economics think tank Bruegel, and described by the economics commentator Hamish McRae as, "the most convincing sketch yet of how this relationship might look".

I believe that the importance of this proposal is not so much its specific suggestions—although they are pretty compelling, in my view—as the signal given by the identity of Sir Paul's co-authors. They include, writing in a personal capacity, Jean Pisani-Ferry, the Commissioner-General for Policy Planning for the French Prime Minister, and Norbert Röttgen, chairman of the Committee on Foreign Affairs of the Bundestag. The proposal envisages membership of the single market for,

"an outer circle of countries involved in a structured intergovernmental partnership"—

words that echo those of the Foreign Secretary, and an—

"intergovernmental form of collaboration, with no legal right to free movement for workers but a regime of some controlled labour mobility and a contribution to the EU budget".

Time does not allow for a more detailed summary, and as Hamish McRae suggested, we should perhaps regard it as a good sketch rather than a finished picture. I do not pretend either that the personal views of the authors can be interpreted as a fast track to a done deal, given that we are facing, as the Secretary of State for Exiting the EU has said in his characteristically understated way, the "most complex negotiations" of all time. However, I am more optimistic than my noble friend Lord Livermore that behind the hard-line initial positions taken by EU leaders, mirroring and indeed responding to our own leaders' rhetoric, there is among the key thinkers at the heart of the EU an understanding of the concerns lying behind the referendum vote and a desire to find a constructive solution of potentially wider relevance. I have no doubt that the Government have this proposal in their in-tray, not least as a founding member and funder of Bruegel.

My honourable friend Keir Starmer has asked the Government 170 excellent Questions but I will ask only two. Do the Government regard the model set out in the proposal as a good sketch from which a final picture could be derived, and will they engage, perhaps through Sir Paul Tucker, in discussions about it?

Baroness Goldie (Con): My Lords, I have to point out that we have a fairly serious overrun. Perhaps I may respectfully remind noble Lords that when the

Clock shows "four" they are over time. It does not matter how anxiously noble Lords continue to glance at the Clock, that will not minimise the time by which they run over, it will simply defer and exceed the run-over. I ask for your Lordships' co-operation so that the moment the Clock shows "four", they conclude their remarks.

1.54 pm

Lord Wigley (PC): My Lords, I have taken note of that stricture.

I believe that it was an absolute disaster that electors voted to leave the EU, but I accept that the vote cannot be ignored. People voted out for a variety of reasons. Some did so to redirect £350 million a week to the NHS. Many farmers protested against CAP bureaucracy, while some small business owners wanted a reduction in EU regulations, and others of course wanted to see a reduction in immigration levels. What they did not have an opportunity to state was what they wanted in place of our membership of the EU. Different Brexit campaigners advocated different options. Some wanted a Norwegian or Swiss model which would retain our access to the single market. Some saw Albania, Turkey or even Ukraine as possible models. Some based their case on securing a Canada-type deal while others were happy to advocate trading under the World Trade Organization rules—accepting that that may mean tariffs for customers within the EU market.

The referendum may have given a mandate to quit the EU but it did not provide a mandate for which alternative option the Government should seek, nor do the present Government have a mandate from a general election. That brings us to the central role that Parliament, along with the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales, must play in deciding on the preferred option that the UK Government and their devolved partners should aim to negotiate for.

For both the agricultural sector and manufacturing industries the overwhelming case is for the UK to retain its place within the single market of 500 million people free from any tariff barriers. There are some 200 companies in Wales from the United States and 50 from Japan, many of which have located in Wales to sell their products to the European market. For us to lose our tariff-free access to this market would be industrial suicide. Likewise for agriculture, where more than 90% of Welsh lamb and beef exports go to the EU. If they were to face a 14% tariff barrier, as has been suggested would be the case if we traded under WTO rules, it would mean the kiss of death to the industry that is the backbone of the rural Welsh economy. Continuing our trading relationships within the single market is an essential for both manufacturing and agriculture. That must be the fundamental objective of the Government's negotiating position, and they should say so quite explicitly.

To secure our free involvement in the single market for manufactured goods and agricultural products, we need to accept the free movement of people. I would argue that we will largely have to do that in any case because of the open border the UK has with the Irish Republic. I believe that before an Article 50 application

[LORD WIGLEY]

is made, the Government must tell Parliament what their broad objectives are in their negotiations with the EU, and they should be subject to a parliamentary vote to ratify them. If the Government refuse to allow Parliament to have such a vote, Parliament must retain the right to refuse to endorse the outcome of the negotiations if they are deemed to be inadequate, and in those circumstances to direct the Government to withdraw their Article 50 application, which we can see is now legally possible. If the Government refuse, the objectives should be put to the people in a further referendum. In that way the people who took the decision to quit the EU will have the final say on whether they are content to do so under the terms that the Government have negotiated. What could be fairer than that?

1.57 pm

Lord Haskel (Lab): My Lords, at last the final Back Bencher. I would like to emphasise the importance of trade. My noble friend Lord Livermore reminded us that forecasters and the OBR told us to expect lower growth, higher inflation and little increase in productivity. This is considered to be sheer ill-judged pessimism by some members of the Government and by the noble Lord, Lord Blencathra, but I would advise everyone else to listen to the words of trusted institutions and not to the voice of dogma.

Yes, we are in for a time of uncertainty not only because the outcome is very much dependent on the process—how it will be managed—but also on events: elections in France, Holland, Germany and Italy and the incoming US Administration, who lean towards protectionism. All of this means that people will have less time for our concerns and many politicians will want to ensure that Britain is not rewarded for Brexit. Added to that is the fact that the nature of trade is changing. Companies are less concerned about tariffs than they are with supply chains, marketing, distribution, services and protecting the specialist knowledge on which all of that depends. That is why many trade agreements now focus on protecting rights and setting standards. They are unpopular because people are afraid they reduce their protection as consumers, cut their wages or destroy their jobs. Such arrangements are seen as giving power to corporations that have lost our trust in recent years. This only adds to the uncertainty.

Where do we stand? In money terms, we have always been a net contributor to the EU. We have walked out, as my noble friend Lord Desai put it, but we are still paying the bills. This could continue until 2021, unless we make some transition arrangement. In view of these contributions, we must seek to continue the same high-standard, rules-based, zero-tariff trade arrangement with the EU and, most importantly, all the other markets where the EU has preferential access instead of negotiating these ourselves. The EU would benefit by continuing its trade surplus with us and avoid the need to unwind the many cross-border supply and service arrangements that have been in force for years.

Yes, the City of London remains the financial centre of Europe. It is in nobody's interest for London to become yet another offshore financial centre. As my

noble friend Lord Liddle explained, the non-financial services are a larger and more important part of our economy. It is a sector where generally we excel and show a trade surplus, but it is heavily dependent on workers from overseas. Our determination to suppress EU immigration must damage that sector. I am not sure whether the plan mentioned by the noble Lord, Lord Green, would allow for sufficient movement so we can continue to attract the world's best scientists, skilled workers, and, in particular, to retain our own and international centres of excellence, such as Euratom. Let us exclude students from the figures. Let us be generous and say foreign workers can stay here because we need them.

2.01 pm

Lord Campbell-Savours (Lab): My Lords, I want to speak briefly in the gap to say that this debate has been, in time, allocated to the Labour Benches. We have sponsored the debate. When we were deciding which debate should take place we wondered whether we should take the full five hours, but we thought we would not have sufficient speakers. We have had 31 speakers altogether, at four minutes apiece. It is utterly inadequate. People such as myself decided not to intervene because we felt we simply did not have time to make our case. I appeal to the Government to allocate some of their time so we can have a proper, longer debate where people will at least have time to make their fuller cases.

2.02 pm

Baroness Smith of Newnham (LD): My Lords, I am grateful to the noble Lord, Lord Liddle, and indeed to the Labour Party for bringing the debate. The noble Earl, Lord Caithness, pointed out that this is 15th debate we have had on various aspects of the relationship between the European Union and the United Kingdom since 23 June.

Like the noble Lord, Lord Liddle, I have form on the European question. I am known as somebody who is deeply passionate about the European Union. I declare my interests as listed in the register, not least that I teach European politics at Cambridge University. However, one of the things that is not listed in the register is just how far back some of these links go. When I wrote my doctoral dissertation, one of the people I used regularly to interview was the noble Baroness, Lady Hayter, when she was secretary-general of the European Parliamentary Labour Party, and the noble Lord, Lord Liddle, at various points discussed with me the nature of the UK's bilateral relations and came up with the concept of something called "promiscuous bilateralism". I will come back to that concept towards the end.

The Liberal Democrats have a very clear position on what the best relationship for the United Kingdom would be with the European Union following the vote. It is exactly the same view we had before and during the referendum: the UK's best position is being a member of the European Union. The fact we lost the referendum—that we did not persuade enough people—does not make us think the UK is not better off in the European Union. Like so many Members on the Labour Benches, one or two on the Conservative

Benches and the noble Lord, Lord Wigley, we believe that the United Kingdom should be as close as possible to the European Union in the event of us leaving. We would agree, right across your Lordships' House, with the noble Lord, Lord Green, that leaving the European Union does not mean leaving Europe. That is self-evident. The question is: what is the best relationship?

I will touch briefly on the economic and trade aspects, which have formed the majority of the debate, but clearly there are wider issues which have been touched on, about what the United Kingdom's relations with the rest of the European Union will be when we leave. That will form part of the debate in the name of the noble Lord, Lord Sterling, next week on foreign and security policy.

There is clearly a question of what "leave" really means. It has been suggested by some of those who advocated voting to leave the European Union that it was always crystal clear what leave meant. It meant leaving the single market, the customs union and every aspect of the European Union, and that we should not even be querying that. For those of us who lived and breathed the then European Union Referendum Bill this time last year, it was not clear what leave meant. Several of us put forward amendments to the Bill, requesting Her Majesty's Government to produce a document on what leave might look like. The noble Baroness, Lady Anelay, was required on many occasions to say, "It is for the leavers to say what leave looks like".

Eventually, we were presented with a document on what the alternatives to membership might look like. It seemed to be a little lacking in rigour, but it came up with half a dozen scenarios of what the alternatives might look like. A year on, the alternatives have not fundamentally changed. We could be part of the single market, which, like the noble Lord, Lord Liddle, the Liberal Democrats would say is second best, but if we are outside the European Union it is the best alternative we have. It means that we would still have access to and membership of the single market—not just the right to trade, but trade on the same terms as the European Union member states. This is vital.

Many of those who advocated Brexit advocated hard Brexit, getting outside the European Union and even outside the customs union, and that worrying just about tariffs would be sufficient. That is not good enough. As a member of the single market we avoid non-tariff barriers to trade. As the noble Baroness, Lady McIntosh, pointed out, the late Baroness Thatcher pushed for the single market because barriers to trade beyond tariffs were crucial to this country.

The noble Lord, Lord Howell, pointed out that the single market might now be being perforated by new patterns of trade. That is true, but it does not prevent membership of the single market being better for British business. It gives greater certainty to the City of London, to higher education and research institutions, and to business more generally.

The single market would, for the Liberal Democrats, be seen as the next best alternative. It gives free movement of people. That deals with one of the key issues that has come up, not just today, although it was powerfully discussed by the noble Lord, Lord Judd. The rights of

EU citizens resident in the United Kingdom and of UK nationals resident in the European Union has been raised I believe almost every week since the Monday after the referendum. Time after time to Minister after Minister, right across this Chamber, Members of your Lordships' House have implored the Government to think again about the rights of EU nationals. Perhaps unsurprisingly, I ask the Minister again: will the Government think about giving a unilateral undertaking on the rights of EU citizens resident in the United Kingdom? It would give them certainty. They should not be negotiating chips, whatever the Prime Minister seems to think.

One of the key issues we seem to have been missing in the discussion in the last five months is: what are the Government's objectives? Nobody is asking the Government for a running commentary on what they want, but what about a sense of the sort of relationship that they are looking for? Members on this side, and many in other parts of the House, have indicated the sort of relationships that we believe would be beneficial. It might have been the single market; it might have been the customs union, as suggested by the noble Lord, Lord Jay; but we have all indicated what the objectives might be. From Her Majesty's Government so far, we have no sense other than that the Foreign Secretary has a policy on cake. He may not still have it as Foreign Secretary; he had it when he was just a jobbing journalist with the *Daily Telegraph*, but what might be appropriate for a journalist who is seeking to bring a bit of light relief to his readers is not something that we expect from Her Majesty's Government.

The least that this House and Parliament can expect is that, when the Government say that they wish to engage us, we are actually told what their objectives are—first, in trade and, secondly, on security and defence policy, which I will touch on only briefly. The noble Lord, Lord Ricketts, in his excellent and welcome maiden speech, talked about defence policy and foreign policy, and suggested that we did not need to worry about a European army. One is tempted to think that that might still be a little of the language of the Foreign Office: "Don't worry, Minister, it will never happen". The security of the United Kingdom remains closely bound with that of the European Union, whether we are members of it or not. Can the Minister give us some indication of the Government's thinking about how far the United Kingdom will still remain part of the European arm of NATO? What ideas do they have for our membership of the European arrest warrant and Europol and on issues that relate very much to dealing with terrorism and our security, as my noble friend Lord MacLennan pointed out?

How we deal with leaving the European Union is a matter of profound national interest. So far, we are getting very vague answers from Her Majesty's Government. I hope that today the Minister can give us somewhat clearer answers. Finally, I agree with colleagues across the Chamber who have pointed out that these are negotiations with 27 other member states. They all have their own national interests. They are not trying to punish us if they appear to be difficult at times, but they need to get the right deal for the European Union as well.

2.12 pm

Baroness Hayter of Kentish Town (Lab): My Lords, I will start with two thank yous. The first is to my noble friend Lord Liddle, whose knowledge of all things European is unsurpassed in any place but this—and even here is of the highest. My other thank you is to the noble Lord, Lord Ricketts, for making his maiden speech during a Labour debate. I assure him that in no way does it compromise his independence on the Cross Benches. As a former Permanent Secretary, our man in France and at NATO, he is one of that select group who is able to challenge my noble friend as our resident top shot on Europe.

The City of London, the CBI, economists, industrialists, investors, consumer groups and trade unions all fear that the Government, whether by default or by intention, are heading for a hard Brexit, with the UK removed from the single market and even the customs union, and detached from common regulations and minimum standards. Labour's preference would be for a Brexit that prioritises the economy, jobs and living standards, with no watering down of environmental or consumer protections. This means maintaining our business links, including transport—the CAA supports retaining the benefits of the common safety regime in Europe—market access, competition and consumer protection.

But will our relationships with the EU allow continued membership of the European common aviation area, without which British airlines will no longer be able to sell flights between European cities but only directly to them? Asked last month, the noble Lord, Lord Ahmad, could say only:

“The Government is considering carefully all the potential implications arising from the UK's exit from the EU for our aviation industry. This includes the implications for UK-based airlines relating to Air Traffic Management and the Single European Sky”.

That is not good enough. By now we need clearer indications than that. The travel industry is calling for access to liberalised aviation markets in Europe and globally, the continuation of visa-free travel, and continued participation in the European health insurance card. What can the Minister offer on those?

Will the Government respond to the pleadings from the higher education sector that its interests should form part of the negotiation framework, with the aim of continuing our close relationship with the remaining 27, such that we have full access to the EU's research frameworks and educational programmes? Likewise, our vital pharmaceutical industry needs us to promote life sciences, ensuring the flow of researchers and participation in networks, as well as retaining the medical agency and full participation in its work.

There are other agencies where we need continued participation: Erasmus, the European Investment Bank, the chemicals agency, the air safety agency, and Euratom, which was mentioned by my noble friend Lady Crawley. Its funding runs out in 2018, possibly jeopardising Oxfordshire's £300 million joint nuclear fusion reactor. We also understand that Horizon 2020's successor is being prepared on the basis of the UK being excluded, with immense consequences for our research funding. What are the Government doing on all those?

As my noble friend Lord Liddle stressed, the service sector is crucial to our economy, with employment growth driven by services, particularly professional, business and computing. Financial services are vital for their earnings, which are perhaps 3% of GDP, but also for other businesses—for the financial flows, insurance and reinsurance needs of umpteen sectors. However, no one in Brussels seems to think that the City of London will get a good deal. Indeed, the Government's unpopular approach is risking the continuation of passporting, which as we know allows UK-regulated bodies to do business across the EU without being regulated again in other member states. Passporting requires single market membership and that, as we all saw from the handwritten note that followed the meeting in 9 Downing Street, is “unlikely”—presumably because No. 10 is prioritising migration over everything else, including jobs and prosperity.

England and Wales form a global hub for legal services as businesses choose to use our laws in their contracts, with London the seat for arbitration. Various EU directives enable our lawyers to represent UK clients in other member states. Because our judgments are enforced abroad through so-called Brussels I, and because under Rome I contracting parties can choose English law, we have become the preferred seat for arbitration. Will the Government prioritise continued access for our lawyers to practise and plead across the 27? We hear that many are heading off to Dublin to requalify, as they fear the loss of access. Will the Government also prioritise remaining in Brussels I and Rome I? Will they work with insolvency practitioners such that, after Brexit, they can continue to chase down assets squirrelled abroad but due to UK creditors?

Then there is competition policy, which is vital to protect consumers' interests. EU membership underpins the Competition Act 1998, allowing for a seamless regime across the EU. But what will happen in 2019? Any divergence could lead to major uncertainty for businesses and international undertakings. How is the CMA preparing for relations with the other 27 competition authorities and with the Commission, post-Brexit? Will judgments in the 27 be adopted here in the 28th and vice versa? Who will safeguard consumers' interests against monopolistic or unfair practices? More widely, can we replicate EU mutual recognition agreements with third countries, such as China and America, whereby goods can be certified as being in conformity with the destination's rules by authorities within the exporting country, thus saving time, expertise and border checks?

As a member of the EU, we are party to more than 50 free trade agreements granting reciprocal access and waiving most duties. How do the Government plan to replicate these? Such questions, like others posed today, indicate the complexity of unwinding 40 years' worth of trade, co-operation and interdependence. We have to involve every sector, consumers as well as industry, in these talks, for what the Dutch finance minister has described as “a tough ride” for the UK. Jobs, the economy and living standards should be the priority for negotiations. The Government need to hold that package as their lodestar and seek to build a national consensus around a Brexit plan that will work across the whole UK and for every part of it.

2.22 pm

The Minister of State, Foreign and Commonwealth Office (Baroness Anelay of St Johns) (Con): My Lords, the noble Lord, Lord Liddle, has today given the House the opportunity to set out its advice on a wide range of issues which should be addressed not only during the negotiations to leave the EU but also beyond them. I very much value the way in which he phrased his Motion for that purpose.

As the Prime Minister has made clear, following the vote on 23 June we will be leaving the European Union, but we will not be turning our backs on Europe. I agree with noble Lords that our relationship with our European friends and neighbours remains vital to the United Kingdom. It matters to our prosperity because it is where, as noble Lords have said, we do much of our trade, and because 1.2 million British nationals live and work there. It also matters to our security because cybercriminals, people traffickers, drugs smugglers and terrorists simply do not respect international borders, and because threats to the territorial integrity of European neighbours such as Ukraine also present threats to this country.

In addition to prosperity and security, once we leave the EU we will also continue to share wider interests with our European neighbours on issues such as tackling illegal migration and climate change, all mentioned by noble Lords today. Continued close co-operation and consensus on issues such as these will be in all our interests. As the Secretary of State for Exiting the European Union said when he visited Brussels just last week, we want to ensure that we have a,

“positive, strong, and productive relationship with our closest neighbours”,

and one that,

“works in our mutual interests”.

Looking forward, I congratulate the noble Lord, Lord Ricketts, on his maiden speech, in which he referred to the importance of bilateral relationships. I advise the noble Lord that we agree with him and that we intend to build up our strength, in diplomatic terms, in Europe. Seven UK ambassadorial posts in Europe have already been upgraded and up to 34 additional diplomats focused on political work and lobbying are to be posted across the FCO’s Europe network. The precise nature of our future relationship with the European Union clearly and simply depends on the outcome of our negotiations, which will not be simple, as noble Lords have said. Those negotiations will be with all 27 members of the European Union and until they are complete we simply will not be able to give the full picture.

Before I go on to our approach to those negotiations, I shall address the issue raised by noble Lords of the Article 50 judgment and the role of Parliament and the devolved Administrations before and during the negotiations. The window for negotiations on our exit arrangements will open once the Prime Minister triggers Article 50 of the EU treaty, which the Government intend to do, as announced, before the end of March next year. We believe that it is proper and lawful to use prerogative powers to trigger Article 50. As such, we disagree with the judgment of the High Court in

England and Wales, and are appealing the decision. The Supreme Court hearing on the matter will begin on 5 December and is expected to last four days. A judgment will be reached in due course. I am being particularly careful because I cannot say more on this while the appeal on this decision is pending in the Supreme Court. I should make it clear that in the initial hearing in the court of first instance, the High Court, words used by me in this House were used in support of the Government’s case.

Turning to the role of Parliament, the Government recognise that Parliament has an important role to play in helping to shape the UK’s future relationship with the EU. It is important to stress that triggering Article 50 is the beginning of the process, not the end. As the Prime Minister has made clear, there will be many opportunities for Parliament to continue to engage with the Government once Article 50 has been invoked; for example, through debates—in reply to the noble Lord, Lord Campbell-Savours, the usual channels will no doubt consider that matter—through ministerial Statements, and through scrutiny by the new Select Committee on Exiting the European Union.

The Government will bring forward legislation in the next Session that, when enacted, will repeal the European Communities Act 1972 on the day that we leave the EU. The great repeal Bill will end the authority of EU law and return power to the UK. My noble friend Lady McIntosh made a very interesting and informed speech in which she referred to specific issues about the great repeal that will have to take place and about secondary legislation. I can tell my noble friend that those issues are indeed being considered by officials at DExEU at this stage. The Government will set out more details on the timing of this domestic legislation to Parliament in due course. When negotiations with our European neighbours have concluded, all relevant legal and constitutional obligations that apply will be observed.

Turning to the role of the devolved Administrations, we will ensure that we build the best future relationship with the EU. In doing so, we will work to ensure that the interests of all parts of our United Kingdom are protected and advanced. We will work closely with the devolved Administrations in Scotland, Northern Ireland and Wales throughout the negotiating process. The Scottish and Welsh Governments and the Northern Ireland Executive will be given every opportunity to have their say as we form our negotiating strategy, and we will take into account all suggestions they put forward. Furthermore, the new Joint Ministerial Committee on EU Negotiations, chaired by the Secretary of State for Exiting the EU, is up and running already, discussing each Government’s requirements for the future relationship with the EU, and seeking to agree a UK approach to the negotiations.

The noble Lord, Lord Jay, among others, referred in particular to Ireland. With regard to Northern Ireland I would say that the open border for people and business has served us well. It is a high priority for the Government that we do not see a return to the borders of the past. There is a very strong commitment for the Irish Government, as well as ourselves, to ensure that that does not happen.

[BARONESS ANELAY OF ST JOHNS]

As Minister for the Overseas Territories, it would be remiss of me if I did not refer specifically to them. Last month I was able to reassure the overseas territories at our annual joint ministerial council that we are fully committed to involving territory leaders as we prepare for negotiations to leave the EU, in accordance with their various constitutional relationships with the UK, to ensure that their priorities are taken into account. At that JMC, Ministers from DExEU and the leaders of the overseas territories agreed a structure for future engagement through the creation of a joint ministerial council on European negotiations. That council will meet in the first quarter of 2017.

Much has been said about the negotiations. Clearly, a balance needs to be struck. We want to be as open and transparent as we can with Parliament, to bring parliamentarians with us as we build a national consensus around our negotiating position. The Government want to achieve the best outcome for the British people. As some noble Lords have recognised, to achieve the best outcome in any negotiation it is wise not to reveal your hand too soon—but that has to be balanced with not doing it too late. I do appreciate noble Lords' views. Noble Lords will be aware that we have committed that Parliament will have access to at least as much information as Members of the European Parliament during the process, and that we are considering the mechanisms for transmitting that in such a way as to ensure that there can indeed be timely debate and scrutiny on the negotiations, while ensuring that complete confidentiality can be maintained. Where we can offer clarity, we certainly will.

The noble Baroness, Lady Crawley, asked about the quality of negotiators. Both DExEU and the DIT are equipping themselves with the resources they need to get the best deal for the UK. A trade faculty is being established within the FCO's Diplomatic Academy—I have seen it at work already—to ensure that FCO and other Whitehall staff have the trade skills they need. As announced in the Autumn Statement, the DIT will receive an additional £79.4 million over this parliamentary cycle. The funding will come from existing spending aggregates to build our capability and help support a smooth exit from the EU and negotiations for the best possible global trading arrangements for the UK.

Much mention was also made on all sides of the House of the very difficult issues of migration. Our ambition is to create an immigration system that allows us to control numbers and encourage the brightest and best to come to this country, as part of a stable and prosperous future with the EU and our European partners. The UK—I am pleased to say, living in a town with a very diverse society and culture—remains one of the most tolerant and welcoming places in the world. We will continue to welcome those with the skills, drive and expertise to make a positive contribution. After all, if we are to win in the global marketplace, we must win the global battle for talent.

Noble Lords returned to the position of UK citizens currently in Europe and that of EU citizens currently in the UK. As noble Lords have recognised, for the moment the UK remains a member of the EU, with all the rights and obligations that that entails. There have

been no changes to the status or entitlements of EU nationals in the UK or UK nationals in the EU. There was an exchange on these matters yesterday in another place at Prime Minister's Question Time, which I think is the most up-to-date indication of the firmness of the Prime Minister in making it clear that she wants to protect the status of EU nationals already living here and that the only circumstances in which that would not be possible is if UK citizens' rights in European member states were not protected in return. She made it clear that she hopes that,

“this is an issue we can look at at an early stage in the negotiations, and of course there will be two years of negotiations. I think it is right that we want to give reassurance to British citizens living in the EU and to EU citizens living here in the UK”—[*Official Report, Commons, 30/11/16; col. 1518.*]

That will underpin our objectives. I cannot go further than that.

Lord Howell of Guildford: I know that my noble friend is pushed for time, but on that issue, would it not make more sense, rather than trying to finesse the residence of EU citizens here and vice versa, to move unilaterally and so create momentum for a happier result with less of a delay?

Baroness Anelay of St Johns: My Lords, I am afraid that it would not. What my right honourable friend the Prime Minister was trying to make clear in answer to my right honourable friend Mr Peter Lilley in another place yesterday was that the position taken by Mr Tusk and others in response to a letter from 80 Members of both Houses on this issue made extremely clear the intransigence that we face. Therefore, it is not a matter that is going to be resolved easily, certainly not by making a unilateral statement. Although I absolutely understand the real principles that underpin the statements made by those who would like to see that unilateral movement made, it would not serve either British or EU citizens well.

There was much focus on trade. I am trying to finish just before my allocated time runs out; otherwise, the noble Lord, Lord Liddle, will have no opportunity to say his final words. The Prime Minister has made it clear that she will seek a deal that will give British companies the maximum freedom to trade with and operate in the European market—and allow European businesses to do the same here. Leaving the EU, we will also have the opportunity to shape our own ambitious international trade and investment opportunities and drive even greater openness with international partners in Europe and beyond. As the Chancellor made clear in his Autumn Statement, the fundamentals of our economy are strong, but there are certainly challenges. We are going to tackle them head on to ensure that the economy is match-fit to overcome the uncertainties ahead.

One of the uncertainties was raised by the noble Lord, Lord Shipley, at the beginning of the debate, when he referred to the domestic upskilling of workers. We are investing in the skills of the workforce by increasing the quality and quantity of apprenticeships, particularly in England, to reach a commitment of 3 million new apprenticeships starting by 2020. An apprenticeships levy will be introduced from April 2017 to encourage employers to invest in the skills

they need. The noble Lord, Lord Shipley, was absolutely right to raise that matter, on which we will keep a very firm eye.

As I mentioned earlier, we do not intend to turn our back on our friends in Europe; nor will we turn our back on the world. Our commitment to our extensive security co-operation with European and other international partners remains steadfast. We will continue to play a leading role in promoting international peace, security and prosperity. We will continue to promote and defend the international rules-based system as a permanent member of the UN Security Council, the second-largest contributor to NATO, and a leading member of the G7, the G20 and the Commonwealth. We are the only major country which will simultaneously meet the NATO target of spending 2% of our GDP on defence and the UN target of spending 0.7% of our GNI on development. We have made it clear that we aim to maintain that.

In conclusion, we want the UK to continue to be tolerant at home, respected abroad, engaged in the world and working with all our international partners to advance our prosperity and security—and theirs. Noble Lords have made that clear. It is about the security and prosperity of all of us. If some fails, it damages us all. The negotiations which will begin after Article 50 is triggered will lay the foundations for our new relationship with the rest of Europe—a relationship that is in all our interests, which works for this country and for the European Union. I have stressed that to colleagues across Europe whom I have been meeting over the past few months, and I will continue to do so. That is what the Government aim to deliver.

2.38 pm

Lord Liddle: My Lords, I thank the Minister for her reply and for her characteristic graciousness in giving me the time to respond to the debate. I congratulate the noble Lord, Lord Ricketts, on his maiden speech. We are looking forward to many more of them as he educates us about our future security and foreign policy relationships with the European Union. As always in these debates, as the opening speaker one puts a lot of effort into one's speech, thinks that one has a clear position that one is advocating and then hears all kinds of wonderful contributions that mean that one has to think again. There is a lot to ponder in what people have said here.

Perhaps I could say a couple of things briefly. On my side of the House, several of my noble friends have talked about the possibility of a second referendum. Personally, I do not rule that out, but it is far too early in the process to see whether it is a runner; if the Government achieve the success that they promise, it may well not be. I tabled this debate in an honest wish that the Brexit negotiations go well for Britain. I put a lot of emphasis on economic questions because whether or not we have a successful economy—the single market is vitally tied up with that—will be crucial to whether we are an outward-looking nation. My fear is that if we have the quick, hard Brexit which my noble friend Lord Desai appears to favour, we would suffer a major economic shock that would make the problems of populism and being inward-looking even more

problematic in our country than they are now. If we want to be confident, we therefore have to get the economics right. That is a key facilitator in us playing the strong security, foreign policy and defence role in the world that I believe Britain should play.

I agree with my noble friend Lord Chandos that the continental partnership report is a very interesting proposition, which I would like to see taken seriously by government, here and on the continent. The problem—this is certainly not a reference to the noble Baroness, Lady Anelay—is the way in which the Government are presently charging around Europe, making statements about how we are going to have our cake and eat it, treating the whole process with disrespect and demonstrating a lack of sensitivity to the fact that we are the people walking away from our partners of 40 years and causing very big problems for them. Unless the Government show more sensitivity in their approach to these negotiations, we will end up in a very difficult situation and with a hard Brexit—and we will not end up with a happy Britain. On that note, I commend the Motion that I tabled.

Motion agreed.

Social Care

Motion to Take Note

2.43 pm

Moved by Baroness Pitkeathley

That this House takes note of the challenges in the current system of social care and of proposals for reviewing it and for longer-term reform of the system.

Baroness Pitkeathley (Lab): My Lords, here we are again. This is not the first time I have led a debate on social care in your Lordships' House and I have been wont to call those who join me the usual suspects, because we are the relatively small band who bang on about this subject whenever we get the opportunity. There are new faces as well as old ones here today. It is particularly welcome that the noble Baroness, Lady Cavendish, has chosen this debate for her maiden speech, to which we all look forward.

I have to tell your Lordships that it makes pretty depressing reading to go back to the other debates on social care in which many of us have participated, because the problems remain the same and so little progress seems to have been made. If I felt that before all the other debates—in nearly 20 years in your Lordships' House, I have rather lost count of the number of times I have focused on this—how much more I feel it this time, when endless reports and newspaper articles are telling us all how bad it is. Your Lordships will be all too familiar with some of the headlines of recent weeks. One said that,

“social care is at a tipping point”,

another that it was “Slow, patchy, cruel” and that social care funding is “not fit for purpose”. Others said that the bed-blocking crisis hit a new high and that local authorities,

“join NHS chiefs in call for extra ... funds”.

It may surprise your Lordships to know that I have managed to find some comfort in these terrible analyses, because perhaps they show that at long last there is

[BARONESS PITKEATHLEY]

agreement across all areas about what the problems are. That will be evident in the briefings which your Lordships have received for this debate. It is not as though we have not agreed before, but perhaps not so strongly and not across all areas. When even the chief executive of the NHS, not to mention the chair of the Health Select Committee, and two former Secretaries of State say that if there is any extra money it should be put into social care, maybe we are at last ready to address the issues.

Am I being too hopeful? Perhaps. Certainly, the announcements we were hoping for in the Autumn Statement provided no comfort by their total lack of appearance or even mention. I bow to no one in my desire to have better broadband in rural Herefordshire but, really, can we get our priorities straight? How the Chancellor could ignore the pleas from all sides is beyond me. His decision has been met with incredulity and dismay and called shameful. Nevertheless, I am determined to spend less time today on the problems of social care, which are well known to your Lordships anyway, and more on what the possible options are.

Let me summarise the problems and leave others to elaborate. There is a shortfall in social care funding of about £2.5 billion between what is available and what is required. Four out of five councils do not have enough provision, especially for care at home, and at least 1 million people are going without the care that they desperately need. Much more stress is falling on family carers, who increasingly find it difficult to cope. The results of these shortfalls are all too apparent: too many people end up in acute and very expensive hospital care in hospitals which are already bursting at the seams, even before winter pressures begin to bite.

The situation is bad for everyone. It is bad for councils, which will face legal challenges if they are unable to meet the obligations placed on them by the very welcome Care Act; it is bad for the NHS, as hospitals fill with people who could and should be treated at home; it is bad for care homes that increasingly find it difficult to balance the books, with the resulting threats to the quality of care which recent TV programmes have illustrated; it is bad for family carers. In short, it is bad for anyone who cannot afford to pay for their own care. Even if you are a self-funder, it is bad for you because you have to contribute to underfunded local authority places if you are in a care home. So much for the so-called society “which works for everyone”.

I could go on with endless examples of the bad but I will not. I turn instead to offer options, in the hope that the culture in which we operate is finally changing enough to encourage bold and courageous action. They say that humans and cultures never change unless we are forced to do so. If that is the case, we are forced to do this now before the whole system is not just at tipping point and in crisis, but in danger of breaking down completely. I should say here that I always worry about the danger of too much criticism sapping the morale of the dedicated staff who work in social care and do their best. They are usually paid at the very lowest levels. We owe it to them as much as to the frail, old and disabled to think boldly.

We must first tackle the different methods of funding health and social care, which have been so difficult to overcome and such a barrier to the co-ordination and integration of health and care services. In 1948 when the system was established, men died on average at the age of 66, one year after retirement, and women at about 68. There was no need for the type and range of care we now need. It did not matter so much that while health was free at the point of delivery social care was always means-tested, because you were not going to need very much social care. Social care has been paying the penalty ever since for those decisions, which at the time they were made were perfectly logical. What we need now is a decision of the level and quality that our forebears made then in relation to the NHS. But this time it must be about reshaping health and social care around today's needs, not those of the population of post-war Britain.

Various attempts have been made and we all remember them: the royal commission, the Wanless review, the Dilnot review, the King's Fund commission on the future of health and social care and the Barker commission—but no government response has been sufficient. It is evident that what is really needed is a long-term, cross-party approach which takes an open and honest look at the system and, above all, is open and honest with current and potential care recipients about what they can expect.

I think we are now at a crossroads and can make one of two decisions. We can go on as we are, muddling along, trying to do more with less, managing demand by just not meeting it. That is how we are managing demand: we are just not meeting it. I remind your Lordships that, of the more than 1 million people who it is estimated are not receiving care, most have already been assessed as having high-level needs, because helping those with moderate needs is already a thing of the past in most areas. We can keep promoting independence—that is always a good thing—we can keep trying to get individuals to manage their own care better and, above all, we can keep trying to integrate the budgets for health and social care. There are some excellent examples of integrated care at local level which, no doubt, noble Lords will illustrate, but the overall picture is patchy and still too cautious and too hedged about with suspicion and lack of willingness to give up power over budgets, still less to transfer it to other professionals. A single pooled budget for the health and social care needs of a whole population would enable NHS and social care providers to agree the very best use of the public pound and to focus on services which reduce the need for long-term care.

I am sorry to go down memory lane, but I have been talking about this, as have many other people, for almost 40 years—it is probably over 40 years, in fact. My first book was published in 1978. It was about hospital discharge for older people. Funnily enough, it showed that proper co-ordinated care can happen only if there is a single budget in the control of those who provide the services, free from political control and including the contribution of the private and voluntary sectors too.

If we are going to go on with the current system, if we are going to go on trying to muddle along, then I must make a plea for honesty. No Government—and I

include my Government in that—have ever made it clear to the public that responsibility for paying for care and for arranging it rests with individuals and their families and that public funding is available only for those with the least money and the highest needs. Most people are aware that NHS care is generally free at the point of use, but their understanding about social care is far less clear, and people therefore have inappropriate expectations. If I had a pound for every carer who has said to me, “My mum has paid taxes all her life, and I can’t understand why her house has to be sold or all her savings used to pay for her care”, I would be a millionaire. That carer is a perfect example of a person who is just about managing, caring for her mother and probably teenage children too, trying to balance paid work with caring responsibilities and so on.

As we are not transparent, no one ever prepares or plans for care, and they have to scabble to arrange and pay for it at a time when they are anyway distressed by the very need for it. If they are not prepared to reform the system, the Government must surely be prepared to promote clearer public understanding of how the system works and what people can expect and, more importantly, what they cannot. People plan ahead for pensions, and it is possible they could similarly plan ahead for care, but only if they know they have to.

However, it will not surprise noble Lords to know that this sticking-plaster solution is not my preferred option. I believe we must embark on long-term reform of the system because this problem is not going to go away; it is only going to get worse. All international evidence shows that spending on health and social care rises inexorably as the population grows and ages. The question is not whether these costs will arise, but how they will be met. Will they be met by the public purse or by private individuals? We can talk for ever about achieving more with less and delivering better value, but that will never release resources of the scale required to meet the widening funding gap.

Every independent review of the past 20 years has recommended that in future funding of social care, as well as healthcare, should come from public, not private, finance. The needs of individuals cannot be divided up neatly into health or social care needs, as all those of us who over many years have tried to fathom the difference between a health bath and a social care bath have long acknowledged, and now is the time for us as a society to acknowledge that the funding cannot be neatly divided either.

We must embark on a frank and open debate about how to fund health and social care on a sustainable basis into the future and remind everyone that such a debate cannot be settled in a single Parliament, so we need to secure cross-party consensus on shared principles to guide that reform. We have enough research and excellent material to enable us to do so; we just need the will to do it. We know all the questions about social care, so let us not embark on any more questions about what social care needs. What we need now is answers.

To those who say that this is not the time to do this with public finances in such disarray and with so many other problems, which we have just been hearing about

in the previous debate, I remind your Lordships that our forebears tackled reform in the middle of a world war when the country was pretty well bankrupt and not the fifth-richest nation on earth, which we keep being reminded that we are. The Wanless review called for this debate 10 years ago. It has never been more necessary, and it is now even more urgent. I beg to move.

2.56 pm

Baroness Browning (Con): My Lords, I congratulate the noble Baroness on bringing this subject to the Floor of the House. I expect I am one of the old faces she mentioned who will be termed one of the usual suspects on this subject. I refer to my interests relating to this debate as set out in the register. Like the noble Baroness, I feel there is a touch of *déjà vu* about this. We know about demographic trends, the demands of an increasingly elderly population and the whole range of things which cover the gamut of the need for social care, and we have talked about them in this House for decades. Yet somehow, every time we have a debate about this, it is almost as though this is something new that has suddenly come from behind and we are rather astonished to find it is such a problem.

It is now a real problem. There are concerns about care services moving out of the sector. The Local Government Association has raised its concern about people closing down businesses and withdrawing their services altogether at the very time that demand is increasing and we know that it is going to go on increasing. I have a lot of sympathy with what the noble Baroness, Lady Pitkeathley, said about the way in which we look at the funding of this. Funding is at the core of a lot of the challenges we face. Local authorities purchase in bulk. They have the advantage of that negotiation. Self-funders are usually individual people, families who, when mum has a stroke, suddenly find almost overnight that they have to provide nursing or residential care. These are the challenges individual families face almost on a daily basis across the country.

I say to the Minister that I still find it bizarre that we have this subsidy in residential care in the care sector whereby self-funders subsidise those for whom the local authority purchases care. There is never any discussion around this. We do not talk about how fair it is. There is no discussion about the fact that individuals who find they have to self-fund are not paying just their weekly fees, but are also subsidising the person in the next room, or possibly even more than one person. I really think it is time that we exposed how the funding system for care works. It is like having a secret tax that nobody knows about. I find that quite abhorrent.

I agree with the noble Baroness about the need to examine what is expected when people have assets. As a Member of Parliament, I will never forget a couple who were quite elderly themselves—in their sixties—sitting in my surgery virtually in tears at the fact that they were going to have to sell mum’s home because she now needed nursing care unexpectedly, when they had understood that that was likely to come to them. In the context of understanding the responsibility of providing for care, I say to my noble friend that there needs to be joined-up thinking across government. I was quite shocked that when the pension rules were

[BARONESS BROWNING]

changed so that people with private pension pots could draw down huge amounts of capital from what they had saved over the years, although provisos and bars were set in place to make sure that they had enough to live on, there did not seem to be much discussion about how much of their capital assets they would dispose of, and the whole subject of the amount of capital they would need in order to pay for their long-term care did not really seem to be part of any discussion.

I have one other thing I would just ask my noble friend. Joined-up government is so important, and the weakness has always been between health and social services in terms of agreeing who pays for what. Can my noble friend give the House an update on the sustainability and transformation plans, which should be well under way? It seems to me, if I have understood them correctly, that there is potential here, not just in terms of planning but in terms of finding the resources to implement the plans. We hear a lot about these plans, but I am not sure that everybody really understands what contribution they will make to joining up health and social services, and I hope my noble friend will refer to them when he replies.

3.01 pm

Baroness Bakewell of Hardington Mandeville (LD):

I draw your Lordships' attention to my interests, as entered in the register, as a district councillor and a vice-president of the LGA.

I am grateful to the noble Baroness, Lady Pitkeathley, for securing this important debate and agree with much of what she said. This subject is at the top of everyone's agenda up and down the country. Many were expecting some sort of recognition of the crisis in social care in the Autumn Statement, particularly as the sector was calling for £1 billion to be invested to stabilise the situation, but there was not even a passing reference. It is astounding that the Chancellor does not regard it as important enough to tackle. Having said that, I look forward to all the contributions this afternoon and especially to that of the noble Baroness, Lady Cavendish of Little Venice.

Government data show that 32 care home businesses failed in 2010. That figure went up to 74 in 2015, while 34 have failed in the first six months of this year. These range from family-owned businesses to nationwide operators. A total of 380 homes have closed in six years, and the care industry is in turmoil. Care homes are enduring an unprecedented squeeze on their finances. Local authority fees have reduced by 5% in real terms over the last three years, while care costs have risen at a faster rate than inflation, particularly staffing overheads. Last year's 2% rise in council tax for social care was insufficient. The living wage, although to be welcomed for hard-pressed vital staff, has not helped care home budgets.

Four Seasons, the biggest care home operator in the UK, with more than 400 properties, recorded a pre-tax loss of £264 million last year, which includes write-down on the value of its care homes. There are many other similar examples. In Somerset, the county council has a panel which looks at all new packages of care and is currently proposing to reduce 75% of packages for

budgetary reasons. Despite this, Somerset's overspend will be £9 million. Adult social services are having to compete with children's services, which are also predicting an overspend but are in line for some of the £5 million contingency fund which has been earmarked for them.

The facts are stark. Local authority grants have suffered cuts of approximately 40% since 2010. Despite this, the vast majority of councils have protected services for vulnerable people. Local authorities have substantially reduced the point on the safe hierarchy at which residents will be eligible for care, as we have already heard. Many now provide support only to those assessed as in critical need. There are some councils on the cusp of major service failure due to the funding crisis. What plans do the Government have for picking up the pieces?

Apart from last year, council tax has been frozen for several years, with government incentives, thus curtailing local authorities' ability to predict and solve their own problems. Should there be another 2% precept for social care in 2017, this will help only marginally, as the problem is now, not next year. As we all know, there are increasing numbers of older people, and this results in more demands. We are now seeing care homes refusing council contracts as local authorities cannot afford to pay enough. Many older people, funding their own care, are subsidising local authority contracts, as the noble Baroness pointed out.

One consequence is more elderly people being admitted to A&E as preventive care is not available. This then puts more pressure on the NHS. Integration of social care with the NHS could be part of the answer, and I look forward to the work my colleague in the other place, Norman Lamb, is doing towards a commission on this subject. But extra funding will be needed to make this happen. The better care fund is a move towards this, but the funds needed are large, and the better care fund is small. Inadequate funding of care means elderly people are ending up in hospitals, adding to the strain on the NHS, as elderly people admitted after falls and infection then become stuck in those hospitals.

My noble friend Lady Pinnock, who is unable to be with us today, tells me that when she was leader in Kirklees, they built two care units to act as post-hospital or return-home places, some residential and some day care. Both of these units can no longer be resourced by the council because of cuts in funding. Council leaders believe the Chancellor's claim of investing £3.5 billion by end of year is inaccurate. Better-off areas where people can pay will manage, but deprived areas are doubly hit as they cannot meet their own costs.

I leave your Lordships with the personal story of a lady who did have someone to help her have a bath, who has had her hours cut and been told a strip wash will do. Is this really what we, as a nation, mean by dignity in old age?

3.07 pm

Baroness Cavendish of Little Venice (Con) (Maiden Speech): My Lords, I am proud to stand here today as a Member of this House and make my maiden speech. I would like to thank noble Lords on all sides of the House for so warmly welcoming me and the staff for being so magnificently kind and helpful.

Being here is an honour far beyond anything I expected, not least because many of my illustrious predecessors as head of the Prime Minister's Policy Unit served there far longer than I did—I only count myself lucky that I got out before most of my failings could be exposed. I am especially grateful to the noble Lord, Lord Adonis, and the noble Baroness, Lady Hogg, for their unfailingly generous and always-discreet advice when I was in No. 10. I am also grateful to the noble Baroness, Lady Hogg, for being my supporting Peer, along with my noble friend Lord Bridges of Headley, who is surely this House's best hope for delivering a Goldilocks Brexit.

I would like to mention one very special aspect of this House, which I came to appreciate when I was a journalist. In some of my darkest moments, when I have been campaigning on an issue and felt that no one was listening, I have sometimes received unexpected encouragement from Members of this House who I have never met—either notes or, sometimes, very useful pieces of information. I cannot tell your Lordships what a difference that has made.

The most astounding example of this landed on my desk one day from the late Lord Rees-Mogg. I was campaigning to open the family courts to the media, and we were being prevented from publishing some of the cases that I believed were miscarriages of justice. Lord Rees-Mogg wrote a letter urging the *Times* to publish and offering to go to jail instead of me should we be found in contempt of court. The noble Lord said in the letter that he was so old that he thought he probably would not be jailed for the offence, but that if he was jailed, it would help our cause. Luckily, we never had to call on him, because in fact the Brown Government agreed to change the law, but I have never forgotten the spirit that that letter represented.

I am grateful for the opportunity to speak in today's important debate, and I know that I need to be brief. Too few people in this country are aware of how fragile the social care system is, of what they can expect if they become old and unable to look after themselves and, as others have said, therefore of what provision they need to make for themselves. I think this is partly because we humans do not like to contemplate our own mortality; we do not think it will ever actually happen to us. But the lack of public understanding of this issue is one reason why social care lags down the political agenda behind the NHS, which is experienced by a much wider group of people.

The social care workforce itself is also misunderstood. When I conducted a review of support workers in health and social care for the Department of Health in 2012 I met far too many care workers who said, "Well, I'm only a carer". Actually, to go into an elderly stranger's home and cope with whatever you find there, to feed someone who cannot swallow properly and to lift someone with dignity is a hugely skilled task that requires considerable maturity. Too often we still refer to those tasks as "basic" when actually they are anything but.

I am proud to have been part of a Government who introduced the national living wage, which may help to reduce some of the cripplingly high turnover that we

see in the sector. But I also think we have to recognise the cost pressures that this is now putting on providers. As the noble Baroness, Lady Browning, said earlier, the fact that self-funders are subsidising local authority payers in some cases is not only beginning to become apparent to people and making them quite angry, it is also of course an enormous financial problem for deprived areas that do not have self-funders and are increasingly trying to make ends meet.

"Integration" is a great word. We probably all know that some version of integration is vital to address these challenges, and heroic efforts are being made in parts of the country, especially Manchester, to do exactly that and to make the health and social care system work as one. But I am afraid that in too many places integration is still just a word; delayed transfers of care are blamed by the hospital on the local authority, and by the local authority on the hospital. The truth is that until we have greater integration of the money we are not going to break through this problem—and we all know how complicated it is to integrate the money.

One aspect that I will raise is the need to create a much more integrated workforce. Even if we integrate the money, we have to have an integrated workforce in health and social care. As the population we are dealing with becomes frailer, with longer-term health conditions, we are seeing a blurring of the old lines between residential care, nursing care and hospitals. I am pleased that the Government are rolling out the training that I recommended in the care certificate; I hope it will start to break down some of the silos. But I also ask the Government to consider extending that care certificate to volunteers, who already play a vital role in this area and could do so much more to help join up some of the health and social care pieces.

The CQC's latest *State of Care* report makes some very good arguments for integration that I do not have time to go into here, but all noble Lords know what they are. It was a great privilege for me to sit on the board of the CQC under the chairmanship of my noble friend Lord Prior, and I salute it for its work in raising standards. The challenge of regulating the sector is enormous because of the sheer number of providers. However, I am not sure that the CQC, the CCGs, the local authorities and other public agencies fully appreciate the cumulative burden that they collectively place on providers, especially small providers, which are often the most caring, with the multiple demands that they make on them. I have watched weary staff filling in form after form—each one almost the same as the last but, maddeningly, slightly different—when they ought to be looking after mothers and grandmothers. I make a plea today to the Department of Health and those public agencies that they get together and agree a single set of data to require from providers. At a time when services are under such pressure, that is the least we could do to ease some of the pressure on them.

I entirely agree with the noble Baroness, Lady Pitkeathley, that we need a more honest debate. Those who are in this Chamber have a much better understanding than the vast majority of those outside. We owe it to those mothers and grandmothers to have that debate because, if they are not our mothers and grandmothers today, they will be tomorrow.

3.14 pm

Lord Patel (CB): My Lords, it is a pleasure and an absolute privilege to follow the noble Baroness, Lady Cavendish of Little Venice. On behalf of the whole House, I congratulate her on a brilliant, thought-provoking and only marginally controversial maiden speech. We would have been surprised if it had not been thought-provoking, from someone who had been a director of the No. 10 Policy Unit, and if it had not been challenging or a little controversial, from someone who has written so many articles; I have scanned through upwards of 450 of them.

Some noble Lords may remember the noble Baroness as a campaigning journalist with the *Times*, and latterly with the *Sunday Times*, when she campaigned about the practices of the family courts regarding children. At the time, those who opposed her branded her as confused, biased, salacious and even malicious, but she was proved right and legislation was brought in to change the situation. In policy terms, she obviously convinced the Prime Minister and Chancellor that sugar and fat are bad for us, hence the legislation that has come forward relating to the sugar tax. We hope she will deal with some other matters in future, such as alcohol.

I found her writings interesting. If she goes back to journalism, particularly to the *Times*, it will be interesting to see how her articles on climate change contrast with those of the noble Viscount, Lord Ridley. In my view, the noble Baroness is the country's best social analyst and thinker. No doubt we will be privileged to listen to her in future.

Noble Lords might wonder if there are any chinks in her armour. I found one, and I think it is from a reliable source. I do not think she campaigned to ban homework but she certainly thought about doing so when she forgot to take her son's homework when they went to a literary festival in Cheltenham—I see that she suddenly remembers. The thought about banning homework may have come from François Hollande, who tried to ban it in France.

I hope the noble Baroness will speak often in this House. I encourage her to do so; I suspect she will be challenging, thought-provoking and entertaining to listen to. For today, I have the privilege of welcoming her to the House, and I look forward to hearing more from her.

I turn to my small contribution relating to social care. I currently chair your Lordships' Committee on the Long-Term Sustainability of the NHS. Witness after witness has told us to concentrate on social care and, as the noble Baroness, Lady Cavendish, alluded to, have a wider public debate about social care and its implications. The noble Baroness, Lady Pitkeathley, and others have referred to how a lack of social care and the problems associated with it are currently killing the NHS. Hospital beds are blocked by people who should be in social care.

With regard to the workforce, we have heard evidence suggesting that by 2037, the gap in the workforce will be around 1.1 million if we have zero immigration or, if we have full immigration, 370,000. That is a huge gap in the social care workforce. On funding, the evidence we have heard from several witnesses is that

the gap will be between £2.8 billion and £3.2 billion per year. That may not seem a large sum in terms of our national debt of trillions of pounds, but none the less it is a considerable gap in the funding, particularly of the local councils that have to deal with this.

So with that in the background, we need a solution that must involve the public. We must have a debate about the role of the state, of individuals, of the family and of the community in the provision of social care, and how individuals are going to take responsibility for their social care in future.

A *Guardian* article in October suggested that the Government have no intention of implementing Dilnot, but the Minister may correct me on that. If that is the case, a different solution needs to be found. In my view, the solution must be some commitment from the individual. It can only be through insurance. Insurance companies have hitherto not been encouraged to provide that and have never shown any enthusiasm to do so.

National insurance, as operates in Germany or Japan, is another way. In Germany, individuals pay 2.35% of their salary, which next year will increase by another 0.25%, which provides social care—although not all of it is provided; the public understand, and are encouraged to take out top-up insurance to cover for what state insurance does not cover. The Japanese system is interesting, because, over the age of 40, it is related to your income. You pay about 2%, related to your income, but it covers the totality of social care, including building modifications, appliances that are needed, respite care and all that. That is on top of the tax-funded health insurance, which covers most of the rest. Although I have not witnessed it, I am told that it works very effectively. However, part of its effectiveness is because of the responsibility that their family and communities take.

Will the Minister tell us, first, whether there is an intention to implement Dilnot? If not, given the crisis developing in social care, which some say is a bigger crisis than the pensions crisis, is any thinking going on as to how we will deal with and fix this crisis? Perhaps I may suggest that here is an opportunity for some bold thinking for a Prior solution that could be synonymous with the Beveridge solution and that fixes the social care problem for the long-term.

3.22 pm

Baroness Gardner of Parkes (Con): My Lords, I congratulate the noble Baroness, Lady Pitkeathley, on securing this topical debate and am very aware of the many years that she has devoted to this field. To say, as everyone has, what challenges there are is a complete understatement. It is in such a state at the moment that it is very difficult to know where to go and how to deal with it.

I attended a meeting which the noble Baroness held recently for carers. It was interesting because I tend to think of carers as people who work in the care industry, and her people were alarmed that someone such as me was there, who was interested in people who are working as employees in the care industry. There has to be closer liaison between these two groups. Voluntary carers are fantastic in all they do, but I remember knocking on doors and speaking to people who said

they were completely worn out and did not know how much longer they could continue because they had been looking after their elderly mother and were already pretty elderly themselves. That is when the care worker comes in to give respite care or to help out on some occasions. The two need to work together: the huge number of individuals related to people or caring for them voluntarily and the other side.

One problem that stunned me in the meeting was that when people in ordinary employment went to their employer and said that they now had to take on a caring responsibility for a relation, their employer did not want to know them much longer, because they thought it would interrupt their work. I could understand it because, from running a dental practice, I know that if someone goes on maternity leave and you have only two people, you are in a difficult position while one is away. You wonder whether she will come back; you have to hold the vacancy for a long time; and then she decides not to come back after all that. It is not easy. Nevertheless, there must be a change of attitude of firms so that they can make provision for their staff to be able to help a family member who really needs it.

Care workers usually work in what is run as a business and acts as an agency for a local authority, but whoever is doing the work shares the same aim, and respite care is important. The loss of cottage hospitals means that there is now no interim stage: people have to go from a hospital where they are pushed out, often in the middle of the night, when care workers are often the only people who can be there to receive them at home and see that they are safe.

We must be quite sure that the care industry is working correctly. I spoke to one person who was with her friend and someone was due to arrive to give her lunch at 12 o'clock. There was no sign of them, but the one due at 2.30 or 3 arrived and gave her lunch. Then the other one turned up and said that she had just come to sign to say that she had given lunch. Then they said, "What do you mean: you have given lunch? The next person has given the lunch". That must be checked on.

When I was chairman of social services on a local council, we checked on those things. Someone dropped in at random to check whether you were actually on the job. It is important to ensure that one carer does not come in to find that the other has left someone in an appalling state and done nothing that they were meant to do. That is very unfair and random checks would deal with it.

People want to live independently and they want to die in their own beds. This was said to me by Essex County Council, which sent us a very good paper. I followed up and spoke to Councillor Madden, who was very interesting. He said that they had developed what is called a "good life" conversation. First, they ask: "What can you still do for yourself and what help do you really need?". Then they look at what they can do to help them get back to where they were, if there is a prospect of that. Otherwise, they just have to go on with it.

I have no time to say more, but much more could be said. I hope that we will hear many other points brought out by other speakers this afternoon.

3.27 pm

Baroness Farrington of Ribbleton (Lab): My Lords, I thank my noble friend Lady Pitkeathley for her introduction to the debate and the noble Baroness for her maiden speech, which leads me to the point I wish to raise. I want to speak to the Minister about the huge looming health costs to be faced by carers. I remember a child carer, a school friend of mine, who never had lunch because she had to go home to an incontinent mother. She had to go home to wash her, clean the sheets and come back to school. Schoolchildren are suffering. There is a picture that all of us, as we get older, become pleasant, reasonable old people. We do not. Some of us—I count myself among them—become irascible, demanding and difficult.

I wish to draw attention to the problem of carers so that the Minister can take an argument about not building up another problem for the future if we do not look after the health of carers. This debate could have taken place tomorrow in the most reverend Primate the Archbishop's debate on the role of people in the community. Many carers are informal carers. They are members of the family, neighbours or people who fit it in. These people are being put under intolerable pressure.

I have sat with a carer when the patient was asked if they would like to go to home. They said yes. The patient knew that they could not cope on their own. The carer was in tears when she was asked by the hospital, "Will you be able to look after her?". She had to say no. Two years later, that carer had a stroke herself, in her early 60s. The pressure of being a carer is horrendous, whether they are children or older people.

The Minister and the Government are looking at what they propose to do about benefits for younger pensioners—in your Lordships' House, "younger" is a flexible term—and what benefits they get, including increases to their pension. I sadly do not have living parents or parents-in-law, so I make no plea for myself. My worry is that, among the so-called "younger pensioners", there is a group of people who are holding our society together. They are the people who are carers, who support voluntary groups in our communities and who are members of voluntary associations, churches or informal groups of people. I think that the Government should look at who the real carers are. I agree with the noble Baroness that we often undervalue the work and professionalism needed by those who are employed as carers, but we also undervalue the commitment of those who are working hard.

All of us in this Chamber have a responsibility to speak up for those in greatest need. I know that many Members of your Lordships' House have faced the problem of being the first pit-stop for caring in their own families and I know that many Members are committed to helping friends and former colleagues here. I hope the Minister will believe me that, if we do not do something, we will have bed-blocking by former carers who have been taken ill because we have put too much pressure on them. These are the people who make us the civilised society that we are and we ought to ensure that they do not become bed-blockers because we are trading on their good will and generosity too much by not tackling this problem.

[BARONESS FARRINGTON OF RIBBLETON]

I will read what the noble Lord, Lord Patel, said about insurance. It is interesting that, as I have got older, every birthday I get a letter from insurance companies asking me if I want to take out a policy to pay for my funeral. I have never yet had a letter from anybody offering to sell me a policy for when I become old, difficult, irascible and immobile. Perhaps the insurance companies are missing something there. I have not known them miss anything before—perhaps, I say to the noble Lord, Lord Patel, it would not be financially viable for them.

3.33 pm

Lord Bichard (CB): My Lords, I draw attention to my interests as set out in the register. I thank the noble Baroness, Lady Pitkeathley, for giving us this opportunity to discuss a desperately important issue and I congratulate the noble Baroness, Lady Cavendish, on a maiden speech that was well-informed, challenging and constructive. I would have expected nothing else; I know that she will be a real asset to the House. She is a very welcome new member of the usual suspects club.

There is no one who can deny that social care is in crisis: significant increases in those needing support, both young and old; too many providers failing; too many commissioners feeling disempowered by a lack of resource; too few people seeing social care as an attractive career option; and clients who are not “just about managing” but struggling to survive. We cannot leave it like this; we need to change. I want to throw a few ideas into this debate about how we might change.

I am not someone who believes that resources are ever the complete answer, but I could not start without saying that the social care sector has suffered disproportionately from recent cuts. Some urgent investment is needed now, as well as a long-term resource plan. That is what we argued in the Barker commission report a year or so ago and the situation has deteriorated further since then. It is possible to do it and, as we said in that report, to look again at the priorities for investment and to change them. That is what we need to do.

But, as I say, this is not just about money. I have been struck increasingly by the number of users who tell me that they do not get what they need in the form that they want and can access, because they were never involved in how the services were designed, shaped and prioritised. That needs to change. Frankly, to provide services in a time of austerity which people do not feel are a priority is an affront to our society. We could perhaps start by involving them in the way that we deliver care support. The current arrangements involving attendance allowance—lower and higher levels—domiciliary and residential care and continuing healthcare are confused, wasteful and distressing for many clients. We have reorganised much else in the benefits system but not this confused and stress-laden mess. We could, and we should, if we wanted to.

People will only receive whole-person care if we, the bureaucrats—in my case, a former bureaucrat—and politicians learn to work better across organisational boundaries. The rhetoric of integration has taken root. Yes, we do need one budget and integration, but the user’s experience is often that nothing much has

changed as a result of these words. That is because we have not started looking from the point of view of the client. We have convinced ourselves that bringing two large bureaucracies together will inevitably lead to better services and less waste, but it will not. Two large bureaucracies brought together can be even more inaccessible and wasteful.

No one has mentioned today the possibility of the digital dividend. There are some fantastic examples already out there. They are not rocket science, but the problem is that although there are great examples, they are not uniform—they could be, and should be by now.

Do we not need to do something more to help providers, many of whom have either failed or are on the brink of failure? The CQC has shown that providers who need to improve find it extremely difficult to do so. They do not know where to go or where to get the money. Is this not one of those occasions where the Government could just offer some assistance? We used to have something called Business Link, which helped small and medium-sized enterprises. Are we not now in a crisis where we should have something similar for providers in this sector?

We have a crisis in the workforce. This should be the noblest of professions and yet most people would rather stack shelves in the supermarket than work in this profession. It is possible to change this. I chair the Social Care Institute for Excellence and we are doing some really interesting work with JP Morgan in east London, trying to involve people who have been in the system to come and work in the system. We need government to be giving more support to those sorts of schemes.

As someone said a moment ago, we need to look at how we can better involve the community. We have got into a state of mind of thinking that we have to live in a centralised, state-based, dependent culture. That is not the case; social care requires communities to be involved, but somehow we have lost the knack of realising that potential and helping some of the charitable groups in our communities to be involved.

I do not see at the moment that there is a strategy for social care. There needs to be one—the sustainability and transformation plans are not providing it. I ask the Minister: why can we not have a five-year plan for social care to sit alongside the five-year NHS review?

3.39 pm

Baroness Redfern (Con): My Lords, I declare my interests as set out in the register. I congratulate my noble friend Lady Cavendish on her maiden speech, which was very welcome.

I welcome the opportunity to take part in the debate and thank the noble Baroness, Lady Pitkeathley, for tabling it because I feel passionately about the sustainability of our NHS, which is of vital national importance to all of us. I acknowledge people’s expectations of ever-higher standards in the NHS. I too welcome the Government’s commitment and investment of new money, but at the same time we cannot simply call for more when current health arrangements can in some circumstances be a little institutionalised in terms of assessing funding and staffing requirements.

If we are to have a first-class NHS and a fully integrated social care system for the future, much work needs to be done to explore the opportunities offered by new technology and data sharing to improve the way public services work and address the needs of our increasing population. The technology revolution is very real and should enhance more productive use of our scarce healthcare resources now and in the future. We should also invest in transdisciplinary research capacity and use the evidence gained from that to the full, thereby avoiding duplication.

New ways of working and new technologies are out there and our workforce needs not only to catch up with them but also to speed up their use. I understand that that takes time, and time is a very precious commodity. However, if we focus on innovative high-tech solutions, involving redesigning workflows, we will see rewards in terms of improved patient care. Investing in this area will, importantly, improve patient outcomes and save time and money. It is a case of saying, "We understand and we get it and we should go for it". Initiatives are available that encourage innovation and take-up of digital technologies, with pump priming of financial incentives to enable bodies to undertake a shift in culture and forge ahead and be bold in developing services.

As regards saving to spend, many estates and buildings in this sector have become outdated and, unfortunately, are inadequately maintained. In some cases there are huge maintenance backlogs. They present opportunities to raise capital for reinvestment in the NHS through selling off prime estates where buildings are no longer fit for purpose. The land can be exceptionally valuable in many cases. It makes sense financially to acquire these capital receipts. Collocating brings improved closer clinical interaction. That again benefits NHS patients and the workforce.

The importance of working collaboratively in back-office services cannot be stressed enough. It again offers scope for more efficiency. Again it is important to make sure that the workforce understand it, are up for it and can relinquish the desire sometimes to be too protective of their own back-office functions. Everyone needs to be on message. We want a first-class NHS service and a fully integrated social care system for our population.

3.43 pm

Viscount Hanworth (Lab): My Lords, many of the providers of residential care are on the verge of bankruptcy. They are unable to meet their mounting expenses, while the budgets of local authorities, which are responsible for paying for care in many cases, have been savagely cut.

The failure of the Government to address this problem is in spite of numerous warnings. One such warning was the collapse of the Southern Cross Healthcare Group in 2011. The group was the largest provider of care homes and long-term care beds in the United Kingdom, operating 750 care homes, with over 37,000 beds and with a staff of around 41,000 employees. The company was founded in 1996. It grew rapidly through acquisitions that were financed predominantly by a sale-and-leaseback strategy, which placed its

residential properties in the hands of investors in return for large capital sums and at the cost of payments of rent on those properties. Already by 2004, its acquisitions were subject to an investigation by the Office of Fair Trading. In 2011, the company was in crisis on account of its inability to meet its annual rent bill, and it was begging the Government for support. In the event, the Government did not have to intervene, for the reason that the ownership of many of the care homes was transferred to the landlords, some of whom had links to social care provision and many of whom did not. Before its collapse, the value of the shares of Southern Cross fell drastically, and its market value was reduced from £1.1 billion to £12 million.

Another Government of a different political persuasion might have seized the opportunity to acquire the assets of the conglomerate at fire-sale prices, thereby returning the provision of social care to the public domain, where it had resided preponderantly before the era of privatisation. The ownership of care homes is now in the hands of venture capitalists, whose interests are confined to the financial returns of their holdings. The current crisis points to a further round of divestment with an even greater consequence than the failure of Southern Cross. The failed conglomerate was founded on the supposition that a steady and a reliable income would be forthcoming from local authorities. The sure-fire returns would have allowed a high degree of financial leverage on the basis of which there could have been further acquisitions. The fallacy of this supposition has now been demonstrated conclusively with the consequence that very little private capital will be forthcoming in future to sustain the sector. However, there are signs of a pushback from the private owners of care homes, and some are even investing to improve their services significantly. By so doing, they should be able to attract rich patients whose wealth would preclude them from receiving support from local authorities. What is now in prospect is a two-tier care system for the elderly. For the rich, there will be comfortable residences. For the rest, there will be what should best be described as poor homes.

The crisis in social care will be solved only when adequate financial support is forthcoming, and it is important to attempt to envisage how this could be achieved. First, we should observe that the manner in which we end our days is the subject of a lottery, but it is a lottery that has no winners. Some people will take their leave suddenly and without much forewarning. Others will experience a lengthy senescence, which is often a miserable one. If the present inadequacies of the care system continue to worsen, then such people will be amongst the greatest losers.

The appropriate way in which to finance this lottery is by an insurance scheme. In common with the noble Lord, Lord Patel, I propose that every income earner should contribute to a fund in the proportion to which they pay income tax. The fund in question should be used for the sole purpose of social care. The tax to sustain it should be set to a level that is appropriate to the nation's need for social care, and the determination of that level should be the responsibility of an independent commission.

[VISCOUNT HANWORTH]

There have been proposals in the past that Governments have chosen to ignore. Those of the Dilnot commission are still hanging over us. The commission proposed a limit to the amount that any individual should contribute to their care over their lifetime. It also suggested increasing the wealth that an individual might own before being asked to contribute to the cost of their care. Both of these suggestions have found favour with those who wish to preserve their wealth to pass it on to their inheritors. I declare that I am not greatly sympathetic to this motivation.

Be that as it may, I suggest that matters of inheritance should be rigorously separated from the question of how to achieve adequate financing of social care. Much of the difficulty that we face in connection with social care is a consequence of the pernicious confusion of two issues that should be dealt with quite separately.

3.48 pm

Lord Warner (CB): My Lords, with the possible exception of the Minister, I am sure we are all grateful to the noble Baroness, Lady Pitkeathley, for providing us with yet another chance to tell the Government what a dire state publicly funded adult social care is in. It is also good to welcome the noble Baroness, Lady Cavendish, to this gathering of the usual suspects, with her excellent maiden speech and her great expertise.

We have now a Chancellor who, we are told, is impressed by data, so I will give just a few figures, even though these stats have not done much to convince his predecessors. In the 2011 Dilnot commission report—I declare my membership—we told the Government that adult social care was underfunded by at least £1 billion a year. Since 2010, another £5 billion at least has been taken out of the system. According to the experts—I am still rather inclined to listen to them—the deficit next year will be around £2.5 billion. Whatever the precise figures, there has been a funding shortfall for over a decade; it is getting worse; great damage is being done to vulnerable people, service providers and the NHS; and the Government have no credible solution.

Although the problems are not of the Government's making, they are the people now in charge, and I point out to the Minister that the system could well fall over on their watch. The Autumn Statement is a missed opportunity, and the Prime Minister needs to tell her advisers to come up with something more convincing than telling us that social care faces challenges. Her spads should read the briefing we received for this debate, particularly the evidence from the LGA—now Conservative-controlled—and from the regulator, the CQC, which is hardly a vested interest. The LGA makes it absolutely clear that it will not be its fault if, as is highly likely, there is a serious collapse of publicly funded social care in the next couple of years. The CQC points out that for the first time new nursing home providers are not coming into the market and big players in that market are handing back contracts to local authorities. Make no mistake—the rush for the exit has started from publicly funded adult social care providers of all kinds, and their lack of trust in a credible rescue plan means that they will take a lot of

convincing to return. A failure to resolve this long-running social care funding crisis quickly has massive implications for the sustainability of the NHS.

Even if they are tempted to avert their gaze, the Prime Minister's advisers should, even now, think about what is likely to happen in the shorter term. First: a good old-fashioned NHS winter crisis this winter, continuing almost indefinitely up to the next election, with rising avoidable death rates. With hospital bed occupancy already well over 90%, that is now almost inevitable. Secondly: a regular TV diet of ambulances queuing outside hospitals, unable to deliver patients; 24-hour A&E trolley waits for elderly patients; cancelled operations and a whole host of interviews with doctors, nurses and others about the impossibility of their jobs. Thirdly, the Government can say goodbye to delivery of the five-year forward view, which the NHS England chief executive made clear depended on properly funded social care. They can also expect a flow of social care scandals and the CQC reporting next year a further reduction in the providers of publicly-funded social care.

However, this gloomy forecast need not happen. We do not have to watch the NHS collapse under the weight of work it should not be doing. It is much cheaper and better value to put social care on a more sound and sustainable footing than simply propping up the NHS to cope—and it is better for patients as well. Therefore, here is the Warner five-point plan for doing something now. First, commit to the annual funding for social care being increased at least in line with that for the NHS. Secondly, guarantee the funding for social care for at least five years, starting in April 2017. Thirdly, scrap the bureaucratic and small better care fund and use the money as part of a five-year social care renewal fund of at least £6 billion, with £1.5 billion of this going direct to local government in each of the first two years—but on condition that it is used for speeding up hospital discharges and preventing admissions.

Fourthly, we should commit to implementing the Dilnot proposals already enshrined in the Care Act 2014, and we should do so in 2018-19 with properly funded local government administrative costs. Fifthly, to oversee all this, we should speedily convert the Department of Health into a department of health and social care, with all social care responsibilities transferred to it from the DCLG, and we should make it responsible for an integrated health and care budget. At least that would give us a bit of time for longer-term planning. The Prime Minister could then say that she was helping not only the JAMS but the NAMS—the “not actually managing”.

3.54 pm

Baroness Verma (Con): My Lords, I thank the noble Baroness, Lady Pitkeathley, for initiating this debate, and I congratulate my noble friend on her maiden speech.

I declare an interest as a social care provider. I started the business 16 and a half years ago and have seen many changes in the sector, none of them for the better. It is right and proper that we value care workers, but we cannot do that if we do not have the funding,

the time or the ability to recognise their work, which is so important that it would put much more pressure on the NHS if it was not done.

During the years that I spent on the Front Bench, I was unable to speak. Now that I am able to do so, I say to my noble friend the Minister that the NHS is a precious commodity which we all value but, as the noble Lord, Lord Warner, said, it needs to be combined with social care. We need to place social care and the health service on an equal footing. It is not just the elderly who have need of social care; many disabled people and young people are dependent on care workers to support them to live independently.

It has been said that we are the fifth largest economy in the world. If we are to muster a service that is reflective of our society, we must recognise that we need to pay the right price for the right care. I agree completely that we need the living wage, and I would pay care workers even more, but we have to recognise that, while we put the NHS on a very high pedestal, we do not do the same with social care. We need to reduce that gap and equalise the two.

In recent years, the social care businesses delivering domiciliary care have seen added administration costs—there are extra things that care staff and office managers have to deliver—yet there has been no indication of how that is going to be paid for by local authorities. Local authorities claim, rightly, that they do not have the funding. If there is to be funding for social care, it needs to be ring-fenced so that it cannot be diverted to other areas where local authorities face pressures.

In recent years we have had to implement electronic monitoring. To the noble Lord who thinks we are not monitored properly, I say that the social care sector is very well regulated and monitored. Of course, there will be the occasional bad apple, as there will be across all sectors, but I can tell the House that, having worked with and listened to my care staff and managers, I understand the frustrations of having to deliver good-quality care to people. Those care workers, who often will be the only contact that people have throughout a whole day, have to rush through delivering a package of care because the time they can spend on each visit has been so greatly reduced. This is an unacceptable way of treating the most vulnerable people in our community.

I urge the Minister to bear in mind that the social care sector looks after a lot of people, and not just the elderly, although the elderly make up a large proportion of those who end up using the NHS because often they do not get sufficient assistance in their homes. I urge the Minister not to look at integration for the sake of integration but to understand that there is a balance to be struck. Good-quality home care and rest home care prevents people ending up in the very expensive National Health Service.

3.58 pm

Baroness Walmsley (LD): My Lords, this has been an excellent debate with many thought-provoking speeches, including, in particular, that of the noble Baroness, Lady Pitkeathley, in introducing the debate and that of the noble Baroness, Lady Cavendish.

Yesterday morning, there was a story on Radio 4's "Today" programme that neatly illustrated how problems with social care affect the whole health and care system. The story was about ambulances and the fact that in the past year 500,000 extra hours were spent by ambulance crews waiting outside A&E departments, unable to discharge their patients, while other serious and urgent cases stacked up awaiting their arrival. The head of emergency medicine for the NHS gave an account of new ways of working that may help put a sticking plaster on the problem. However, the story illustrates very clearly the interaction between the various parts of the health and care system.

Of course, the reason ambulance crews have to wait so long is that A&E departments are full, unable to move their patients to beds in the wards because they are full too. One of the reasons that the wards are full is the delays in discharging patients to appropriate care in care homes or their own homes with a suitable package of help—and we know that people go to A&E, where the lights are on, because they cannot get an appointment with their GP. Nearly 570,000 bed days were lost in acute hospitals during the second quarter of 2016-17 as a result of delays in discharging patients, with problems in arranging social care now the main reason given by hospitals for these delays. This comes at a cost to the NHS of £820 million a year. The story illustrates why we need to sort out social care, apart from the need to ensure that elderly and disabled people get the care they need in a timely and dignified way.

The Care and Support Alliance of 90 charities points out that, as well as relying on help with everyday tasks such as washing, dressing and eating, social care plays a vital role in supporting recipients and their carers to move into, or stay in, employment, and in preventing avoidable expenditure, particularly in other parts of the health service. The charity Sense, which works for deafblind people, points out that in the past year alone 11.4% fewer people with sensory impairment were able to access services. This has greatly curtailed their community involvement and life chances.

The whole system is like a pack of dominoes that will fall with a great clatter unless something is done. That is why I, along with others who have spoken today, was shocked and horrified that, despite all the evidence that has come forward about the dreadful state of care funding, the Chancellor said not one word about it in the Autumn Statement and provided not one extra pound. The interoperability of all parts of the system of health and social care indicates strongly the need for a cross-party consensus on how we fund it in this country—I welcome the support on that from the noble Lord, Viscount Hanworth. While I look forward to the report of your Lordships' ad hoc Select Committee on sustainability in the NHS, chaired by the noble Lord, Lord Patel, we need to go much further, as my right honourable friend Norman Lamb has so often proposed. We need to look at all the options: insurance schemes, the German scheme, the Japanese scheme, general taxation and national insurance.

The nearest thing we have to an independent commission is the King's Fund and the Nuffield Trust, which work together and with others to inform the debate. Since the disaster of the Autumn Statement

[BARONESS WALMSLEY]

they have said that they now expect a funding gap of at least £2.4 billion in social care next year. That means that the intense pressure on services will continue to grow, increasing the burden on older and vulnerable people, their families and their carers, as the noble Baroness, Lady Farrington, has told us.

In its recent report on the sector, the CQC said that social care is at a tipping point. The CQC does not often use such language, but it should know, since it inspects all the services. However, it did report that 72% of settings were good or outstanding, and that is a credit to all those working in the sector who do their very best for the service users despite all the problems. The facts, however, are dismaying. Following multiple cuts to local authority funding over the past six years, 26% fewer older and vulnerable people are receiving services, while demographics mean that demand is rising. Because the potential for most local authorities to do any more within existing resources is limited, my colleagues in local government tell me that they will soon struggle to meet even basic statutory duties.

As we have heard, companies providing places in care homes are handing back contracts to local authorities because they cannot provide adequate care—the sort of care they want to give—with the funding that they get. Some are concentrating on self-funders. Indeed, self-funded service users are subsidising state-funded users in some places, and I agree with the noble Baroness, Lady Browning, that that is not fair. The national minimum wage—I still refuse to call it a national living wage because one cannot live on it—is putting enormous pressure on already small margins. Aside from the quantity of care available, good-quality care matters for many reasons, not least of which is that good care homes, working with their local GPs and community pharmacies, keep people out of A&E and other hospital departments.

Domiciliary care fares no better. Fifty-nine councils have had home care contracts terminated, affecting nearly 4,000 people. Three large national domiciliary care providers with multiple contracts have withdrawn from the market or are planning to do so. The critical condition of home care services threatens to undermine policies to support people at home, which, as we have heard, is where most people prefer to be, near their families and friends who can often help with care and are happy to do so within their capabilities. An estimated 1 million people now have unmet needs for care and support in England and research on disabled adults suggests that at least two in five are not having their basic needs catered for.

The new 2% precept increase that local authorities are allowed to raise does not help deprived areas where the majority of care users are state-funded and low council tax receipts from low-value properties will not raise anything like the amount of money needed. In those places, the potential for cross-subsidy from self-funders is minimal too. Besides, the precept, if fully applied overall, will raise only two-thirds of the cost of the increase in the national minimum wage in a sector where most employees are on that level of pay. At the same time, the Government have delayed until 2020 the implementation of Part 2 of the Care Act 2014, which introduces a cap on care costs and changes to

means testing. These are reforms proposed by the Dilnot commission in 2011 and this breaches a Conservative Party manifesto commitment. So can the Minister say when it will happen, since many people are now doubtful as to whether these reforms will ever see the light of day?

The King's Fund believes that our starting point for reform should be the Barker commission recommendation of a new settlement for health and social care, based on ending the historical divide between the two and moving to a single budget and single local commissioning of services. I agree with that, but there is also a very large elephant in the room, and that is the looming Brexit. We spoke about this at length in last Thursday's debate. A damaged economy, resulting in a lower tax take, and uncertainty about the future of the many thousands of care staff who come from other EU countries cast an enormous shadow across an already staggering system. When will the Government do the right thing and offer them certainty?

It cannot be right that the care and support received by older and disabled people increasingly depends on where they live and how much money they have—a postcode lottery—rather than on their real needs. Although additional funding is badly needed in the short term, in the long term reform is what is required. The only game in town on that front at the moment is the sustainability and transformation plans, funded by the Better Care Fund, but there is evidence that, first, the emphasis is on sustainability rather than transformation and, secondly, that local authorities, patients and care providers are the last ones to be consulted on the plans. How can services be integrated when crucial parts of the system are not being properly consulted and funds that should be used to develop and pilot new ways of working are just being used to prop up budgets in deficit?

As the King's Fund said:

“England remains one of the few major developed countries that has not reformed the way it funds long-term care in response to the needs of an ageing population ... A number of commissions and reviews have been set up over the years and made recommendations about how to place social care on a sustainable footing. However, successive governments have failed to grasp the nettle”.

I am a gardener and I know the value of nettles: they support wildlife and you can even make nourishing soup out of the small leaves at the top of the plant. So will the Government grasp the nettle, because they may find it good for them?

4.09 pm

Baroness Wheeler (Lab): My Lords, I too congratulate my noble friend on her usual robust and forthright introduction to this debate, providing a clear strategic overview of the options we face that is firmly rooted in the day-to-day reality for older and disabled people and their carers, and on telling it like it is. Indeed, the Minister knows well how it is because he has acknowledged several times the scale and seriousness of the funding issues faced by social care, and he surely knows that the Government's remedy for this, of the 2% local authority precept and money in the Better Care Fund starting next year, are nowhere near enough and do not provide the urgent resources and investment that social care needs now.

Before last week's Autumn Statement, a chorus of health and social care leaders, councils, private and voluntary sector providers, think tanks, staff unions and patient organisations pleaded for urgent action by the Chancellor. The *Guardian* summarised the cost of what is needed for a "basic" rescue of social care at £1.3 billion, the same sum as the Chancellor actually allocated for roads. A major Statement about the Government's financial programme, policies and priorities making not one mention of social care was a devastating blow for staff and providers, for the now 1.2 million people needing but not getting basic care and support to help them to stay living independently in their homes or in the community, and for those desperately struggling to pay ever-escalating care home fees.

Today's debate has provided a clear overview of the current state of social care and the impact of what have now been nearly seven years of substantial cuts to local council budgets. The Minister has himself estimated that the decline in real-terms spending on social care from 2010 to 2015 is 12.8%. We have ranged across concerns about the provision of community support services, domiciliary and residential care and the interface of social care with hospital and primary care—the subject of my recent debate on the now record 1.15 million delayed hospital transfers, at least a third of which are caused by the unavailability of social care support. The noble Baroness, Lady Walmsley, set out the figures for this, underlining the cost of £120 million a year to the NHS compared with the estimate by the National Audit Office of what community care costs would be—namely, £180 million.

We all join with my noble friend Lady Pitkeathley in taking some comfort and solace from the consensus on the urgent need to address the social care funding crisis. The medical profession, together with Conservative, Labour and Liberal Democrat leaders in local government, have warned that the safety of millions of elderly people is at risk and that,

"the vulnerable will increasingly struggle ... to meet basic needs such as washing, dressing or getting out of bed".

We on these Benches strongly support the need for the fundamental long-term reform called for by my noble friend and to join up care services, from home to hospital, with properly integrated health and social care budgets.

In this regard, perhaps I may commend as a contribution to these issues a recent report by the Commission on Care entitled, *Towards a New Deal for Care and Carers*, which crucially looks at how the social care system is working in England from the point of view of care recipients, particularly older people, patients, carers and women, who we know because of their role as the main providers of paid and unpaid care, have been disproportionately affected. It is increasingly self-funders and unpaid carers who are having to fill the gap between diminishing publicly funded care and the growing care need.

The need for an urgent review cannot be more clearly evidenced than in residential care, as a number of noble Lords have pointed out. The sector is home to 425,000 residents in around 18,000 homes across the UK. One in six residents is over 85 years old, an age group set to double by 2035. Care home residents

have a prevalence of long-term conditions, in particular dementia, stroke and diabetes-related conditions. Many residents can have up to six co-morbidities. Some 75% of the residents in the top three care home providers are publicly funded. Noble Lords have observed, and Age UK has pointed out, that throughout the sector self-funders of care are getting a raw deal and are helping to keep homes viable and in operation. They are stuck in the middle and unfairly being asked to pay the price for a failing care system. How long can this system of providing residential care survive without going under?

The public focus and concern has been on the precarious financial state of the large-scale providers, but we know that 75% of them are in fact local provider organisations in small group homes being run by just the owners themselves. Care England has estimated that local council fees paid to care home providers average out at about £2.30 an hour and warns that small homes will be the first to go to the wall if extra funding, particularly for the implementation of the national living wage, is not provided.

Does the Minister agree that the current system of funding for residential care needs urgent and thorough review and reform? What plans do the Government have in place in the event of the financial collapse of a large-scale provider? Is he confident that the CQC risk mitigation monitoring of care home balance sheets is a sufficient level of scrutiny and safeguard to avoid a repeat of the disastrous Southern Cross home closures?

On domiciliary care there is clear and compelling evidence that the current system of providing this vital care just is not working. The latest figures in this Sunday's *Observer* showed alarmingly that in 48 councils at least one company that provides care for the elderly in their own homes has ceased trading over the last six months. Also in that period, 59 councils have had to find new care arrangements after providers have handed back contracts because they cannot make ends meet on the money that councils are able to pay.

Last month, we saw the home care provider Mitie announcing withdrawal from its home care business, with its CEO, the noble Baroness, Lady McGregor-Smith, a Member of the House of Lords from the Benches opposite, underlining that the prices requested by local authorities for care,

"made it impossible for Mitie to carry on".

Mitie's press release quotes the noble Baroness as emphasising that councils and the health service were not to blame for the care crisis because employment costs, including introducing the national living wage, had gone up by a third in the past three years as funding had dropped sharply. She said:

"Care workers should be paid significantly more but someone has got to pay for it. If we are serious about social care in the UK it needs significantly more than the funding that has been suggested".

On the Dilnot report, I can take the unusual step of answering noble Lords who have questioned the Government's promises about implementing Dilnot. In last week's debate on the implications of Brexit, the Minister confirmed that the Government are committed to implementing Dilnot by 2020 and that next year and the year after would see the work on implementation begin and on refreshing the strategy. I look forward to hearing more about this from the Minister.

[BARONESS WHEELER]

In last week's debate, we also had the reminder of the shocking figure of the annual turnover of care staff of 37%, which was one of the most depressing moments, underlining how far we still have to go to attract and retain staff in this vital job, and to make them feel valued as an essential part of the care team. In this regard, I join with other noble Lords in congratulating the noble Baroness, Lady Cavendish, on her excellent maiden speech, in particular on her description of the work of care staff who visit day to day in people's homes. I can particularly attest to that as a carer of someone with a severe disability who has carers in their homes every day. I thought it was a very apt description.

Finally, I come back to the 6.5 million unpaid carers in the UK who are increasingly having to prop up a care system in crisis and provide more and more carer hours than ever before, much of which should be provided by trained care staff. My noble friend Lady Farrington spoke movingly about this. We are told that supporting carers is a key government priority. The national carer strategy is being revised and updated. The Minister has promised to write to me about this, but unless the strategy addresses the everyday support that carers need to help them care for their loved ones—such as assessments and care plans that result in actual service support, funding for local carer support organisations that build local community advice and help for carers and are there when carers need them, and the regular respite care that is so vital when you are a 24-hour, seven-day-a-week carer—then it will just be fine words. My local council, Surrey, which has previously led the way on carer support services, is having to cut carer support services by 33% over the next three years. A recent FOI request from Revitalise showed 42% of English councils had made cuts to respite care for carers.

This has been a key debate and has underlined the consensus we all still desperately need and which we hope will lead to the Government providing the extra funding that is needed now and into the future. The social care system is complex, difficult to understand and access, especially for the people it needs to be supporting, and is failing across community, residential and domiciliary care, despite the commitment and efforts of providers, staff, volunteers and carers. It needs fundamental and urgent reform, and long-term funding that truly meets the cost of providing good-quality care.

4.19 pm

The Parliamentary Under-Secretary of State, Department of Health (Lord Prior of Brampton) (Con): My Lords, I join everyone else in thanking the noble Baroness, Lady Pitkeathley, for introducing the debate, which is very important. It is not easy to respond to, to be honest. I acknowledge that there are great pressures on care providers. We saw queues in A&E on the news last night. There are delays in people getting discharged from hospital. In its recent report on adult social care, the CQC found that the market was approaching "a tipping point". In addition, as has been mentioned, the Autumn Statement did not make any specific announcements on health and social care. So there is no question but

that adult social care is under huge pressure. However, that does not mean that we should become so utterly depressed that we do not see that some good things are being done as well. Many councils have risen to the challenge of achieving significant savings while setting balanced budgets, keeping council tax low and maintaining satisfaction in services. The CQC notes that,

"despite increasingly challenging circumstances, much good care is being delivered",

and there was encouraging evidence that improvements were taking place. Nearly two-thirds of users of social care services have said that they are satisfied or very satisfied.

It is not all bad—there are some bright lights out there. We all know that there are some wonderful care homes, domiciliary care agencies and social care workers. As the noble Baroness, Lady Wheeler, did, I empathised very much with the words of my noble friend Lady Cavendish, who talked about people being "only a carer". I agree with the noble Lord, Lord Bichard, that in many ways it is the noblest profession, very much unsung. Over time, the care certificate and the living wage will be able to transform some of those roles and give them greater status, as well as providing them with greater pay. In response to my noble friend Lady Cavendish, I say that we are looking at a single data source for data provided by care homes and others who provide social care. Extending the care certificate to volunteers is an interesting idea.

The noble Lord, Lord Patel, raised the issue of Dilnot. It is still our intention to implement Dilnot at the end of this Parliament, as I said in a debate a week ago. It will be interesting to see the results from the noble Lord's Select Committee. Its views on insurance will be interesting to read.

I want to spend most of my speech talking about the strategic issues that underline the word "integration", which has dominated our discussions on the subject for many years; I think that the noble Baroness, Lady Pitkeathley, said that she wrote a book on this in 1978. We had case management in the 1980s, inter-agency working in the 1990s, and integrated care pathways in the 2000s. Successive Governments have tried to bridge the gap. With great blowing of trumpets in 2000, the NHS Plan talked about integrating health and social care. The better care fund, which came out of the coalition Government, was the first national, mandatory integration policy. This year, it has a mandated minimum spend of £3.9 billion. Interestingly, it looks as though it will be up to £6 billion through local authorities voluntarily pooling resources into it. There are some examples around the country—I could give details on Northumberland, North East Lincolnshire and Plymouth—of the better care fund resulting in a change. It is not the bureaucratic change referred to by the noble Lord, Lord Bichard, although that is always a risk if you pool resources. If you pool two enormous bureaucracies, you can end up with an even bigger mess than you started with, but there is evidence on the ground that the better care fund is achieving some results. Of course, the Care Act 2014 placed a statutory duty on local authorities to promote integration. So there is no lack of rhetoric on this matter.

These efforts have not been enough, however, and all Governments—the coalition Government, our Government, the previous Labour Government—have to accept that we have brought in other policy changes that have worked in completely the opposite direction. The creation of foundation trusts, brought in by the party of the noble Baroness, Lady Wheeler, the proliferation of CCGs, brought in by the coalition Government, and, of course, payment by results have all had the effect of making the system less joined up and more fragmented and have diverted resources away from community and primary care—exactly where we want them—into secondary care. Integration is still possible in our fragmented system, but it is incredibly difficult. In practice, it requires exceptional leadership, preferably based on long-standing, trusting relationships, which are rare in many parts of the country.

The *Five Year Forward View* explicitly recognises this. I shall quote from it because it is worth reminding ourselves of the strategy we are embarked upon:

“The NHS will take decisive steps to break the barriers in how care is provided between family doctors and hospitals, between physical and mental health, between health and social care. The future will see far more care delivered locally ... The traditional divide between primary care, community services, and hospitals – largely unaltered since the birth of the NHS – is increasingly a barrier to the personalised and coordinated health services patients need. And just as GPs and hospitals tend to be rigidly demarcated, so too are social care and mental health services even though people increasingly need all three ... Increasingly we need to manage systems – networks of care – not just organisations. Out-of-hospital care needs to become a much larger part of what the NHS does”.

I think most of us who have taken part in this debate would say amen to that.

Underpinning all this work on integration is the difficult question of relationships between organisations. As the King’s Fund said last November:

“NHS organisations need to move away from a ‘fortress mentality’”, with individual organisations protecting their own interests at the expense of the system as a whole. This is the classic “tragedy of the commons” in which individual interest destroys collective and community interest. This separation is not just a legal separation, it is budgetary, it is financial, it is institutional and, most importantly and most difficult, it is cultural. These barriers will not melt away overnight, nor will they be transformed by us passing new legislation: politicians should take note of this.

How do we put this into practice? NHS England’s planning guidance for 2016 states that sustainability and transformation plans,

“will be place-based, multi-year plans built around the needs of local populations. STPs will help drive a genuine and sustainable transformation in health and care outcomes between 2016 and 2021. They will also help build and strengthen local relationships”.

Planning by individual institutions for a year in advance will increasingly be supplemented and replaced by planning by place for local populations for a number of years in advance. For too long, the NHS has emphasised an organisational separation and autonomy that does not make sense to staff, to patients or to the communities they serve. The Government recognise, as NHS England recognises, that the process of developing STPs has been easier in places where there are strong

existing relationships. As Sir Bruce Keogh says, different areas are starting in different places and they will finish in different places at different times.

Jim Mackey, the chief executive of NHS Improvement, has said that the STPs are a process, not an event, and we expect local organisations to continue to work closely together to address local health and care needs, but the STPs are bringing together health and social care on the ground. They are not perfect and they will not solve this problem overnight, but they are starting to have an impact. Different organisations are sitting down together for the first time ever and thrashing out some very difficult long-standing problems.

The next theme I want to explore is devolution because that probably has the best chance of driving towards better and more integration across boundaries and more widely across the public sector. We recognise that this process will not be easy but the direction of travel is right. To paraphrase Nye Bevan, when a bedpan is dropped on a hospital floor in Salford, its noise should resonate in Manchester Town Hall, not Westminster. Devolution should be seen as more than a shift from central to local government. It should enable communities to be directly involved in designing responsive and personalised services. Devolution will make care more accountable to local people.

The first and probably the biggest of these devolution arrangements is Greater Manchester, which has already been referred to in the debate, with the Greater Manchester Health and Social Care Partnership now taking responsibility for implementing its five-year strategic plan. The chair, the noble Lord, Lord Smith, said only a month ago that,

“the progress we have made has been revolutionary for the region”. That progress has been made possible by the unprecedented partnership shown by working with all 37 organisations involved. It works because Manchester has long-established and well-respected leadership.

NHS England has agreed that Greater Manchester’s partners should make their own decisions on how to spend their £450 million transformation fund, which covers more than 2 million people. The new governance structure has both strategic oversight for all matters relating to health and social care services and the accountability to make big, bold decisions that can truly deliver the levels of transformation we are seeking to achieve. We are looking for transformation as well as sustainability. The same is beginning to be true for Birmingham and Solihull STP, for example, which is another STP that is led by a director of social services. The foreword to the STP plan states:

“The STP is an iterative process, and this is the start of a longer transformation journey. It’s not a short term plan—this is for long-term, sustainable change over 5 years and beyond”.

So the STPs, for all the shortcomings that some of them have, are a step in the right direction towards bringing together health and social care at local level. Picking up the point made by the noble Lord, Lord Bichard, I believe that over the next few months we will see a much greater involvement of local users and local people in structuring those STP plans.

There are two important preconditions for the success of this programme. First, too often social care is seen as the poor relation or simply as a means by which we can reduce demand on the NHS. This is to hugely

[LORD PRIOR OF BRAMPTON]

undervalue and undermine the contribution that those working in the service make to the well-being of users, and the importance of social care services in their own right. Any approach to integration that fails to recognise this and instead seeks to draw in social care services just as a means to reduce NHS demand cannot be right. So when we consider how best to bring health and care services together, it is important that local areas fully appreciate the role of social care and the spectrum of services it provides. It would be wholly wrong to see social care solely as a means to reduce A&E admissions or delayed transfers of care from hospital.

Secondly, we need to be careful not to fall into the trap of thinking that better health can be secured just through integrating health and social care services, when in reality the factors that contribute to a person's health are much more complex and wide-ranging than those within the scope of health and social care alone. The Marmot review and many other commentators since have been clear that health inequalities arise from a complex interaction of many factors—housing, income, education, deprivation, social isolation and disability—all of which are strongly affected by a person's economic and social status and well-being. Plans to integrate services around people's needs should consider the wider determinants of poor population health and factor them in.

The five-year forward view sets out a non-partisan strategy for what needs to be done to ensure NHS sustainability and drive improvements in the health and social care system. The STPs are putting that plan into practice. I accept, as I did at the beginning of my speech, that this is taking place against a very tough financial background. Some will argue that it makes it more difficult; I would argue that change will happen only if organisations are forced to change in order to survive. Change is necessary to meet the needs of today's population in a way that delivers care that is both better and affordable.

I have not given up hope at all on this. The short term does look bleak and I acknowledge the huge pressures on social care—but, for the first time, we have a strategy that is actually being put into practice. It will not deliver all that we need to do in the space of two or three years, or even within the length of the five-year forward view, but if we can show that it works in some parts of the country, we have a much stronger hand to go back to the Treasury and say, "We need some more money to finance these STPs". But we have to show that it can work at some pace and to some scale.

4.36 pm

Baroness Pitkeathley: My Lords, we have had an excellent debate and I thank all noble Lords who have taken part, especially the noble Baroness, Lady Cavendish, for her thoughtful speech which makes us eager to hear more from her. The topics covered today have been as wide-ranging as the issue itself but there has been agreement about the crisis which exists, if not yet on how to address it.

I did not of course expect the Minister to announce from the Dispatch Box the great public debate that I have called for today. Many others have called today

for such a debate and it is of course way above his pay grade—but that does not mean that I resile one iota from the calls for that debate. We must have it; it is inevitable and it would be better to have it sooner than later—before the system really does collapse, as many people have warned us it will.

The Minister has had many suggestions and, with his usual courtesy and honesty, has certainly addressed some of them. I welcome his focus on the strategy and I certainly acknowledge the progress made, as he reminded us, with some STPs. However, a couple of examples that I have had remind us that the STPs should not be about just health and social care but should include carers and the voluntary sector. It is important to bear that point in mind as we go forward with the STPs.

The emphasis has been on the interdependence of the health and social care services, as well as on the needs of users, carers and care staff. I get the impression that the time is right, and I think that the Minister has confirmed this. The people at the top—even, dare I say it, at No. 10—have realised that something must be done. If you have a philosophy which says that the Government must work for all and that you must help people who are "just about managing", or even the "not managing at all" as the noble Lord, Lord Warner, reminded us, I hardly think that you can avoid addressing this issue. If that is the case and there is agreement that something must be done, I hope that this debate can be required reading. Readers will find calls for more resources but I do not want that to frighten them off, because they will also find in this debate a wealth of practical and deliverable suggestions on how to address these issues. So although I am a bit depressed, I am not totally depressed. Like the Minister, I am not without hope and I certainly hope that by the next time the usual suspects meet here to discuss this, we will have made some more progress. I beg to move.

Motion agreed.

Online Safety

Question for Short Debate

4.39 pm

Asked by Baroness Howe of Idlicote

To ask Her Majesty's Government what steps they are taking in order to achieve compliance with the new European Union net-neutrality Connected Continent requirements in such a way that United Kingdom adult content filtering regimes can be maintained in order to help keep children safe online.

Baroness Howe of Idlicote (CB): My Lords, I am grateful to all noble Lords who have stayed to this pretty late hour and will be speaking after me. I shall start my comments with some background. The Government held a consultation on parental internet controls between 28 June and 6 September 2012. In December, writing in the *Daily Mail*, the then Prime Minister announced a policy he described as "default-on" adult content filters. Essentially, customers would be faced with a series of choices about filtering, and any attempt to bypass them would result in the filters being turned on by default.

On 22 July the next year, in his seminal NSPCC speech, the Prime Minister announced:

“By the end of this year, when someone sets up a new broadband account, the settings to install family friendly filters will be automatically selected; if you just click next or enter, then the filters are automatically on”.

That was achieved by January 2014 by three of the four ISPs and by Virgin in February. The basis for this arrangement was, crucially, a voluntary agreement. Provision of default-on and—less effective—unavoidable-choice adult content filters was very welcome, not because filtering is a magic bullet that will help make the internet safe but because it will help make the internet safer. In my book, that is a very important objective.

Of course filters are not the only tool. There are others, such as age-verification checks, and I strongly support the Government’s excellent proposals in this regard in the Digital Economy Bill which this House will debate on 13 December, but there can be no question of saying, “Well, now that we have age-verification checks, we can forget about filters”. One of the most important reasons for this is that, unlike the age-verification proposals which pertain only to pornography, adult content filters catch adult content in the round, including violence, gambling and drug use. The ISPs also offer customised filtering.

Mindful of these considerations, I was very concerned by the response that the then Prime Minister gave in another place to a question on adult content filters during Prime Minister’s Question Time on 28 October 2015. The Member for Derby North, Amanda Solloway, asked about a suggestion made by the *Daily Mail* that the adult content filtering agreement that the Prime Minister had negotiated with the big four ISPs was in jeopardy as a result of the European Union net neutrality regulations. The Prime Minister’s response confirmed that the *Daily Mail* was indeed correct that the net neutrality regulations interfered with the agreement, but he made it clear that he had secured an opt-out that was based upon the voluntary agreement being placed on a statutory foundation. He stated:

“we secured an opt-out yesterday so that we can keep our family-friendly filters to protect children. I can tell the House that we will legislate to put our agreement with internet companies on this issue into the law of the land so that our children will be protected”.—[*Official Report*, Commons, 28/10/15; col. 344.]

On 11 December last year, in Committee on my Online Safety Bill, the noble Baroness, Lady Shields—the Minister—reiterated what the Prime Minister had said, and went further in setting out the deadline. Many of us thought that the deadline was April 2016, but the Minister made it clear that it was actually December 2016. Specifically, she said that,

“we must legislate to make our filters regime legal according to the new net neutrality regulations. The date for that is by December 2016. To be clear: we need to do something to keep our existing regime viable and functional under the law”.—[*Official Report*, 11/12/15; col. 1803.]

In her answer, the Minister did not set out exactly when in December 2016 the deadline was, but clearly, it must be at some point between 1 December and 31 December. Today is 1 December 2016, so if we have not reached the deadline, it is clearly almost upon us.

Many expected that the promised legislation would be in the Digital Economy Bill, but it is not. This issue was raised in another place by Mrs Caroline Ansell, the Member for Eastbourne, during the Commons Second Reading debate on the Digital Economy Bill. It was then brought up again in Committee through a specific amendment tabled by Mrs Claire Perry, the Member for Devizes. In his response, the Minister did not seem aware of the previous government statements on the need for legislation. Over the course of last weekend, however, I was informed that the Minister would be announcing in another place that the legislation would be coming in the form of an amendment to the Digital Economy Bill in your Lordships’ House. This announcement was indeed made on Monday this week.

Having tabled this Question for Short Debate on 19 May, I am delighted that we at last have some clarity on this issue, but questions remain. First, the Government said on Monday that,

“our interpretation of the EU regulations is that filters are allowed”.

That constitutes a dramatic reversal of the assessments made by the then Prime Minister on 28 October 2015 and by the Minister in your Lordships’ House on 11 December 2015—the last public statements on the matter recorded in *Hansard*—and yet no explanation for the change has been provided. I would be grateful if the Minister could set out in some detail the reasons why the interpretation of the impact of net neutrality has been reversed so significantly from the statements made just a year ago.

Secondly, given that today is 1 December 2016 and the Digital Economy Bill has not even had its Second Reading in this place, it seems unlikely that it will become law before March 2017, and yet the clear deadline set out by the Minister a year ago was December 2016. Is the point that the date no longer matters, given the Government’s new view that EU regulations allow the filters to continue?

Finally, in the statement on Monday, the Minister in the other place also said:

“I know that there is still uncertainty about this matter, as well as concerns that filters could be challenged ... to put this issue beyond doubt, we will table an amendment ... to the effect that providers may offer such filters”.—[*Official Report*, Commons, 28/11/16; col. 1278.]

Could the Minister set out her assessment of a challenge to our current arrangements with the delay in implementing the statutory framework to March 2017? I very much look forward to the contribution of noble Lords to this debate and, of course, especially to the Minister’s response.

4.49 pm

Baroness Healy of Primrose Hill (Lab): My Lords, I am very pleased to speak in today’s debate, and I congratulate the noble Baroness, Lady Howe, on securing it. The question before us is testimony to the noble Baroness’s astuteness in recalling that last year the Minister said there was a December 2016 deadline for introducing the legislation to make our filtering arrangements compliant with the EU net neutrality regulations. The first day of December is an appropriate date for the Minister to update the House, as the noble Baroness, Lady Howe, has already pointed out. If the Government are now saying that they do not think the

[BARONESS HEALY OF PRIMROSE HILL]

legislation is essential but they will introduce it just to put the matter beyond doubt, we need an explanation of that new position as it constitutes a significant change from what we were previously advised. I quote the noble Baroness, Lady Shields, who said,

“we must legislate to make our filters regime legal according to the new net neutrality regulations”.—[*Official Report*, 11/12/15; col. 1803.]

But only a few days ago, the Minister in the other place, as the noble Baroness, Lady Howe, mentioned, said:

“I am clear that our interpretation of the EU regulations is that filters are allowed when they can be turned off, as they are therefore a matter of user choice”.—[*Official Report*, Commons, Digital Economy Bill Committee, 28/11/16; col. 1278.]

I hope that if the Government choose to amend their Digital Economy Bill to address this important matter, it will say something about the standards employed in determining what is filtered. We have standards of classification for video works and a classification framework for mobile phones, but none for the filters used by ISPs.

This matter is of course part of a much wider current debate about how best to protect our children. It cannot be right that we live in a society where nearly one in 10 children aged between 12 and 13 worries that they have become addicted to online porn, with 18% having seen shocking or upsetting images, according to a Childline poll. We know the UK is facing a worrying increase in mental health conditions among the young, and the failure to regulate their access and exposure to extreme pornography can only increase this crisis. I welcome the Health Secretary’s call this week to social media giants to block children from sharing explicit images in order to help to curb the pernicious sexting crisis that is damaging too many in this growing online culture of intimidation and sexual imagery.

Of course I fully appreciate that some of these challenges will be addressed by the provisions of the Digital Economy Bill that focus particularly on pornography but, as the noble Baroness, Lady Howe, has pointed out, there can be no question of age verification checks on pornographic websites replacing adult content filters, which have the much wider remit of filtering adult content more fully, including, in addition to pornography, violence, drug use and gambling.

I welcome the decision that the British Board of Film Classification has been appointed as the age verification regulator under the Digital Economy Bill, which will shortly receive its Second Reading in this House, and will be judging what is considered pornography using its classification framework. It will be able to issue notices to ISPs to prevent access to material but is not intended to take on the role of issuing financial penalties and enforcement notices to non-compliant websites. The BBFC also runs a classification framework for mobile phones that determines what is considered suitable for adults only and ensures restricted access for children and young people. That framework goes beyond pornography and covers drugs and violence. I raise this because as yet there is no similar framework for internet content filters, and there needs to be further examination of this issue.

I have fully supported the online safety Bills tabled by the noble Baroness, Lady Howe. Clause 1 of the current Bill would put ISP and mobile phone filtering on a statutory footing. Clause 2 would require Ofcom to set standards for the filtering of adult-only content and for content filtering by age or subject category. To have a universal set of standards that would apply across devices and all media could be the way forward, and I ask the Government to consider this when bringing amendments to this House. Ofcom has recently reported that tablets and mobile phones are now the most popular devices for going online. Family-friendly should mean the same, however a young person accesses the internet.

Each of the ISPs offers slightly different options on filtering. This can lead to confusion. Information about the differences should be transparent to parents and there should be consistency about what is covered in the different subject categories. If a parent changes ISP, there should be no surprises about what is filtered and what is not. There should be guidelines determined not just by industry but by a publicly appointed and accountable body. The excellent Bill of the noble Baroness, Lady Howe, suggests that Ofcom could do this, but as the BBFC will have a role in relation to internet sites, it could also be an option for producing guidance, in the same way that it does for its classification scheme.

I hope that the Minister can give clarity to the UK’s position with regard to EU net-neutrality, and that any amendment will ensure that there is a transparent, consistent approach between all ISPs in the level of filtering provided. I know that there are concerns among industry providers that any amendments on parental filters could adversely affect their ability to provide out-of-home parental filters with content filters applied without consent, but this could be further clarified during Committee on the Bill. If the legislation were to follow the model of the noble Baroness’s Bill and make the provision of default-on adult content filters mandatory, that might help to solve the problem.

I trust that the Government’s intention to bring about better controls on online pornography through the Digital Economy Bill will succeed.

4.56 pm

Lord Hay of Ballyore (DUP): My Lords, I, too, congratulate the noble Baroness, Lady Howe, on securing this important and very timely debate.

Like others, I am very interested to hear the Minister’s full explanation for the quite dramatic change in the Government’s understanding of what is required to comply with the net-neutrality regulations which have taken place between 11 December last year and Monday this week. The Statement on Monday in another place causes me some concerns. If the Minister is saying that the law that the Government propose will clarify that it is legal to provide adult content filtering when it can be turned off as a matter of user choice, the legislation that he proposes does not protect our adult content filtering regime. Rather, to my mind, it places it in jeopardy.

I very much hope that the Minister can explain to the House that the words employed by the Minister in another place on Monday should not be taken literally

and that she can confirm to us today that the proposed amendment will preserve our adult content filtering regime, including in relation to public wi-fi and internet access from mobile phones owned by under-18s.

The other matter I wanted to address is the rather strange disparity between the willingness of the Government to legislate fully for age-verification checks on pornographic websites through the Digital Economy Bill and their reluctance to legislate fully for adult content filters. Having conceded the point that child protection online is sufficiently important to justify legislation on age verification, even for sites based in other jurisdictions, it seems odd to resist placing adult content filters on an equally robust footing for ISPs based within our jurisdiction.

Mindful of this, I very much hope that, in bringing forward legislation, the Government will make it clear not just that adult content filters are legal but that all ISPs serving homes must provide default-on adult content filters. I am very troubled by the fact that the big four ISPs that sign up to the adult content filtering arrangement amount to only 88% of the market. That leaves a full 12% of the market, therein many children, beyond the reach of the filtering agreement.

In some ways it is easier to live with that kind of arrangement if one is operating on an entirely voluntary basis, but it becomes more difficult once attempts are made to regulate this in law because doing so inevitably has the effect of formalising, and thereby indirectly condoning, discrimination through the creation of two classes of children: on the one hand, those who are lucky enough to have parents who use one of the big four ISPs and are consequently more likely to benefit from adult content filters and, on the other hand, those whose parents do not use the big four and who are invariably left at greater risk of exposure to inappropriate adult content.

Mindful of this I strongly encourage the Government to apply themselves with the same kind of urgency and commitment to protecting children from adult content in the round—violence, drug use, gambling and pornography—through filtering, as they are in relation to pornography through age verification checks. In making this point I am aware of a potential overlap with what I said earlier. I think that I am right in saying that the purpose of the net neutrality regulations is to outlaw informal arrangements, by which I mean ones not expressly sanctioned by law. The idea, as I understand it, is to limit the extent to which states can lean on ISPs and others to block or restrict access to material, which the powers that be simply do not like for political, religious, or even unstated reasons. Mindful of this, the net neutrality ethic contends that any use of filters to manage internet traffic must be not only congruent with wider human rights legislation but mandatory under national law, not discretionary or permissive.

If I am correct this means that moving to a mandatory regime would not only address the concern about covering all ISPs but also take care of any problem relating to maintaining public wi-fi filters and filters on the phones of those under 18. The requirements in this regard would be protected because they would be mandatory. On that basis, we would have a win-win situation. First, we would maintain public wi-fi filters

and filters on the phones of those below 18 years of age. Secondly, we would ensure that all households with children benefit from access to default-on filtering.

In conclusion, I hope that the Minister can confirm, first, that the forthcoming legislation really will protect our adult content filtering regimes, including in relation to public wi-fi and children's phones and, secondly, that it will apply—as does the Online Safety Bill of the noble Baroness, Lady Howe—to all ISPs that service homes with children. I very much look forward to hearing what the Minister has to say, because we have a generation of children who are being stripped of their childhood by viewing graphic sexual images on both mobile phones and tablets.

5.02 pm

The Lord Bishop of Chester: My Lords, the House should be deeply grateful indeed to the noble Baroness, Lady Howe, for her persistence in bringing before us the difficult issue of online safety, particularly as it affects our children. I must say, the thickness of the plot as she set it out in her opening speech would be a credit to Agatha Christie herself in this particular aspect of it. We will be returning to the broader aspects when the Digital Economy Bill comes before us shortly. I believe that there is also a forthcoming report by the Communications Select Committee on children and the internet.

Today's question concerns how, in the UK, we can comply with the EU net neutrality requirements while maintaining our commitment to keeping adult content-filtering arrangements in the internet provision in this country. I am pleased that the Government will indeed be bringing forward an amendment to ensure that any legal uncertainty is set aside.

I associate myself completely with the remarks made by the noble Baroness, Lady Healy, and the noble Lord, Lord Hay, in their speeches. I am also pleased that in the other place the Government accepted amendments promoted by Claire Perry MP and Fiona Bruce MP—one of the Cheshire MPs—to strengthen the child protection aspects of the Digital Economy Bill, which we will be considering very shortly.

The sheer growth of the internet is a source of continued amazement. I understand that 99% of UK households with children now have an internet connection, and that most children now spend more time online than watching television. Given the influence and impact of the internet, we must remain vigilant so that we can access its benefits but avoid its temptations and downside.

The term “net neutrality” sounds easy on the tongue but it is quite clear that the internet is not neutral in its effects. It can bring many blessings but also many corresponding dangers. The two inevitably go together. Advances in meaning, technology and potential of all sorts seem to generate a corresponding downside or shadow side. If you think about it, that is the way the universe seems to be constructed. There was no death in the universe until life itself had evolved. You have to get to the complexity of animals to have “nature red in tooth and claw”. You have to get to the sophistication of human beings able to think about truth, beauty and justice to produce Adolf Hitler, or moral evil in all its

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forms. It seems to me that the more developed a society becomes, the more we have to be alert to the fact that there are corresponding dangers.

We are all easily seduced by the old myth that there can be pure progress without a downside. I go back 30—perhaps 40—years to a journalist I remember on the radio, Patrick Hutber, who used to talk regularly about business matters. His maxim was always: progress means deterioration—that is, whatever progress is announced, we should look for the accompanying downside. That is so true as regards the growth of the internet. I gladly and warmly acknowledge all its potential blessings but there is always a downside—in this case in relation to privacy, as we discussed during the passage of the Investigatory Powers Bill, and in exposing our children to things over which we have no control without the sort of filtering arrangements that are the subject of this Question.

The noble Lord, Lord Hay, said that the present voluntary arrangements cover nearly 90% of the market. However, there is a further 10% or 12% of smaller internet service providers that are not subject to those arrangements. I understand that many of them adhere to those arrangements in one form or another, but then you have the problem of a lack of consistency, to which the noble Baroness, Lady Healy, referred. It would be good if the Minister could bring us up to date with where the smaller ISPs are as regards endorsing the voluntary arrangements which the big four have taken on board.

All this underlines the need for a proper statutory approach that covers all service providers, large and small, because of the important need to provide the underlying child protection aspect of what we are doing. I hope that the promised government amendment can be framed in these terms. I look forward to hearing more on that from the Minister when she responds to the debate.

5.08 pm

Baroness Thornton (Lab): My Lords, I thank the noble Baroness, Lady Howe, for initiating the debate and for her dogged persistence—if I might add to the right reverend Prelate’s description—in never taking no for an answer or taking her eye off the ball for a moment. When the history of online child protection comes to be written, there will be a glorious and well-deserved chapter devoted to the noble Baroness’s determination and efforts over many years to get the UK Government and the internet industry to move on this issue. Indeed, I am convinced that the excellent progress made in the Commons, which we all read about on Tuesday morning, is due in no small measure to the noble Baroness’s terrier-like grip on this subject.

That brings me to my second point—namely, that even with terriers snapping at their heels, Governments have not always been known to move on this issue. In fact, quite often they have been very unmoved by our eloquence on this subject. However, on this occasion, I am very pleased to be able to congratulate the Minister and the Government on the amendments that have already been made to the Digital Economy Bill, which we shall consider shortly, which will introduce age verification for pornography sites.

That, once again, puts the UK in a global leadership position in this space. Many other democratic countries will closely follow how this measure helps to keep children safe, and, when we have shown how well it works, I am confident that they will follow suit. Of course, as other noble Lords said, legitimate issues remain around privacy dimensions, and doubtless we will discuss them more fully in due course.

To return to the question the noble Baroness asked in this debate, I am curious to know three things. First, when will the Government ask Ofcom to carry out another audit of the take-up and use of filters provided by the big four ISPs? This time, will the Government ask Ofcom to verify what the ISP tells them and explain the differences? Secondly, are we truly satisfied that children whose parents are not with one of the big four are adequately protected? That echoes what many noble Lords have said. Should we not find a way to compel or require all ISPs to do what the big four are doing? Finally, can the Minister confirm to the House that, following Brexit, the UK Government will continue to comply with net neutrality and the other collective agreements that there have been across Europe in this space?

5.11 pm

Baroness Benjamin (LD): My Lords, I too congratulate the noble Baroness, Lady Howe, for being so resilient in bringing matters of online safety for children to your Lordships’ House. I am also pleased that the noble Baroness mentioned the Government’s statement on Monday, which suggested that content filtering by internet service providers may not encounter any difficulties as the result of the EU net neutrality rules. This is welcome news. However, I am a little nervous that there still seems to be enough uncertainty that the Government feel that they need to legislate to ensure that the filtering is on a solid legal footing. But I shall wait to see what the Minister has to say.

I have consistently supported the previous Online Safety Bills of the noble Baroness, Lady Howe, when they were debated here in the House, with the objective of putting ISP filtering on a statutory footing. As the noble Baroness has set out, throughout the history of the current arrangements with the big four ISPs, we seem to have gone back and forth between discussions of “active choice” and “default-on”. I know that “active choice” was favoured because it was felt that parents would be more engaged if they had actively to decide what to do about the filtering levels, which is a fair point. Given how much time children and young people spend online, it is hard to see how parents can avoid being engaged. It is most encouraging to read the latest statistics, which say that parents are engaging in different ways to keep their children safe. Thank goodness for that.

As we are talking today about content filters, I hope your Lordships will allow me to share with you what Ofcom’s 2016 report on children and the media says about parental awareness and the use of ISP content filters. It tells us that slightly more parents of five to 15 year-olds are using ISP content filters in 2016 than in 2015—31% compared to 26%—95% of whom said they were useful. However, there is no room for complacency, as only 58% of parents of five

to 15 year-olds say they are aware of the filters. If that many parents who use the filters say they are useful, surely we should be encouraging more than 31% of parents to use them.

Ofcom published research at the end of 2015 which showed that among the big four there are radically different results on uptake of internet filters. While Sky has used the “default-on” model proposed by the former Prime Minister, BT has elected to use “active choice”. The differences are striking. Ofcom stated that in June 2015 BT reported that 8% of its new customers and 5% of its existing customers had taken up parental controls. Sky, by contrast, reported that 61% of its existing customers had chosen parental controls in the age 13 group. Another 1% had set the protections at PG, and a further 8% chose the 18 category.

Interestingly, on 25 October Sky was asked about its “default-on” policy when it gave oral evidence to the Lords Communications Select Committee, of which I am a member, during its inquiry into children and the internet. Sky told the committee that the evidence on active choice was a take-up of around 8% to 10%. It went on to explain that it had changed its approach. Rather than asking its customers,

“Do you want it on, yes/no?”, we said, ‘We have put it on. You can turn it off if you want’ and, lo and behold, the take-up rate has gone up to 60%, so we are pretty convinced it is the right thing to do. We are the only fixed-line broadband company to do that, and we introduced a new broadband service, Now TV broadband, and we launched it completely default-on earlier this year. We have considered both options and we are pretty confident we have got the right outcome, if the objective is high parental engagement and high take-up of controls”.

Looking at the figures showing how many young people go online, I would argue that for many good reasons we want high parental engagement and a high take-up of controls. That is why we should review the options in front of us today.

In oral evidence to the Lords Communications Select Committee on 1 November, Ofcom gave a similar story. It said:

“ISPs that have had the most success with take-up—if success is measured by take-up—are those that have adopted a default-on process. I think it is fairly clear, based on behavioural economics, that people are much less likely to opt out than they are to opt in. Of course, it is a small set of data, but I think the default-on in these circumstances has indicated that it drives take-up”.

Ofcom went on to say:

“Default-on does drive take-up. It is as simple as that. ... There is a question for the ISPs themselves whether or not other ISPs want to follow suit with Sky, whether or not they think that the benefits outweigh the risks to their customer base. It is also for policymakers and for Parliament to decide”.

There we have it.

As I have said many times in this House, childhood lasts a lifetime. What children see and experience stays with them for ever, as was graphically revealed recently in the football sex abuse scandal. I hope that the Minister, who I know is also committed to this issue, will consider these points and legislate for so-called default-on to keep our children and young people safe online.

5.18 pm

The Earl of Listowel (CB): My Lords, I thank my noble friend for her perseverance and success in highlighting concerns about children’s access to online

pornography. Through her Private Member’s Bill and her debates, she has done great service for the children of this country. As treasurer of the All-Party Parliamentary Group for Children, I am most grateful to her.

I want to underline to your Lordships why my noble friend’s work is so important. I declare an interest as a trustee of the Brent Centre for Young People—a mental health service for adolescents based in north London that grew out of the Anna Freud centre. In her last paper on adolescence entitled *Adolescence as a Developmental Disturbance*, Anna Freud laid out the many challenges facing adolescents and regretted that so many responsibilities were placed upon them. Yet we have been very slow to recognise and act upon the threat to young people’s development posed by online pornography. I am therefore grateful for the actions that the Government are now taking.

I feel particularly concerned for looked-after children—children in the care of local authorities. Often they have been let down by the people they loved and trusted the most, and it is only natural that they may be fearful of intimacy. Pornography can provide a spurious intimacy and the illusion of closeness, which, for some of them, may be an attractive alternative to the real thing.

I recall visiting a 15 year-old boy in a children’s home about 12 years ago. I am afraid that it was not a good home. The reason I went to visit was that it was good educationally and the young people did well in that regard. I should emphasise that there are many excellent children’s homes that I have visited, but this one did not cater for the mental health needs of this young man, who came from a very dysfunctional background. It did not address his emotional needs and it did not help him learn to trust others and be able to make and keep relationships. That young man was going on to further education to study computing. My concern was that this intelligent young man, who I fear was unable to make close relationships with people, would have a close relationship with his computer and the internet, and perhaps with pornography and gambling. That would be the way that he compensated for the fact that he had not received the help he needed to recover from his earlier trauma.

On the positive side, the right reverend Prelate the Bishop of Chester highlighted some of the very many benefits of the internet. One of the concerns of care leavers is that so often they may feel isolated. Having spoken with care leavers, I know that a very important support for them is their peers—being able to join together with other young people who share their experience of being in care is a great support to them. Those who thrive often have those support networks. Recently, a young person told me about the value of a Facebook group where she could join other care leavers to talk about their experiences and feel supported by one another. There are certainly many benefits to the internet revolution.

Another group about which I feel concerned is the one in five girls in this country who are growing up without a father in the home. They may well still be in touch with their father and they may, in many ways, be far better off not having their father in the home. However, as I think your Lordships may understand,

[THE EARL OF LISTOWEL]

children are narcissistic. Young children believe that the world revolves around them, and so when their father departs, they do not understand the reason why and see it only as a rejection of themselves. For girls to experience their father leaving home, and then to perhaps lose contact with him, means that the first and most important relationship they have with a man is one in which they have experienced rejection. I fear that that group may be particularly vulnerable to the early exposure of pornography.

In a seminar on this issue last year, we heard from a teacher who highlighted the benefits of and need for discussions in schools about pornography and violence—to go hand in hand with the very important work of my noble friend Lady Howe. He felt that this was a very important protective factor for our young people in this difficult area. I agree with so many of your Lordships that we need to have high-quality sex and relationship education in our schools. I encourage the Government to move towards a statutory basis for personal, social and health education. There are many reasons for this, but among them is that it will ensure we get high-quality training for such teachers—if it is in statute, the training will be delivered.

The noble Baroness, Lady Massey, the former chair of the All-Party Parliamentary Group for Children, has been a doughty champion for this issue, and the Education Select Committee and other Select Committees in the other place have also called for the Government to introduce this measure. Given what the noble Baroness, Lady Healy, said about her concerns about adolescent and child mental health, it is important that the Government move forward as fast as possible. Will the Minister be good enough to take these concerns to the noble Lord, Lord Nash, and inform him?

I am concerned that the exposure of young children to pornography may tend to make girls, particularly, feel that they can be seen as objects and encourage boys to see them as such. It may encourage a view of sex as just a sensation and young people to avoid real intimacy and commitment. I am grateful to my noble friend Lady Howe for bringing this issue to us and I look forward to the Minister's response.

5.25 pm

Baroness Jones of Whitchurch (Lab): My Lords, I am extremely grateful to the noble Baroness, Lady Howe, for tabling this debate today and I echo the comments of everyone in this debate in thanking her for her tireless work in championing the need for improved online safety for children. As various noble Lords have said, when the history is written, her name will be written there in lights, I am sure. I am also grateful that she has raised this important concern about whether our proposed UK age verification regime will fall foul of the EU net neutrality rules. I am hoping that the Minister will be able to add some certainty to what seems at the moment a rather murky area of law.

We would not be here today if there were not a sense of growing crisis about the damage caused by children viewing online pornography. I will not repeat everything said by the noble Baroness, Lady Howe, and others, but the full impact of online pornography

on children's attitudes to sex and relationships is becoming more and more apparent. We know that young people are accessing it at a younger age, many by accident, or because it is sent to them by social media. The NSPCC found that over half of young people between the ages of 11 and 18 had been exposed to online pornography, and nearly all of that group had seen it by the age of 14. The NSPCC also reported that the boys who had seen it felt that it was realistic and the girls who saw it felt pressured by the images they had seen.

There is now also evidence that children in primary schools are being exposed to this material. We have to accept that this is storing up trouble for the future and completely skewing young people's healthy sexual development. Indeed, it was recently reported that 5,500 sexual offences in schools had been reported to the police and we can imagine that that is the tip of the iceberg and represents only the more serious offences.

Of course, this is why our party has argued consistently for compulsory, age-appropriate sex education in schools—a policy supported by over 70% of teachers, parents and governors and supported very widely in this Chamber. It is why we continue to be dismayed by the Government's resistance to what seems to us to be an overwhelmingly sensible proposal. Nevertheless, we welcomed the moves by the Government in the Digital Economy Bill to strengthen the age verification process for accessing adult content online. We have supported the steps taken so far to introduce age verification for online content. We have supported the agreement with the British Board of Film Classification that it will become the regulator for online viewing. We accept that it has the knowledge and expertise to carry out this function effectively. However, we remain concerned that the scope of the Bill is limited and will not embrace all online pornography. We are even more concerned that the lack of clear enforcement powers will limit the Bill's effectiveness. In essence we believe that having two regulators, the BBFC and Ofcom, risks further delays in requiring non-compliant providers to take down material in breach of the law.

This brings us back to the issue before us today, which is the enforceability of the measures in the Bill. The right reverend Prelate the Bishop of Chester said quite rightly that it is becoming a rather thick plot. This is because in parallel with the UK's moves to strengthen child online protection, the EU has been moving in a rather different direction. Through its net neutrality regulations it has developed a set of EU-wide regulations to safeguard open internet access. On the face of it, the UK's proposals for age-specific filters and controls on the internet are at odds with those EU regulations. This was flagged up by the then Minister, Ed Vaizey, when it first came before the Commons European Scrutiny Committee. At the time he said that further negotiations would need to take place, but that it might be necessary to vote against the EU proposals. However, as noble Lords know, the proposals were also wrapped up in a package to end mobile phone roaming charges, which of course was a very welcome development. As I understand the final outcome of the EU negotiations, the specific exemption of the UK's child online protection regime was dropped, although the UK was given an extended deadline until this month, December 2016, to comply with the new

EU regulations. Subsequent to that decision the then Prime Minister, David Cameron, was quoted as saying that an EU opt-out on the child protection issues had been secured, but that is not my reading of the proceedings at the EU level. I would therefore be grateful if the Minister could clarify the status of that decision once and for all.

Since that time, the Digital Economy Bill has been published and debated in the Commons. The Bill included proposals for the regulator to direct internet service providers to block any site that does not have age verification in place. In the Committee debate in the Commons the Minister, Matt Hancock, claimed that Clause 8 reinforced the protection of parental filters where they can be turned off by the end user, which was allowed under the net neutrality rules. However, as we have heard, at the Report stage of the Bill on Monday this week, the Government tabled a significant number of amendments to the age verification process. We are still working through all the implications of those amendments. But the Minister, Matt Hancock, specifically announced that further amendments will be tabled here in the Lords to put the net neutrality issue beyond doubt and to confirm that providers can offer parental control filters.

In the light of the continuing uncertainty, can the Minister clarify what legal advice has been received on whether the new proposals comply with the net neutrality regulations? Can she assure us that any proposals will address the unintended or potentially unintended consequences related to out-of-home use, such as in wi-fi hotspots where it would not be possible for age verification filters to be turned off? Can she also clarify how this obligation on ISPs will apply to websites originating in the rest of the EU which are covered by a different interpretation of the net neutrality rules? Finally, given the new powers that have been passed to the BBFC, can she clarify whether Ofcom or the BBFC will now have the responsibility for checking compliance with the new EU regulations?

I realise that the Minister has been working on this issue for some time, and I also realise that it has been moving apace since the Digital Economy Bill was published. However, I am sure that she realises the sensitivity of this subject and the concern of many campaigners about the need for improved child protection on this important issue. I hope that she will be able to use this opportunity to clarify the legal situation and put parental minds at rest in advance of the more detailed deliberation on the Bill.

5.33 pm

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport and Home Office (Baroness Shields) (Con): My Lords, I am grateful to the noble Baroness, Lady Howe, for securing this debate and for her unwavering commitment to the safety of children, especially the vulnerable, online. I am also grateful to all noble Lords who have spoken today. We are indeed fellow travellers on the journey to ensure a safe and secure internet for everyone, including children. That is why I am most happy to come to your Lordships' House and use this opportunity to set out the Government's position and our broader approach to ensuring children's safety online in our connected society.

As noble Lords will know by now, I can confirm the developments on Report of the Digital Economy Bill earlier this week, specifically around family-friendly filters with respect to net neutrality, and on our proposals requiring age verification for sites delivering pornographic content. I believe that the noble Baroness will welcome these and I am grateful for the opportunity to explain them.

Before I do so, it is worth reminding ourselves, as many noble Lords have mentioned, of the increasing role and importance to children and young people of their lives online. The most recent Ofcom figures reveal that 87% of children aged five to 15 are now spending more time online than in front of the television. There are no signs of this trend abating. Some 80% of young people have their own personal devices and they are almost always using them unsupervised. A lot of time is spent discovering new information, new people and new points of view. This is a good thing. When this is done in a safe way, the internet is, to paraphrase Steve Jobs, a bicycle for our minds. But riding a bicycle on a country road with a parent nearby is a very different experience from riding it in rush-hour traffic in central London, even if you think you are pretty good at it.

The internet is a vast, open space where children can learn, create and dream, but it also represents a mirror on society, reflecting its ills and dangers. Young people today are the first generation to grow up more technologically literate than their parents and teachers. While they are quite technically astute, as they explore this uncontested space they can be, and are, vulnerable to harms. The noble Baroness eloquently outlined some of those risks and harms. I am here to reassure noble Lords that, for this Government, safety online is a number one imperative.

One of our actions, and the point of the noble Baroness's concern, is to ensure that parents are provided with internet filters that enable them to decide what material their children can access online. Since the announcement in 2013 that outlined our agreement with the four major ISPs to offer internet filters to parents, good progress has been made. BT, Sky, TalkTalk and Virgin Media—the big four, which cover 90% of the market, as has been said—have delivered on their commitment to offer an unavoidable choice to their customers. Smaller ISPs have had varying degrees of take-up on this issue. We recommend consistently to those seeking the provision of internet services to choose services that offer filters if they have a concern that their children will be accessing content that is inappropriate online.

Filters are an effective tool for parents, giving them the flexibility to tailor their children's online experience to protect them across a range of categories, including inappropriate sexual and violent content, self-harm content, access to information about drugs and many things beyond. Latest research from Ofcom on the take-up of filters published in November this year highlights that two-thirds of parents are aware of them and, as the noble Baroness, Lady Benjamin, said, approximately a third of parents use them. But we must be aware that filters alone are not a panacea for protecting children from harmful content online.

[BARONESS SHIELDS]

They are but one protection mechanism, supported by a wider programme of education and internet safety awareness raising.

It is not surprising that concerns were raised when it was suggested that such filters could be made illegal under EU open internet access regulations, which cover net neutrality and came into effect on 30 April this year. I apologise for any confusion caused. Since then, we have had detailed legal advice. We have consulted Ofcom and legal advisers. We can now be very clear that the net neutrality regulations do not fall foul of our family-friendly filter scheme. I will explain more in detail.

It may be helpful if I set out some of the background to this EU regulation to explain the legal position we have now come to. The regulation stems from the European Commission's proposals for legislative measures to achieve a single telecoms market, or a connected continent. It aims to ensure that the rights of consumers to access services of their choice over the internet are protected. It prohibits anti-competitive behaviour by internet service providers in blocking or slowing down rival services.

We have examined the regulation in detail, and the potential for the network-level parental filters currently offered by providers to conflict with it. We have now received clear legal advice that such network filters that can be turned off are compliant with the regulation. Article 3.1 of the regulation states:

“End-users shall have the right to access and distribute information and content ... of their choice”.

Filters that can be turned off are a matter of consumer choice. Therefore, they are allowed under the regulation. We understand the principle of the regulation to be based on the protection of consumers' rights to access the content and services they wish to. On that basis, and following our legal interpretation of the regulation, we now believe that parental filters are in fact compliant. To be clear, I say that the filter regime is in no way in jeopardy. Indeed, Ofcom, the regulator with responsibility for enforcement of the regulation in the UK, agrees with this interpretation. Tony Close, director of content standards at Ofcom, confirmed this during evidence to the Lords Communications Committee inquiry, Children and the Internet, on 1 November.

Nevertheless, we are very aware that there has been uncertainty on this issue, and indeed there has been some concern that that view could be challenged. As noble Lords know, the previous Prime Minister also said that he would legislate to underpin our family-friendly filter regime. Many noble Lords have noted that my right honourable friend the Minister of State for Digital and Culture announced on 28 November, on Report on the Digital Economy Bill in the other place, that we will legislate on filters. We will bring forward an amendment to the Bill in the Lords, to the effect that providers “may offer” filters. This will remove any doubt on the matter and will ensure our continued support. I hope that this is a welcome confirmation and will reassure both the internet service providers providing the tools and all stakeholders with an interest in child online safety.

As noble Lords know, another key measure to protect children from harmful material online that we are bringing forward in the Digital Economy Bill is age verification for pornographic sites and ancillary services that provide access to pornographic material. Just this past Monday, we also introduced an amendment to the Bill that gives the age verification regulator, the BBFC, the power to direct an ISP to prevent access to pornographic sites that are not in compliance with age verification rules. It is absolutely right that, if a business providing pornographic content to adults refuses to comply with its legal obligations to prevent children from accessing the material, the regulator is afforded powers to ensure that children are not exposed to age-inappropriate material. This is a targeted approach that protects the freedom of adults to watch pornography online but provides adequate protections to ensure that the same safeguards exist online as in published media.

The House might find it useful if I explained the process by which the measures put forward in the Digital Economy Bill would operate. The BBFC, as the age verification regulator, will identify sites accessed in the UK, determining whether they contain pornography and operate on a commercial basis. The BBFC will assess whether AV controls are in place and are sufficient. If a site is determined non-compliant, the BBFC will identify that site and notify its provider. If after notification the site remains non-compliant and uses payment systems, the BBFC will notify the payment provider of non-compliance so that it can withdraw its service from the site. Should the site continue to fail to comply with adequate age verification, the new clause agreed on Monday on Report in the Commons gives the regulator power to require internet service providers to block the non-compliant site.

We have had extensive discussions with industry about this impending legislation and conducted a public consultation. The industry has assured us that it will take responsible action to comply and avoid that final sanction. These provisions are a significant step towards ensuring that children are not exposed to age-inappropriate content online; however, we must be realistic and recognise that no solution, however well defined and implemented, will be 100% effective. These measures are just part of our range of activities to protect children online. Our partnership approach with the internet and technology industries and the charity sector is key to our success.

I want to give two examples of partnership initiatives because they show that when government, industry, law enforcement and NGOs come together, the results are not just incrementally better, they are dramatically improved. The most important area of my work is combating the heinous crime of sexual exploitation of children online. Never before has it been easier for perpetrators to make contact with children, share images of abuse and inspire each other to commit further crimes. As the internet respects no state boundaries, we must combine our national response with a robust global response. This issue cannot be dealt with by any one country, company or organisation working in isolation. It demands a co-ordinated global response by Governments, technology companies and civil society.

The WePROTECT Global Alliance to End the Sexual Exploitation of Children Online is that response. It is a global coalition of more than 70 countries and organisations committed to national and global action to end the online sexual abuse of children. I am proud to be part of this alliance and its founding team, brought together by our Government in 2014 and since then merged with the Global Alliance to End the Sexual Exploitation of Children Online. This has created, for the first time, a single global initiative with the expertise, influence and resources to transform how this crime is dealt with worldwide, resulting in more victims being safeguarded and more perpetrators being apprehended.

Many noble Lords are also familiar with the UK Council for Child Internet Safety, which represents more than 200 organisations committed to protecting children from harm online. I am one of its co-chairs, along with ministerial colleagues from the DfE and the Home Office. Through the voluntary efforts of its members, UKCCIS has made a substantial contribution to online safety. The group convenes four times a year and acts as a central point to address all matters relating to keeping children safe online. So I can assure the House that government is joined up at every level to protect young people's mental health and well-being in this connected society. UKCCIS has supported developers and providers of social media and interactive services, with a guide to encourage the development of products that are safe by design. We are clear that we expect social media and interactive service providers to develop technology solutions that protect users, especially children, from online harm and abuse.

Through its excellent work, UKCCIS has also recently produced advice for schools and colleges to help them respond to incidents of sexting. As the noble Baroness, Lady Healy, said, this is a serious and dangerous activity that requires guidance and support for school governors and teachers everywhere. I am especially excited about the work that UKCCIS has started on digital resilience, which is bringing together individuals from the education sector, parents, industry, expert civil society organisations and children themselves to develop the tools needed to respond to a constantly evolving internet and the threats and harms associated with it. By digital resilience, we mean developing the skills that help young people become digitally independent, so that no matter what they encounter while connected, children and young people can recognise the dangers and deal with those challenges with confidence. This is very ambitious work, but it is through such efforts that UKCCIS is able to respond to new and emerging threats.

Protecting the vulnerable online is a vision shared at the highest levels of this Government, and we are working on many fronts to keep children safe online. I thank the noble Baroness once more for the opportunity to set out the important work that is under way and the measures that this Government are committed to delivering. I hope I have been able to reassure her of our firm commitment. Lastly, irrespective of negotiation outcomes resulting from exiting the European Union, we will ensure that our world-leading child protection measures are preserved.

House adjourned at 5.50 pm.

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